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August 12, 2010

VIA HAND DELIVERY

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

2010 AUG 12

**RE: Dynegy South Bay, LLC, Docket No. ER10-166-000
Settlement Agreement**

Dear Secretary Bose:

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the "Commission"), 18 C.F.R. § 385.602 (2010), Dynegy South Bay, LLC ("South Bay"), the California Independent System Operator Corporation ("CAISO"), and San Diego Gas & Electric Company ("SDG&E") (collectively, the "Parties" or individually a "Party")¹ submit for filing an original and fourteen (14) copies of the settlement materials described below.

The Parties submit that the attached Settlement Agreement resolves all issues relating to Docket No. ER10-166-000 without the need for any further proceedings regarding those issues. The Settling Parties further assert that the Settlement Agreement is in the public interest, and the Settling Parties urge the Commission to approve the Settlement Agreement on its terms, without modification or condition.

The Settling Parties submit the following settlement materials:

1. Settlement Agreement;

¹ The California Public Utilities Commission supports the Settlement Agreement, and the City of Chula Vista ("Chula Vista") and Commission Trial Staff do not oppose the Settlement Agreement.

Kimberly D. Bose
August 12, 2010
Page 2

- a. Attachment A to the Settlement Agreement, consisting of revised Schedules B and J to South Bay's Must-Run Service Agreement ("RMR Agreement") in both clean and redline form;
 - b. Attachment B to the Settlement Agreement, consisting of revised amendments to the RMR Agreement in both clean and redline form; and
 - c. Attachment C to the Settlement Agreement, setting forth the invoicing process to be used to implement terms and conditions of the Settlement Agreement.
2. Explanatory Statement;
 3. Proposed Letter Order; and
 4. Certificate of Service.

Copies of this filing have been served on all the parties to this proceeding, including Commission Trial Staff.

Pursuant to Rule 602(f)(2), 18 C.F.R. § 385.602(f)(2) (2010), initial comments on the Settlement Agreement must be filed with the Secretary no later than September 1, 2010, twenty (20) days after this filing, with reply comments to be filed with the Secretary no later than September 13, 2010, thirty (30) days after the filing of the Settlement Agreement.

Kindly time-stamp the additional four (4) copies of this filing and return them to my messenger. Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me at (202) 626-5510.

Respectfully submitted,



Bruce L. Richardson

Counsel for **Dynegy South Bay, LLC**

Enclosures

cc: Honorable Bruce L. Birchman, FERC
Carmen Gastilo Machuga, FERC
All parties of record

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Settlement Agreement

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

Dynegy South Bay, LLC

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Docket No. ER10-166-000

SETTLEMENT AGREEMENT

1. This Settlement Agreement (“Agreement”), dated as of August 11, 2010, is made by and among Dynegy South Bay, LLC (“South Bay”), the California Independent System Operator Corporation (“CAISO”), and San Diego Gas & Electric Company (“SDG&E”). The foregoing may be referred to collectively as the “Parties” and individually as a “Party.”

2. On October 30, 2009, South Bay filed with the Federal Energy Regulatory Commission (the “Commission”), in Docket No. ER10-166-000, revisions to certain Reliability Must-Run (“RMR”) Rate Schedules (“RMR Schedules”) of its Must-Run Service Agreement (“RMR Agreement”) with the CAISO and amendments to the RMR Agreement (“RMR Amendments”) (together with the RMR Schedules, the “Annual 205 Filing”). South Bay also submitted an informational filing of the proposed changes in its Annual Fixed Revenue Requirement (“Filed AFRR”), pursuant to Schedule F of the RMR Agreement (“Schedule F Filing”) (together with the Annual 205 Filing, the “South Bay Filing”).

3. Notice of the filing was published in the *Federal Register*, 74 Fed. Reg. 58,269 (2009), with interventions and protests due on or before November 20, 2009. The following interventions and protests were filed in this proceeding: (1) the November 19, 2009 motion to intervene by the California Public Utilities Commission (“CPUC”); (2) the November 20, 2009 motion to intervene by Steve Castaneda, Councilmember of the City of Chula Vista (“Chula Vista”); (3) the November 20, 2009 motion to intervene and protest of SDG&E; (4) the

November 20, 2009 motion to intervene of the CAISO and joint protest of the CAISO, CPUC, and SDG&E (“Joint Protest”); and (5) the January 4, 2010 motion to intervene out-of-time and comments of Chula Vista (to which the CAISO responded on January 14, 2010).

4. In the Joint Protest, the CAISO, CPUC, and SDG&E requested “that the Commission provide all parties with a reasonable opportunity, until January 31, 2010, to resolve this issue before initiating either a hearing or settlement judge procedures.” Joint Protest at 5. The Joint Motion went on to further describe the discussions that were underway. On December 1, 2009, South Bay filed a response in support of the request to permit the parties to continue the ongoing settlement negotiations and the deferral of Commission action until January 31, 2010.

5. By order dated January 29, 2010, the Commission accepted South Bay’s proposed revisions to the RMR Agreement and the rate schedules for filing, suspended them for a nominal period, to become effective on January 1, 2010, and established hearing and settlement judge procedures. *Dynegy South Bay, LLC*, 130 FERC ¶ 61,076 (2010) (“South Bay Order”).

6. In response to the request of the parties, Chief Judge Curtis L. Wagner, Jr. deferred appointment of a settlement judge until March 1, 2010, to permit the parties to continue the ongoing settlement discussions. Chief Judge Wagner continued to grant additional requested extensions, deferring appointment of the settlement judge through May 3, 2010. In response to the May 3, 2010 request of the parties seeking appointment of a settlement judge to assist with a subset of issues that remained unresolved, Chief Judge Wagner appointed Judge Bruce L. Birchman as the Settlement Judge.

7. With the assistance of Judge Birchman, the Parties continued to actively engage in settlement discussions. As a result of those discussions, the undersigned have reached the agreement memorialized in this Agreement by which they resolve all issues relating to Docket

No. ER10-166-000. The CPUC supports the Agreement and Chula Vista and Commission Trial Staff do not oppose this Agreement.

8. **NOW THEREFORE**, subject in every particular to the conditions set forth herein, and with the understanding that each term of this Agreement is in consideration and support of every term and condition, and intending to be legally bound hereby, the Parties agree that, if the Agreement is approved by the Commission in its entirety or with conditions or modifications acceptable to all Parties as provided in Paragraph 32, this Agreement resolves all issues relating to Docket No. ER10-166-000.

AGREEMENT PROVISIONS

9. Attachment A, incorporated by reference herein, contains South Bay's revised RMR Schedules B and J ("Revised RMR Schedules") (clean and redline versions). Revised RMR Schedule B sets forth rates resulting from the negotiated "Black Box" AFRR for 2010 of \$31,652,000 (the "Revised AFRR"), an amount derived without reliance upon a specific formula. Revised RMR Schedule J corrects a typographical error. The Revised RMR Schedules, with a requested effective date of January 1, 2010, shall supersede the corresponding RMR Schedules.

10. Attachment B, incorporated by reference herein, contains the following revised RMR Amendments ("Revised RMR Amendments"): (a) revised table of contents to delete Section 8.7; (b) deleted Section 2.2(f); (c) revised Section 2.5(a) to delete reference to Section 2.2(f); (d) revised Sheet No. 125 to reflect the deletion of Schedule Q; and (e) revised Sheet Nos. 221 - 231 to include two Schedule L-1s, replacing Schedule Q and Section 8.7, and a letter dated August 11, 2010, from Mr. Stephen Berberich, CAISO Vice President and Chief Operating Officer, to Mr. Randy Hickok, Managing Director, Asset Management West, approving a Lump Sum Payment in the amount of \$4,364,016 ("Lump Sum Payment"). The Revised RMR

Amendments, with a requested effective date of January 1, 2010, shall supersede the corresponding RMR Amendments.

11. The Revised AFRR includes \$6,000,000 for payments from South Bay to the Unified Port District of San Diego ("Port") for rent for the fourteen-month period of November 1, 2009 through December 31, 2010 ("Operating Rent"). Determination of the amount of the Operating Rent is subject to procedures under the Lease Agreement dated as of April 1, 1999 between the Port and South Bay. For purposes of this Agreement, the Operating Rent will be adjusted to reflect the actual Operating Rent once known, but shall not be less than \$3,000,000 nor greater than \$6,000,000 ("Settlement Operating Rent"). To the extent the Settlement Operating Rent is greater than \$3,000,000, but less than \$6,000,000, the Revised AFRR shall be reduced by the difference between \$6,000,000 and the Settlement Operating Rent to arrive at the "Rent Adjusted AFRR." To the extent the Operating Rent is finally determined to be less than \$3,000,000, the Settlement Operating Rent shall be set at \$3,000,000. When the Settlement Operating Rent is finally established, a one-time billing adjustment will be made to reflect the Rent Adjusted AFRR. To the extent a refund is due the CAISO from revenues collected by South Bay for the monthly difference between the Revised AFRR and the Rent Adjusted AFRR, such revenues will be refunded. Invoicing for the Rent Adjusted AFRR shall utilize the process set forth in Attachment C, incorporated by reference herein. In addition, South Bay shall file with the Commission a revised Schedule B reflecting the Rent Adjusted AFRR followed by a refund report.

12. In addition to the Revised AFRR, subject to any Settlement Operating Rent adjustment, this "Black Box" settlement provides for the Lump Sum Payment to South Bay in the amount of \$4,364,016, which the Parties have agreed will be handled using the process

provided for in Schedule L-1 of the RMR Agreement. Payment of the Lump Sum Amount will be made in conjunction with the next RMR monthly invoice, with interest calculated in accordance with Attachment C, following the earlier of the approval set forth in Paragraph 18 or Commission acceptance of this Agreement.

13. The 2010 revenue requirement of \$36,016,016 (“Revised 2010 Revenue”), consisting of the Revised AFRR and the Lump Sum Payment is a decrease of \$16,391,862 from the total revenue requirement (“Filed 2010 Revenue”) included in the South Bay Filing for the Filed AFRR and under Schedule Q as filed.

14. As reflected in Attachment A, the following revisions have been made:

- a. In Schedule B, Tables B-1 (Hourly Availability Charges), B-3 (Hourly Penalty Rate), and B-6 (Annual Fixed Revenue Requirement) have been revised.
- b. In Schedule J, the name of a representative for the CAISO has been corrected.

15. As reflected in Attachment B, the following revisions have been made:

- a. Section 2.2(f), addressing early termination, and the reference in Section 2.5(a) to Section 2.2(f) have been deleted.
- b. Section 8.7 and Schedule Q, addressing “End of Service Life Costs,” as such term is used in the South Bay Filing, and associated references to Section 8.7 and Schedule Q have been deleted to eliminate the filed End of Service Life Costs. The Lump Sum Payment is addressed through the two Schedule L-1 submissions provided for in Paragraph 12 of this Agreement.

16. South Bay has been invoicing based on the Filed AFRR of \$16,267,992. Under an agreement with the Parties, South Bay deferred collection of revenues under Schedule Q as filed. Because the total of the monthly amounts of the Filed AFRR that South Bay has collected to date is less than the total of the monthly amounts under the Filed 2010 Revenue, South Bay has no refund obligation for the difference between the revenue collected under the South Bay Filing and the Revised 2010 Revenue, except as set forth in Paragraph 11, above.

17. Because the monthly Revised AFRR is higher than the monthly Filed 2010 Revenue that has been invoiced to date, the CAISO will pay South Bay the difference between the monthly Revised AFRR and the monthly Filed AFRR. Invoicing reflecting the Revised AFRR shall utilize the process set forth in Attachment C.

18. South Bay is filing simultaneously with this Agreement the “Motion of Dynegy South Bay, LLC for Authorization to Implement Settlement Rates on an Interim Basis and Request for Expedited Action” (“Motion”). The Motion shall reflect that SDG&E, CAISO, and the CPUC support the motion and that Chula Vista and Commission Trial Staff do not oppose the Motion. Upon the granting of the Motion, it is agreed that the Revised RMR Schedules and Revised RMR Amendments shall be in effect on an interim basis, subject to refund, with payments required to be made pursuant to the terms of this Agreement.

19. Because the CAISO has agreed to not terminate RMR status for the 2010 Contract Year (as the term “Contract Year” is defined in the RMR Agreement), Section 2.2(f), which addressed terms and conditions of early termination, has been eliminated for the 2010 Contract Year. Nothing in this Agreement shall be construed as taking any position on the permissibility or impermissibility of South Bay proposing the same or similar terms and conditions as those set forth in Section 2.2(f) in connection with any future RMR designation.

20. In the event one or more South Bay units are designated RMR for 2011, \$125,000 shall be added to the amount calculated for AFRR pursuant to Schedule F for the 2011 Contract Year.

21. For any year beyond 2011 that one or more South Bay units are designated RMR, an additional amount X, which is calculated $X = \$125,000 \times (1+0.025)^t$ with t equal to 1 for 2012 and increasing by 1 for each year beyond 2012, will be added to the amount calculated for AFRR for that Contract Year.

22. Except as expressly provided in Paragraph 21, the revenue requirement for RMR for any Contract Year beyond 2010 will not include rent payments to the Port for the period after the end of South Bay's RMR status, or any remediation or demolition costs of any kind, or any severance ("Excluded Costs"). Neither South Bay nor any successor thereto shall collect in RMR rates for any year after the 2010 Contract Year any payments of any kind for Excluded Costs. This issue shall not be reopened in any future proceeding.

MISCELLANEOUS PROVISIONS

23. No Admissions or Precedent. This entire Agreement, and the Parties' performance of their obligations hereunder, are the result of the settlement and compromise of all the claims and actions expressly addressed in this Agreement, and neither this Agreement nor the Parties' performance hereunder shall be deemed to be an admission of any fact or of any liability. This Agreement shall be binding on the Parties and their successors and assigns only with respect to the subject matter of this Agreement, and shall not bind the Parties or the Commission to apply the principles or provisions of this Agreement to any other agreement, arrangement, or proceeding. The Agreement establishes no principles and no precedent with respect to any issue in this proceeding. The approval of this Agreement by the Commission shall

not in any respect constitute a determination by the Commission as to the merits of any allegation or contention made in these proceedings. The resolution of any matter in this Agreement shall not be deemed a “settled practice” as that term was interpreted and applied in *Public Serv. Comm’n of the State of New York v. FERC*, 642 F.2d 1335 (D.C. Cir. 1980).

24. Entire Agreement. This Agreement, including any attachments, constitutes the entire agreement among the Parties with regard to the matters addressed in Docket No. ER10-166-000, and no other agreement with regard to these matters shall be binding on the Parties except by written amendment to this Agreement. Except for the terms and conditions enumerated in this Agreement and any attachment hereto, the Parties acknowledge and agree that they have not made any other promises, warranties, or representations to each other or any other Party regarding any aspect of the settlement of the matters addressed in this Agreement. Each Party acknowledges that it has read this Agreement and has executed it without relying upon any other promise, warranty, or representation, written or otherwise, of any other Party. Each Party acknowledges that no other Party has made any promise, warranty, or representation, express or implied, to induce the Parties to execute this Agreement.

25. Waiver and Amendment. No provision of this Agreement may be waived except through a writing signed by an authorized representative of the waiving Party. Waiver of any provision of this Agreement shall not be deemed to waive any other provision. This Agreement may be amended only by written agreement of the Parties.

26. Settlement Discussions. The discussions between the Parties that have produced this Agreement have been conducted on the explicit understanding, pursuant to Rule 602 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2010), that all offers of settlement and discussions relating thereto shall be privileged and confidential, shall be

without prejudice to the position of any Party or participant presenting any such offer or participating in any such discussion, and are not to be used in any manner in connection with these proceedings, any other proceeding, or otherwise, except to the extent necessary to enforce its terms.

27. Sections 205 and 206 of the Federal Power Act. For service after the 2010 Contract Year, nothing contained in this Agreement shall be construed as affecting the right of South Bay to make application to the Commission to amend the RMR Agreement pursuant to Section 14.3 and/or Section 14.4 of the RMR Agreement under Section 205 of the FPA and pursuant to the Commission's rules and regulations promulgated thereunder, except insofar as such amendment would have the effect of changing any term of this Agreement that by its nature has effect for any Contract Year after 2010, or the right of any Party to oppose, to seek modification, to seek rejection, to seek suspension, or to seek refunds of any such proposed amendment. For service after the 2010 Contract Year, nothing contained in this Agreement shall be construed as affecting any Party's right to file with the Commission with respect to the RMR Agreement pursuant to Section 14.3 and/or Section 14.4 of the RMR Agreement under Section 206 of the FPA and pursuant to the Commission's rules and regulations promulgated thereunder, except insofar as such amendment would have the effect of changing any term of this Agreement that by its nature has effect for any Contract Year after 2010, or the right of any other Party to oppose such filing.

28. Standard of Review. For service during the 2010 Contract Year, the Parties may not initiate a change to this Agreement. For service after the 2010 Contract Year, all prospective changes to this Agreement requested by the Parties will be governed by the just and reasonable standard, but shall not change any term of this Agreement that by its nature has effect

for any Contract Year after 2010. This Agreement does not prevent the Commission from acting on its own motion. The standard of review for any modifications to this Agreement requested by a non-party to the Agreement or initiated by the Commission will be the most stringent standard permissible under applicable law.

29. Further Assurances. Following execution of this Agreement, the Parties shall prepare and execute any further pleadings and documents reasonably necessary to effectuate the Parties' intent under this Agreement and the termination of the proceedings in Docket No. ER10-166-000.

30. Successors and Assigns. This Agreement is binding upon and for the benefit of the Parties and their successors and assigns.

31. Authorizations. Each person executing this Agreement represents and warrants that he or she is duly authorized and empowered to act on behalf of, and to sign for, the Party for whom he or she has signed.

32. Approval. The Parties shall actively seek and cooperate in securing Commission approval of this Agreement. This Agreement shall bind the Parties upon signing, and the effective date of the settlement provisions shall be the date established by the Commission upon acting on this Agreement. If the Commission should, by order, condition its approval of this Agreement or seek to require its modification in a material manner, any Party may notify the other Parties within five (5) business days of the issuance of such order that it does not agree to this Agreement as so conditioned or modified. In such event, or in the event the Commission rejects this Agreement, the Parties will meet within ten (10) business days after such notification is provided to negotiate in good faith alternate, mutually acceptable terms. If such an alternate agreement cannot be reached, this Agreement shall be of no force and effect,

and the South Bay Filing shall be in effect, subject to refund, pending further Commission action in this proceeding. Additionally, unless otherwise ordered by the Commission, invoicing shall be adjusted to reflect the Filed 2010 Revenue with South Bay to be paid the monthly differences between the Filed 2010 Revenue and the Revised 2010 Revenue together with interest as if the Filed Revenue Requirement has been in effect as of January 1, 2010. Such invoicing shall use the process set forth in Attachment C.

33. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

THE NEXT PAGE IS THE SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed
as of the date first written above.

DYNEGY SOUTH BAY, LLC

Randall Hickok
Name: Randall Hickok
Title: Managing Director
Date: August 10, 2010

**CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**

Name:

Title:

Date:

**SAN DIEGO GAS & ELECTRIC
COMPANY**

Name:

Title:

Date:

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed
as of the date first written above.

DYNEGY SOUTH BAY, LLC

Name:

Title:

Date:

**CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**



Name: Mary Anne Sullivan
Hogan Lovells US LLP
555 Thirteenth Street, NW
Washington, DC 20004

Title: Counsel for California Independent
System Operator Corporation

Date: August 11, 2010

**SAN DIEGO GAS & ELECTRIC
COMPANY**

Name:

Title:

Date:

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed
as of the date first written above.

DYNEGY SOUTH BAY, LLC

Name:

Title:

Date:

**CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**

Name:

Title:

Date:

**SAN DIEGO GAS & ELECTRIC
COMPANY**



Name: JAMES F. WALSH

Title: SENIOR COUNSEL

Date: AUGUST 11, 2010

Attachment A to Settlement Agreement

Dynegy South Bay, LLC

Docket No. ER10-166-000

Revised RMR Schedules:

Schedule B

Schedule J

(Clean and Redline)

Dynegy South Bay, LLC
FERC Electric Tariff
First Revised Volume No. 2

Substitute Third Revised Sheet No. 134
Superseding Third Revised Sheet No. 134

Equation B-4

$$\text{Hourly Availability Charge} = \text{Hourly Availability Rate} * \text{Fixed Option Payment Factor}$$

Where:

Hourly Availability Rate is calculated in accordance with Equation B-5 below.

Equation B-5

$$\text{Hourly Availability Rate} = \frac{\text{Annual Fixed Revenue Requirement}}{\text{Target Available Hours}}$$

Annual Fixed Revenue Requirement is set forth in Section 7 below.

Target Available Hours are set forth in Section 6 below.

For Units under Condition 1, the Fixed Option Payment Factor is set forth in Table B-0 below:

Table B-0, Fixed Option Payment Factor

Unit	Fixed Option Payment Factor
SY1	0.0
SY2	0.0
SYCT	0.0

For Units under Condition 2, the Fixed Option Payment Factor is 1.

The Hourly Availability Charges for the Contract Year are set forth in Table B-1 below:

Table B-1, Hourly Availability Charges (\$/Hr)

Unit	Condition 1	Condition 2
SY1	\$0.00	\$ 1,795.11
SY2	\$0.00	\$ 1,847.29
SYCT	\$0.00	\$ 158.54

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.3. The Monthly Surcharge Payment is calculated in accordance with Equation B-6 below

Dynegy South Bay, LLC
 FERC Electric Tariff
 First Revised Volume No. 2

Substitute Third Revised Sheet No. 137
 Superseding Third Revised Sheet No. 137

Table B-3, Hourly Penalty Rate

Unit	Condition 1	Condition 2
SY1	\$0.00	\$1,795.11
SY2	\$0.00	\$1,847.29
SYCT	\$0.00	\$ 158.54

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

Table B-4

Unit	Capital Item Project No.	Hourly Capital Item Rate	Condition 1 Hourly Surcharge Penalty Rate	Condition 2 Hourly Surcharge Penalty Rate
SY2	2001-1	\$ 100.73	\$0.00	\$100.73

6. Target Available Hours

A Unit's Target Available Hours for each Contract Year are calculated in accordance with the Equation B-10 below:

Equation B-10

$$\text{Target Available Hours (TAH)} = \text{Hours in the Calendar Year} - (\text{Average Other Outage Hours} + \text{Long-Term Planned Outage Hours})$$

Average Other Outage Hours means the average annual Other Outage Hours for the Unit during the 60-month period ending June 30 of the previous calendar year.

Dynegy South Bay, LLC
 FERC Electric Tariff
 First Revised Volume No. 2

Substitute Third Revised Sheet No. 138
 Superseding Third Revised Sheet No. 138

Table B-5

Unit	Average Other Outage Hours	Long-term Planned Outage Hours	TAH
SY1	432	None	8,328
SY2	444	None	8,316
SYCT	306	None	8,454

For the purposes of calculating Target Available Hours for the Contract Year ending December 31, 1999, (a) Average Other Outage Hours shall be calculated using the average annual Other Outage Hours for the Unit during the 60-month period ending December 31, 1998, and (b) Long-term Planned Outage Hours shall be calculated using the hours scheduled for performing Long-term Planned Outages as if the Agreement had become effective on January 1, 1999.

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

Table B-6, Annual Fixed Revenue Requirement

Unit	Annual Fixed Revenue Requirement
SY1	\$14,949,641
SY2	\$15,362,046
SYCT	\$ 1,340,313

8. Limited Section 205 Filing for an Extension of Contract Term

If ISO has extended the term of this Agreement pursuant to Section 2.1(b), then not later than October 31 of the expiring Contract Year, Owner shall make a filing with FERC under Section 205 of the Federal Power Act containing the values in Tables B-1 through B-6 for the ensuing Contract Year.

In the event that a Long-term Planned Outage that is scheduled for the last quarter of the expiring Contract Year is postponed or rescheduled after October 31 of such year to the ensuing Contract Year, Owner shall make an additional Section 205 filing to revise the values in Tables B-1 through B-5 to reflect such rescheduled Long-term Planned Outage Hours.

Dynegy South Bay, LLC
FERC Electric Tariff
First Revised Volume No. 2

Substitute First Revised Sheet No. 197A
Superseding First Revised Sheet No. 197A

Schedule J
Notices (continued)

ISO: Chetty Mamandur
Director, Reliability and Market Modeling
California ISO Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916)351-2196
Facsimile: (916) 351-2487
E-mail: cmamandur@caiso.com

With a copy to:

Sidney Mannheim Davies
Assistant General Counsel
Tariff and Tariff Compliance
Counsel and Vice President
California ISO Corp.
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 608-7144
Facsimile: (916) 608-7222
E-mail: sdavies@caiso.com

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
FERC Electric Tariff
First Revised Volume No. 2

Substitute Third Revised Sheet No. 134
Superseding Third ~~Second~~ Revised Sheet No. 134

Equation B-4

$$\text{Hourly Availability Charge} = \text{Hourly Availability Rate} * \text{Fixed Option Payment Factor}$$

Where:

Hourly Availability Rate is calculated in accordance with Equation B-5 below.

Equation B-5

$$\text{Hourly Availability Rate} = \frac{\text{Annual Fixed Revenue Requirement}}{\text{Target Available Hours}}$$

Annual Fixed Revenue Requirement is set forth in Section 7 below.

Target Available Hours are set forth in Section 6 below.

For Units under Condition 1, the Fixed Option Payment Factor is set forth in Table B-0 below:

Table B-0, Fixed Option Payment Factor

Unit	Fixed Option Payment Factor
SY1	0.0
SY2	0.0
SYCT	0.0

For Units under Condition 2, the Fixed Option Payment Factor is 1.

The Hourly Availability Charges for the Contract Year are set forth in Table B-1 below:

Table B-1, Hourly Availability Charges (\$/Hr)

Unit	Condition 1	Condition 2
SY1	\$0.00	\$ 1,795,119.22 62
SY2	\$0.00	\$ 1,847,299.49 44
SYCT	\$0.00	\$ 158,548.48

B. Unit Availability Limit is defined in Article 1 of the Agreement.

C. Maximum Net Dependable Capacity is shown in Section 1 of Schedule A.3. The Monthly Surcharge Payment is calculated in accordance with Equation B-6 below

Dynegy South Bay, LLC
 FERC Electric Tariff
 First Revised Volume No. 2

Substitute Third Revised Sheet No. 137
 Superseding Third ~~Second~~ Revised Sheet No. 137

Table B-3, Hourly Penalty Rate

Unit	Condition 1	Condition 2
SY1	\$0.00	\$1,795.11 - 922.62
SY2	\$0.00	\$1,847.29 - 949.44
SYCT	\$0.00	\$ 158.54 - 81.48

B. Hourly Surcharge Penalty Rate

A Unit's Hourly Surcharge Penalty Rate for each Capital Item for each Contract Year is the lesser of (a) the corresponding Hourly Capital Item Rate for the Contract Year (calculated pursuant to Item 4.A above), or (b) three times the applicable Hourly Capital Item Charge for the Contract Year (as shown in Table B-2 above). The Hourly Surcharge Penalty Rates for the Contract Year are set forth in Table B-4 below:

Table B-4

Unit	Capital Item Project No.	Hourly Capital Item Rate	Condition 1 Hourly Surcharge Penalty Rate	Condition 2 Hourly Surcharge Penalty Rate
SY2	2001-1	\$ 100.73	\$0.00	\$100.73

6. Target Available Hours

A Unit's Target Available Hours for each Contract Year are calculated in accordance with the Equation B-10 below:

Equation B-10

$$\text{Target Available Hours (TAH)} = \text{Hours in the Calendar Year} - (\text{Average Other Outage Hours} + \text{Long-Term Planned Outage Hours})$$

Average Other Outage Hours means the average annual Other Outage Hours for the Unit during the 60-month period ending June 30 of the previous calendar year.

Dynegy South Bay, LLC
 FERC Electric Tariff
 First Revised Volume No. 2

Substitute Third Revised Sheet No. 138
 Superseding ~~Third~~ Second Revised Sheet No. 138

Table B-5

Unit	Average Other Outage Hours	Long-term Planned Outage Hours	TAH
SY1	432	None	8,328
SY2	444	None	8,316
SYCT	306	None	8,454

For the purposes of calculating Target Available Hours for the Contract Year ending December 31, 1999, (a) Average Other Outage Hours shall be calculated using the average annual Other Outage Hours for the Unit during the 60-month period ending December 31, 1998, and (b) Long-term Planned Outage Hours shall be calculated using the hours scheduled for performing Long-term Planned Outages as if the Agreement had become effective on January 1, 1999.

7. Annual Fixed Revenue Requirement (AFRR)

The Annual Fixed Revenue Requirement for each Unit is set forth in Table B-6 below. For any Contract Year commencing on or after January 1, 2002, the Annual Fixed Revenue Requirement shall be determined by the Formula Rate set forth in Schedule F, unless Owner files a superseding rate schedule under Section 205 of the Federal Power Act.

Table B-6, Annual Fixed Revenue Requirement

Unit	Annual Fixed Revenue Requirement
SY1	\$14,949,6417,683,579
SY2	\$15,362,0467,895,540
SYCT	\$ 1,340,313-688,873

8. Limited Section 205 Filing for an Extension of Contract Term

If ISO has extended the term of this Agreement pursuant to Section 2.1(b), then not later than October 31 of the expiring Contract Year, Owner shall make a filing with FERC under Section 205 of the Federal Power Act containing the values in Tables B-1 through B-6 for the ensuing Contract Year.

In the event that a Long-term Planned Outage that is scheduled for the last quarter of the expiring Contract Year is postponed or rescheduled after October 31 of such year to the ensuing Contract Year, Owner shall make an additional Section 205 filing to revise the values in Tables B-1 through B-5 to reflect such rescheduled Long-term Planned Outage Hours.

Dynegy South Bay, LLC
FERC Electric Tariff
First Revised Volume No. 2

Substitute First Revised Sheet No. 197A
Superseding First Revised Original Sheet No. 197A

Schedule J
Notices (continued)

ISO: **Chetty Mamandur**
Director, Reliability and Market Modeling
California ISO Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916)351-2196
Facsimile: (916) 351-2487
E-mail: cmamandur@caiso.com

With a copy to:

Sidney Mannheim Davies
Assistant General Counsel
Tariff and Tariff Compliance
Counsel and Vice President
California ISO Corp.
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 608-7144
Facsimile: (916) 608-7222
E-mail: sdavies@caiso.com

Issued by: Eric P. Watts,
V.P., Commercial Power Operations

Effective Date: January 1, 2010

Issued on: August 12, 2010 ~~October 30, 2009~~

Attachment B to Settlement Agreement

Dynegy South Bay, LLC

Docket No. ER10-166-000

Revised RMR Amendments

(Clean and Redline)

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defined in the ISO Tariff shall not be grounds for redesignating the Unit or designating another unit at the Facility as a Reliability Must-Run Unit.

- (e) Subject to any necessary authorization from FERC, this Agreement shall terminate as to any Unit leased by Owner in the event that, for any reason, the lease expires or is terminated unless Owner acquires ownership of such Unit upon such expiration or termination. Any termination under this Section 2.2 (e) shall not affect any right ISO may have thereafter to designate such Unit as a Reliability Must-Run Unit and the conditions in Section 2.2 (d) shall not apply to such redesignation.

2.3 Effective Date of Expiration or Termination

If FERC authorization is required to give effect to expiration or termination of this Agreement as to one or more Units, the effective date of the expiration or termination shall be the date FERC permits the expiration or termination to become effective. Owner shall promptly file for the requisite FERC authorizations to terminate service under this Agreement as of the proposed effective date of expiration or termination; provided, that nothing in this Agreement shall prejudice the right of either Party to contest the other Party's claim that a termination or expiration has occurred. If FERC authorization is not required to terminate service under this Agreement, the effective date of expiration or termination shall be the later of (i) the date specified in ISO or Owner's notice of termination or (ii) the date that all conditions to the termination or expiration have been satisfied.

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
FERC Electric Tariff
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Substitute Original Sheet No. 22A
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[CANCELED SHEET]

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

2.4 Effect of Expiration or Termination

Expiration or termination of this Agreement shall not affect the accrued rights and obligations of either Party, including either Party's obligations to make all payments to the other Party pursuant to this Agreement or post-termination audit rights under Section 12.2.

2.5 Termination Fee

(a) ISO shall pay Owner a Termination Fee calculated pursuant to Section 2.5 (b) if the Unit is Closed within six months after the Unit ceases to be subject to this Agreement as a result of termination pursuant to Sections 2.2 (b) (ii), (iii), (iv) or (v) or because ISO does not extend the term under Section 2.1 (b). Within 60 days after the Unit is Closed, Owner will send ISO a notice stating (i) the date the Unit Closed and (ii) the amount of the Termination Fee due Owner pursuant to this Section 2.5 including detailed calculations of each component of the formula in Section 2.5(b) identifying the source of each input used. For purposes of this Section, "Closed" shall mean that the Unit is not producing Energy or providing capacity and there are no Direct Contracts obligating any entity to deliver Energy or provide capacity from the Unit during the 36 month period beginning at the date the Unit Closed. A Unit shall cease to be Closed if, during the 36 month period beginning at the date the Unit Closed, any entity: (i) sells Energy or capacity; (ii) executes a Direct Contract for service or (iii) obtains a new permit from any Governmental Authority for operations, in each case that would involve use of the Capital Item for which a Termination Fee is being paid.

(b) The Termination Fee shall be determined using the following formula:

$$T = NCI + CWIP - S$$

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Outages after the Effective Date, the hours scheduled for performance of Long-term Planned Outages during the period from January 1, 1999 through the Effective Date and the actual hours spent performing such Long-term Planned Outages during such period as if the Agreement had become effective on January 1, 1999.

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Substitute First Revised Sheet No. 125
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Schedule K Dispute Resolution

Schedule L-1 Request for Approval of Capital Items or Repairs

Schedule L-2 Capital Item and Repair Progress Reports

Schedule M Mandatory Market Bid for Condition 2 Units
When Dispatched by the ISO

Schedule N-1 Non-Disclosure and Confidentiality Agreement for Responsible Utilities

Schedule N-2 Non-Disclosure and Confidentiality Agreement for Entities Other than Responsible
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Schedule O Owner's Invoice Process

Schedule P Reserved Energy for Air Emissions Limitations

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Substitute Original Sheet No. 221
Superseding Original Sheet No. 221

SOUTH BAY SCHEDULE L-1 REQUEST FOR PAYMENT OF EMPLOYEE RETENTION AND SEVERANCE COSTS

Dynegy South Bay is requesting CAISO payment of \$3,308,329, the actual Employee Retention and Severance Costs paid in January and February 2010.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR
RELIABILITY MUST-RUN UNIT
PAYMENT REQUEST

Date: **August 11, 2010**

CAISO Project Number: **Not Applicable**

Facility: **South Bay**

Unit: **Units 3 & 4 for Severance
All units for Retention**

Owner: **Dynegy South Bay LLC ("South Bay")**

Location: **San Diego, CA**

This request covers:

- Capital Items for the next Contract Year (preliminary)
- Capital Items for the next Contract Year (final)
- Unplanned Repairs
- Unplanned Capital Items

If this request covers Capital Items for the next Contract Year, provide:

Small Project Estimate (reliability)

Small Project Estimate (other)

Identify separately each Capital Item included in a small project estimate projected to cost more than \$50,000.

If this request covers Unplanned Repairs, or Capital Items projected to cost more than \$500,000, provide the information in the remainder of this form for each project.

Project Description: (describe the project and its major scope items – materials, new systems, modifications to existing systems, etc.)

All units at South Bay were RMR for Contract Year 2009. South Bay Units 3 and 4 have been released from RMR status for Contract Year 2010. As of December 31, 2009, Units 3 and 4 were permanently shut down. The retention and severance costs listed below have been paid in order to retain employees to reliably operate the plant through January 31, 2010.

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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- **The retention costs were paid to employees who stayed through January 31, 2010 in accordance with the Retention Award Agreement. A portion of these costs were included in RMR rates for Contract Year 2009. Retention pay provided an incentive over and above the amount of Severance Pay to employees to remain in order to continue to operate the plant during 2009 in a safe and reliable manner. All plant employees were eligible for this retention program. Payments were made in the first quarter of 2010.**
- **Severance pay is due all employees released as a result of the closing of Units 3 and 4, in accordance with the Dynegy Inc Severance Plan. Payments were made in the first quarter of 2010.**

If the project is required because of loss or damage to a Unit, describe the cause and nature of the loss or damage and all repairs performed or required for all Units during the year:

Not applicable

Project Budget:

Year	Labor	Material	Contract	Int Svc	Other	Material	Over head AEGE	Total Cost	AD VAL TAX	Total Expenditures	Total Financial Costs

RETENTION

Actual payments to employees terminated due to the closing of Units 3 and 4 **\$1,061,209** 23 represented employees
5 non-represented employees

Actual retention payment to employees who continue to work at the plant until final shut down **2,185,697** 28 represented employees
17 non-represented employees

Total Retention Cost Paid Through March 2010 **\$ 3,246,906**

Payroll taxes (8%) **259,752**

Total Retention Cost **\$3,506,658**

Retention costs Included in RMR for Contract Year 2009 **(1,401,562)**

Net Retention	\$ 2,105,096
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Issued by: Eric P. Watts,
 V.P. Commercial Power Operations
 Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
FERC Electric Tariff
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SEVERANCE

**Actual severance pay to employees terminated
with the closing of Units 3 and 4**

\$ 1,028,405 **23 represented employees
5 non-represented employees**

Payroll taxes (8%)

82,272

Benefit costs (9%)

92,556

Total Severance **\$ 1,203,233**

GRAND TOTAL **\$ 3,308,329**

Describe any work or repairs performed relating to this project in the last five years:

Not applicable.

As applicable, state the proposed depreciation life, Annual Capital Item Cost, Surcharge Payment Factor or Repair Payment Factor (percentage owed by ISO) of the Capital Item or Repair:

Not applicable

Describe why this project is required (justification):

Not applicable

Is this project required to comply with any laws, regulations or permits? If so, please list them and explain requirement.

Not applicable

Provide a cost/benefit analysis summary for this project:

Include all assumptions including changes to unit performance [efficiency, aux. power loads, etc.], impact on Maximum Net Dependable Capacity, grid interconnection/metering impacts, etc.

Not applicable

Describe the impacts on the Unit's ability to perform its obligations under this Agreement if this project is not approved:

Not applicable

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

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Describe alternatives to this project that were evaluated and the projected costs of those alternatives:

Describe alternatives along with their major scope items. Also, compare the projected cost of these alternatives with the selected alternative, and compare the unit performance impacts (efficiency, auxiliary power demands, Maximum Net Dependable Capacity effects, etc.) of these alternatives against the chosen alternative.

Not applicable

List any proceeds received or expected to be received by Owner from insurers or other third parties pursuant to applicable insurance, warranties and other contracts in connection with the project.

Not applicable

Provide the schedule for implementing this project:

Not applicable

Describe any outages required to implement this project:

Not applicable

Other comments:

Specific employee names and salary levels are confidential information and are not being provided.

The following supporting documents have been provided to the ISO:

- ***Retention Award Agreement – non represented employees***
- ***Retention Award Agreement – represented employees***
- ***Side Agreement between Dynegy and IBEW Local 1245***
- ***Dynegy Inc Severance Plan***

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Original Sheet No. 225

SOUTH BAY SCHEDULE L-1 REQUEST FOR PAYMENT OF CAPITALIZED MAINTENANCE

Dynegy South Bay is requesting CAISO payment for \$1,055,687, the balance of Capitalized Major Maintenance and Work in Progress not previously amortized and included in prior AFRR.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR
 RELIABILITY MUST-RUN UNIT
 CAPITAL ITEM AND REPAIR PROJECT REQUEST

Date: **August 11, 2010**

CAISO Project Number: **Not applicable**

Facility: **South Bay**

Unit: **All Units**

Owner: **Dynegy South Bay, LLC ("South Bay")**

Location: **San Diego, CA**

This request covers:

- Capital Items for the next Contract Year (preliminary)
- Capital Items for the next Contract Year (final)
- Unplanned Repairs
- Unplanned Capital Items

If this request covers Capital Items for the next Contract Year, provide:

Small Project Estimate (reliability)

Small Project Estimate (other)

Identify separately each Capital Item included in a small project estimate projected to cost more than \$50,000.

If this request covers Unplanned Repairs, or Capital Items projected to cost more than \$500,000, provide the information in the remainder of this form for each project.

Project Description: (describe the project and its major scope items – materials, new systems, modifications to existing systems, etc.)

All units at South Bay were RMR for Contract Year 2009. South Bay Units 3 and 4 have been released from RMR status for Contract Year 2010. As of December 31, 2009, Units 3 and 4 were permanently shut down. South Bay Units 1 and 2 and the Combustion Turbine (the "Units") are designated RMR for Contract Year 2010.

Issued by: Eric P. Watts,
 V.P. Commercial Power Operations
 Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Certain maintenance work required at South Bay was performed during the period December 2007 through May 2009. Under the Dynegy Capital vs Expense Policy, the cost of this work was capitalized and then amortized to expense over a multi-year period. All of these costs were incurred in order to maintain the reliability of the units at South Bay. All of the equipment involved is used and useful for providing reliable electric service.

The portion of these costs that was amortized in the cost year ended June 30, 2008 was included in the calculation of AFRR for contract year 2009.

The capitalized maintenance costs for the South Bay Units include two categories:

- Major Maintenance Expense that was capitalized under Dynegy's capitalization policy and has not been reflected in prior AFRR.***
- Maintenance Expenses that remain in Work in Progress and have not been reflected in prior AFRR.***

If the project is required because of loss or damage to a Unit, describe the cause and nature of the loss or damage and all repairs performed or required for all Units during the year:

Project Budget:

Year	Labor	Material	Contract	Int Svc	Other	Material	Over head AEGE	Total Cost	AD VAL TAX	Total Expenditures	Total Financial Costs

Summary of Actual Costs Not Previously Reflected in Prior AFRR
(See attachment: Capitalized Maintenance by Project)

<i>Capitalized Maintenance</i>	<i>\$ 854,427</i>
<i>Maintenance Charged to Work in Progress</i>	<i>201,260</i>
<i>Total</i>	<i>\$1,055,687</i>

Describe any work or repairs performed relating to this project in the last five years:

As applicable, state the proposed depreciation life, Annual Capital Item Cost, Surcharge Payment Factor or Repair Payment Factor (percentage owed by ISO) of the Capital Item or Repair:

Not applicable

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V.P. Commercial Power Operations
Issued on: August 12, 2010

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Describe why this project is required (justification):

Not applicable

Is this project required to comply with any laws, regulations or permits? If so, please list them and explain requirement.

Not applicable

Provide a cost/benefit analysis summary for this project:

Include all assumptions including changes to unit performance [efficiency, aux. power loads, etc.], impact on Maximum Net Dependable Capacity, grid interconnection/metering impacts, etc.

Not applicable

Describe the impacts on the Unit's ability to perform its obligations under this Agreement if this project is not approved:

Not applicable

Describe alternatives to this project that were evaluated and the projected costs of those alternatives:

Describe alternatives along with their major scope items. Also, compare the projected cost of these alternatives with the selected alternative, and compare the unit performance impacts (efficiency, auxiliary power demands, Maximum Net Dependable Capacity effects, etc.) of these alternatives against the chosen alternative.

Not applicable

List any proceeds received or expected to be received by Owner from insurers or other third parties pursuant to applicable insurance, warranties and other contracts in connection with the project.

Provide the schedule for implementing this project:

Not applicable

Describe any outages required to implement this project:

Not applicable

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Other comments:

The following supporting documents have been provided to the ISO:

- *Capitalized Maintenance by Project*
- *The Authorization for Expenditure forms related to each of the seven projects*
- *Dynegy Capital vs Expense Policy*

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

SOUTH BAY		CAPITALIZED MAINTENANCE BY PROJECT		Amount requested	Detail				
Item/Project No.	Description	Reference	Amount	Date Capitalized	Amount Capitalized During the Period Ended 6/30/2008	Amount Capitalized During the Period Ended 6/30/2009	Amortization Recorded in Cost Year 6/30/2008 and Included in AFRR	Total Capitalized Less amount recovered in AFRR	
					(a)	(b)	(c)	(a) + (b) - (c)	
1. Components of Capitalized Maintenance:									
47465	Unit 2 Turbine Refurbishment	General Ledger	\$ 405,589	Dec-07	\$ 686,190	\$ 3,549	\$ 284,150	\$ 405,589	
47709	Unit 1 Main Transformer Bladder Replacement	General Ledger	43,682	Apr-08	\$ 46,388		\$ 2,706	\$ 43,682	
47900	Unit 3 FD Fan Motor Repair	General Ledger	90,724	May-08	\$ 93,852		\$ 3,128	\$ 90,724	
47968	Unit 2 CW Pump Motor Repair	General Ledger	74,791	Jul-08		\$ 74,791		\$ 74,791	
48595	Unit 1 FD Fan & CW Pump Motor Rewinds	General Ledger	239,642	Mar-09		\$ 239,642		\$ 239,642	
	Total		\$ 854,427		\$ 826,430	\$ 317,981	\$ 289,985	\$ 854,427	
2. Components of Work In Progress:									
48353	Unit 3 CW Pump Motor Rewinds	General Ledger	\$ 136,799	Nov-08		\$ 136,799		\$ 136,799	
48126	CEM Upgrade	General Ledger	61,237	Apr-08	\$ 34,303	\$ 26,934		\$ 61,237	
48595	Unit 1 FD Fan & CW Pump Motor Rewinds	General Ledger	3,224	May-09		\$ 3,224		\$ 3,224	
			\$ 201,260		\$ 34,303	\$ 166,956	\$ -	\$ 201,260	
	GRAND TOTAL		\$ 1,055,687		\$ 860,734	\$ 484,937	\$ 289,985	\$ 1,055,687	
Total of Major Maintenance and Work in Progress									
47465	Unit 2 Turbine Refurbishment		\$ 405,589		\$ 686,190	\$ 3,549	\$ 284,150	\$ 405,589	
47709	Unit 1 Main Transformer Bladder Replacement		43,682		46,388	-	2,706	43,682	
47900	Unit 3 FD Fan Motor Repair		90,724		93,852	-	3,128	90,724	
47968	Unit 2 CW Pump Motor Repair		74,791		-	74,791	-	74,791	
48595	Unit 1 FD Fan & CW Pump Motor Rewinds		242,866		-	242,866	-	242,866	
48353	Unit 3 CW Pump Motor Rewinds		136,799		-	136,799	-	136,799	
48126	CEM Upgrade		61,237		34,303	26,934	-	61,237	
	\$ -	\$ -	\$ 1,055,687	\$ -	\$ 860,734	\$ 484,937	\$ 289,985	\$ 1,055,687	

Issued by: Eric P. Watts,
 V.P. Commercial Power Operations
 Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
 FERC Electric Tariff
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California Independent System Operator Corporation

August 11, 2010

Via FedEx & Email

Randy Hickok
 Managing Director, Asset Management West
 4140 Dublin Boulevard, Suite 100
 Dublin, CA 94568

Re: Dynegy South Bay, LLC, FERC Docket No. ER10-166

Dear Mr. Hickok:

The California Independent System Operator Corporation ("ISO") has received two Schedule L-1 Unplanned Repair Notices ("Notices") from Dynegy South Bay, LLC ("South Bay"). The Notices describe two projects for which payment is being sought in accordance with Section 7.5 of the RMR agreement. The parties to the Settlement Agreement filed in FERC Docket No. ER10-166 on August 11, 2010, agree to process the following two projects described in the Notices under Schedule L-1:

1. **Employee retention payments with a Net Repair Cost of \$3,308,329.**
 Severance pay was paid to all employees released from South Bay employment as a result of the closing of Units 3 and 4 at South Bay. Payments were made in the first quarter of 2010 in accordance with the South Bay Severance Plan.
2. **Capitalized Major Maintenance with a Net Repair Cost \$1,055,687.**
 Certain maintenance work required at South Bay was performed during the period December 2007 through May 2009. Under the Dynegy Capital vs. Expense Policy, the cost of this work was capitalized and then amortized to expense over a multi-year period. All of the equipment involved is used and useful for providing reliable electric service.

The ISO understands and accepts that the costs incurred for both of these expenses were incurred and paid in order to maintain the reliability of the units at South Bay.

The ISO approves these repairs subject to the following:

1. The ISO authorizes an ISO Repair Share of \$3,308,329 for the employee retention payments and \$1,055,687 for the capitalized major maintenance.

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Issued by: Eric P. Watts,
 V.P. Commercial Power Operations
 Issued on: August 12, 2010

Effective Date: January 1, 2010

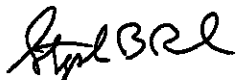
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2. FERC approval of the CAISO Repair Share must be obtained before invoicing in accordance with Section 7.5 of the RMR Agreement. The CAISO Repair Share will be paid as a lump sum payment.

Please contact Gil Grotta at 916-608-5916 if you have any questions or comments.

Regards,



Stephen Berberich
Vice President and Chief Operating Officer

GG/km
Attachment

cc: Joseph Paul (South Bay)
Barbara Walsh (South Bay)
Bruce Richardson (South Bay)
Laurence Chaset (CPUC)
Jim Walsh (SDG&E)
Chris Soderlund (SDG&E)

California Independent System Operator

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

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 FORCE MAJEURE EVENTS 100
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Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010~~October 30, 2009~~

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Substitute First Revised Sheet No. 22
 Superseding ~~Original~~ First Revised Sheet No. 22

defined in the ISO Tariff shall not be grounds for redesignating the Unit or designating another unit at the Facility as a Reliability Must-Run Unit.

- (e) Subject to any necessary authorization from FERC, this Agreement shall terminate as to any Unit leased by Owner in the event that, for any reason, the lease expires or is terminated unless Owner acquires ownership of such Unit upon such expiration or termination. Any termination under this Section 2.2 (e) shall not affect any right ISO may have thereafter to designate such Unit as a Reliability Must-Run Unit and the conditions in Section 2.2 (d) shall not apply to such redesignation.

2.3 Effective Date of Expiration or Termination

If FERC authorization is required to give effect to expiration or termination of this Agreement as to one or more Units, the effective date of the expiration or termination shall be the date FERC permits the expiration or termination to become effective. Owner shall promptly file for the requisite FERC authorizations to terminate service under this Agreement as of the proposed effective date of expiration or termination; provided, that nothing in this Agreement shall prejudice the right of either Party to contest the other Party's claim that a termination or expiration has occurred. If FERC authorization is not required to terminate service under this Agreement, the effective date of expiration or termination shall be the later of (i) the date specified in ISO or Owner's notice of termination or (ii) the date that all conditions to the termination or expiration have been satisfied.

- ~~(f) Notwithstanding Section 2.3 or any provision to this Agreement to the contrary, this Agreement shall terminate at the (i) end of the month that is no less than 90 days following the month notice is received by the ISO from the Responsible Utility that sufficient replacement generation is in full commercial operation and that the ISO determines Owner's Units are no longer needed for local reliability needs or managing intra-zonal congestion or (ii) termination date established pursuant to Section 2.2(b)(ii)~~

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 Issued on: August 12, 2010 ~~October 30, 2009~~

Effective Date: January 1, 2010

~~through (v) of this Agreement. As of the termination date under this subsection (f), the Units shall be deemed Closed and the ISO shall not issue any Dispatch Notice under this Agreement pending FERC authorization to cancel or terminate Owner's FERC Electric Tariff First Revised Volume No. 2, and Owner shall immediately reduce all Units' availability to zero through a SLIC log entry, thereby precluding the ISO from dispatching the Units for Energy or Ancillary Services under the CAISO Tariff after the termination date established by this subsection (f). Owner shall remove all Units from Schedule 1 of the Participating Generator Agreement between ISO and Owner. Owner shall receive compensation under Schedule F of this Agreement for a period of 90 days following the month notice is received that the Units shall be Closed. The preceding three sentences~~

Dynegy South Bay, LLC
FERC Electric Tariff
First Revised Volume No. 2

Substitute Original Sheet No. 22A
Superseding Original Sheet No. 22A

~~shall survive termination of this Agreement until the obligations they impose have been satisfied.~~

~~2.3 Effective Date of Expiration or Termination~~

~~If FERC authorization is required to give effect to expiration or termination of this Agreement as to one or more Units, the effective date of the expiration or termination shall be the date FERC permits the expiration or termination to become effective. Owner shall promptly file for the requisite FERC authorizations to terminate service under this Agreement as of the proposed effective date of expiration or termination; provided, that nothing in this Agreement shall prejudice the right of either Party to contest the other Party's claim that a termination or expiration has occurred. If FERC authorization is not required to terminate service under this Agreement, the effective date of expiration or termination shall be the later of (i) the date specified in ISO or Owner's notice of termination or (ii) the date that all conditions to the termination or expiration have been satisfied.~~

[CANCELED SHEET]

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Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Substitute First Revised Sheet No. 23
 Superseding ~~Original First Revised Sheet No. 23~~

2.4 Effect of Expiration or Termination

Expiration or termination of this Agreement shall not affect the accrued rights and obligations of either Party, including either Party's obligations to make all payments to the other Party pursuant to this Agreement or post-termination audit rights under Section 12.2.

2.5 Termination Fee

- (a) ISO shall pay Owner a Termination Fee calculated pursuant to Section 2.5 (b) if the Unit is Closed within six months after the Unit ceases to be subject to this Agreement as a result of termination pursuant to Sections 2.2 (b) (ii), (iii), (iv) or (v), ~~Section 2.2(f)~~ or because ISO does not extend the term under Section 2.1 (b). Within 60 days after the Unit is Closed, Owner will send ISO a notice stating (i) the date the Unit Closed and (ii) the amount of the Termination Fee due Owner pursuant to this Section 2.5 including detailed calculations of each component of the formula in Section 2.5(b) identifying the source of each input used. For purposes of this Section, "Closed" shall mean that the Unit is not producing Energy or providing capacity and there are no Direct Contracts obligating any entity to deliver Energy or provide capacity from the Unit during the 36 month period beginning at the date the Unit Closed. A Unit shall cease to be Closed if, during the 36 month period beginning at the date the Unit Closed, any entity: (i) sells Energy or capacity; (ii) executes a Direct Contract for service or (iii) obtains a new permit from any Governmental Authority for operations, in each case that would involve use of the Capital Item for which a Termination Fee is being paid.
- (b) The Termination Fee shall be determined using the following formula:

$$T = NCI + CWIP - S$$

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Effective Date: January 1, 2010

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Substitute First Revised Sheet No. 81
 Superseding ~~Original~~ First Revised Sheet No. 81

Outages after the Effective Date, the hours scheduled for performance of Long-term Planned Outages during the period from January 1, 1999 through the Effective Date and the actual hours spent performing such Long-term Planned Outages during such period as if the Agreement had become effective on January 1, 1999.

8.7 ~~End of Service Life Costs~~

~~Notwithstanding any provision to this Agreement to the contrary, Owner shall recover costs in connection with the closure of the Facility, including, but not limited to, demolition and remediation costs, retention and severance payments, and lease costs after the 2009 Cost Year (End of Service Life Costs or "Costs"). The Costs are limited to costs in excess of the (i) revenue already collected for the closure of the Facility and (ii) funds held in escrow pursuant to Owner's lease agreement with the San Diego Unified Port District. The Costs shall be collected monthly for the 2010 Contract Year and shall be invoiced by separate invoice to the ISO and paid utilizing the procedures set forth in Article 9. The amounts collected shall be deposited in an escrow account established by Owner. Within 120 days after the demolition and remediation have been completed, Owner will perform a true up of the Costs collected with interest earned ("ESLC Collected") against the actual costs. If ESLC Collected is in excess of the actual costs, Owner will refund the excess over actual costs. If actual costs exceed the ESLC Collected, Owner will invoice the ISO for the costs in excess of the ESLC Collected. Payment in connection with the true up shall be subject to the terms and conditions set forth in Sections 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, and 9.8 of this Agreement. Cost recovery under this Section 8.7 shall survive termination of this Agreement until the obligations have been satisfied.~~

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 Issued on: August 12, 2010~~October 30, 2009~~

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Substitute First Revised Sheet No. 125
Superseding ~~Original First Revised Sheet No. 125~~

Schedule K Dispute Resolution

Schedule L-1 Request for Approval of Capital Items or Repairs

Schedule L-2 Capital Item and Repair Progress Reports

Schedule M Mandatory Market Bid for Condition 2 Units
When Dispatched by the ISO

Schedule N-1 Non-Disclosure and Confidentiality Agreement for Responsible Utilities

Schedule N-2 Non-Disclosure and Confidentiality Agreement for Entities Other than Responsible
Utilities

Schedule O Owner's Invoice Process

Schedule P Reserved Energy for Air Emissions Limitations

~~Schedule Q End of Service Life Costs~~

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V.P. Commercial Power Operations
Issued on: August 12, 2010 ~~October 30, 2009~~

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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Substitute Original Sheet No. 221
Superseding Original Sheet No. 221

SCHEDULE Q
END OF SERVICE LIFE COSTS

Owner shall recover costs in connection with the closure of the Facility, including, but not limited to, the following costs:

~~ESTIMATED COSTS~~

~~Labor Retention and Severance Costs~~

~~Phase I Retention Costs and Severance due to the closing of Units 3 and 4 on December 31, 2009~~

Labor retention costs not previously collected in AFRR	\$ 1,810,746
Severance costs	1,137,028

~~Phase II Retention Costs and Severance due to the closing of the remaining units at the Facility~~

Labor retention costs	907,520
Severance costs	2,805,546
Total	\$6,660,840

~~Maintenance and other costs not previously collected in AFRR~~

Refund of demolition costs included in AFRR for 2010	(\$160,125)
Capitalized maintenance not previously collected in AFRR	854,427
Maintenance charged to Work in Progress and not previously collected in AFRR	201,260
Increase in allocated Western Region costs	171,725
Total	\$1,067,287

~~Port Rent~~

Rent to the San Diego Unified Port District during 2010	\$6,250,484
Rent to the San Diego Unified Port District during demolition period	13,605,291
Total	\$19,855,775

~~Demolition and Remediation Costs~~

Demolition and remediation costs in excess of amounts previously collected through AFRR	\$8,555,984
---	-------------

TOTAL **\$36,139,886**

Monthly Payment for 2010 \$3,011,65

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: ~~August 12, 2010~~ ~~October 30, 2009~~

Effective Date: January 1, 2010

SOUTH BAY SCHEDULE L-1 REQUEST FOR PAYMENT OF EMPLOYEE RETENTION AND SEVERANCE COSTS

Dynegy South Bay is requesting CAISO payment of \$3,308,329, the actual Employee Retention and Severance Costs paid in January and February 2010.

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR
RELIABILITY MUST-RUN UNIT
PAYMENT REQUEST**

Date: August 11, 2010 **CAISO Project Number: Not Applicable**

Facility: South Bay **Unit: Units 3 & 4 for Severance**
All units for Retention

Owner: Dynegy South Bay LLC ("South Bay") **Location: San Diego, CA**

This request covers:

- Capital Items for the next Contract Year (preliminary)**
- Capital Items for the next Contract Year (final)**
- Unplanned Repairs**
- Unplanned Capital Items**

If this request covers Capital Items for the next Contract Year, provide:

Small Project Estimate (reliability)

Small Project Estimate (other)

Identify separately each Capital Item included in a small project estimate projected to cost more than \$50,000.

If this request covers Unplanned Repairs, or Capital Items projected to cost more than \$500,000, provide the information in the remainder of this form for each project.

Project Description: (describe the project and its major scope items – materials, new systems, modifications to existing systems, etc.)

All units at South Bay were RMR for Contract Year 2009. South Bay Units 3 and 4 have been released from RMR status for Contract Year 2010. As of December 31, 2009, Units 3 and 4 were permanently shut down. The retention and severance costs listed below have been paid in order to retain employees to reliably operate the plant through January 31, 2010.

Dynergy South Bay, LLC
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- The retention costs were paid to employees who stayed through January 31, 2010 in accordance with the Retention Award Agreement. A portion of these costs were included in RMR rates for Contract Year 2009. Retention pay provided an incentive over and above the amount of Severance Pay to employees to remain in order to continue to operate the plant during 2009 in a safe and reliable manner. All plant employees were eligible for this retention program. Payments were made in the first quarter of 2010.
- Severance pay is due all employees released as a result of the closing of Units 3 and 4, in accordance with the Dynergy Inc Severance Plan. Payments were made in the first quarter of 2010.

If the project is required because of loss or damage to a Unit, describe the cause and nature of the loss or damage and all repairs performed or required for all Units during the year:

Not applicable

Project Budget:

<u>Year</u>	<u>Labor</u>	<u>Material</u>	<u>Contract</u>	<u>Int Svc</u>	<u>Other</u>	<u>Material</u>	<u>Over head AEGE</u>	<u>Total Cost</u>	<u>AD VAL TAX</u>	<u>Total Expenditures</u>	<u>Total Financial Costs</u>

RETENTION

Actual payments to employees terminated \$1,061,209 23 represented employees
due to the closing of Units 3 and 4 5 non-represented employees

Actual retention payment to employees who 2,185,697 28 represented employees
continue to work at the plant until final shut down 17 non-represented employees

Total Retention Cost Paid Through March 2010 \$ 3,246,906

Payroll taxes (8%) 259,752

Total Retention Cost \$3,506,658

Retention costs Included in RMR (1,401,562)
for Contract Year 2009

Net Retention \$ 2,105,096

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V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

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SEVERANCE

**Actual severance pay to employees terminated
with the closing of Units 3 and 4**

\$ 1,028,405 **23 represented employees**
5 non-represented employees

Payroll taxes (8%) **82,272**

Benefit costs (9%) **92,556**

<u>Total Severance</u>	<u>\$ 1,203,233</u>
-------------------------------	----------------------------

<u>GRAND TOTAL</u>	<u>\$ 3,308,329</u>
---------------------------	----------------------------

Describe any work or repairs performed relating to this project in the last five years:

Not applicable.

As applicable, state the proposed depreciation life, Annual Capital Item Cost, Surcharge Payment Factor or Repair Payment Factor (percentage owed by ISO) of the Capital Item or Repair:

Not applicable

Describe why this project is required (justification):

Not applicable

Is this project required to comply with any laws, regulations or permits? If so, please list them and explain requirement.

Not applicable

Provide a cost/benefit analysis summary for this project:

Include all assumptions including changes to unit performance [efficiency, aux. power loads, etc.], impact on Maximum Net Dependable Capacity, grid interconnection/metering impacts, etc.

Not applicable

Describe the impacts on the Unit's ability to perform its obligations under this Agreement if this project is not approved:

Not applicable

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V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

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Describe alternatives to this project that were evaluated and the projected costs of those alternatives:

Describe alternatives along with their major scope items. Also, compare the projected cost of these alternatives with the selected alternative, and compare the unit performance impacts (efficiency, auxiliary power demands, Maximum Net Dependable Capacity effects, etc.) of these alternatives against the chosen alternative.

Not applicable

List any proceeds received or expected to be received by Owner from insurers or other third parties pursuant to applicable insurance, warranties and other contracts in connection with the project.

Not applicable

Provide the schedule for implementing this project:

Not applicable

Describe any outages required to implement this project:

Not applicable

Other comments:

Specific employee names and salary levels are confidential information and are not being provided.

The following supporting documents have been provided to the ISO:

- Retention Award Agreement – non represented employees
- Retention Award Agreement – represented employees
- Side Agreement between Dynergy and IBEW Local 1245
- Dynergy Inc Severance Plan

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynergy South Bay, LLC
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Original Sheet No. 225

SOUTH BAY SCHEDULE L-1 REQUEST FOR PAYMENT OF CAPITALIZED MAINTENANCE

Dynergy South Bay is requesting CAISO payment for \$1,055,687, the balance of Capitalized Major Maintenance and Work in Progress not previously amortized and included in prior AFRR.

CALIFORNIA INDEPENDENT SYSTEM OPERATOR
RELIABILITY MUST-RUN UNIT
CAPITAL ITEM AND REPAIR PROJECT REQUEST

Date: August 11, 2010 CAISO Project Number: Not applicable

Facility: South Bay Unit: All Units

Owner: Dynergy South Bay, LLC ("South Bay") Location: San Diego, CA

This request covers:

- Capital Items for the next Contract Year (preliminary)
- Capital Items for the next Contract Year (final)
- Unplanned Repairs
- Unplanned Capital Items

If this request covers Capital Items for the next Contract Year, provide:

Small Project Estimate (reliability)

Small Project Estimate (other)

Identify separately each Capital Item included in a small project estimate projected to cost more than \$50,000.

If this request covers Unplanned Repairs, or Capital Items projected to cost more than \$500,000, provide the information in the remainder of this form for each project.

Project Description: (describe the project and its major scope items – materials, new systems, modifications to existing systems, etc.)

All units at South Bay were RMR for Contract Year 2009. South Bay Units 3 and 4 have been released from RMR status for Contract Year 2010. As of December 31, 2009, Units 3 and 4 were permanently shut down. South Bay Units 1 and 2 and the Combustion Turbine (the "Units") are designated RMR for Contract Year 2010.

Issued by: Eric P. Watts
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynergy South Bay, LLC
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Certain maintenance work required at South Bay was performed during the period December 2007 through May 2009. Under the Dynergy Capital vs Expense Policy, the cost of this work was capitalized and then amortized to expense over a multi-year period. All of these costs were incurred in order to maintain the reliability of the units at South Bay. All of the equipment involved is used and useful for providing reliable electric service.

The portion of these costs that was amortized in the cost year ended June 30, 2008 was included in the calculation of AFRR for contract year 2009.

The capitalized maintenance costs for the South Bay Units include two categories:

- **Major Maintenance Expense that was capitalized under Dynergy's capitalization policy and has not been reflected in prior AFRR.**
- **Maintenance Expenses that remain in Work in Progress and have not been reflected in prior AFRR.**

If the project is required because of loss or damage to a Unit, describe the cause and nature of the loss or damage and all repairs performed or required for all Units during the year:

Project Budget:

<u>Year</u>	<u>Labor</u>	<u>Material</u>	<u>Contract</u>	<u>Int Svc</u>	<u>Other</u>	<u>Material</u>	<u>Over head AEGE</u>	<u>Total Cost</u>	<u>AD VAL TAX</u>	<u>Total Expenditures</u>	<u>Total Financial Costs</u>

Summary of Actual Costs Not Previously Reflected in Prior AFRR
(See attachment: Capitalized Maintenance by Project)

<u>Capitalized Maintenance</u>	<u>\$ 854,427</u>
<u>Maintenance Charged to Work in Progress</u>	<u>201,260</u>
<u>Total</u>	<u>\$1,055,687</u>

Describe any work or repairs performed relating to this project in the last five years:

As applicable, state the proposed depreciation life, Annual Capital Item Cost, Surcharge Payment Factor or Repair Payment Factor (percentage owed by ISO) of the Capital Item or Repair:

Not applicable

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V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

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Describe why this project is required (justification):

Not applicable

Is this project required to comply with any laws, regulations or permits? If so, please list them and explain requirement.

Not applicable

Provide a cost/benefit analysis summary for this project:

Include all assumptions including changes to unit performance [efficiency, aux. power loads, etc.], impact on Maximum Net Dependable Capacity, grid interconnection/metering impacts, etc.

Not applicable

Describe the impacts on the Unit's ability to perform its obligations under this Agreement if this project is not approved:

Not applicable

Describe alternatives to this project that were evaluated and the projected costs of those alternatives:

Describe alternatives along with their major scope items. Also, compare the projected cost of these alternatives with the selected alternative, and compare the unit performance impacts (efficiency, auxiliary power demands, Maximum Net Dependable Capacity effects, etc.) of these alternatives against the chosen alternative.

Not applicable

List any proceeds received or expected to be received by Owner from insurers or other third parties pursuant to applicable insurance, warranties and other contracts in connection with the project.

Provide the schedule for implementing this project:

Not applicable

Describe any outages required to implement this project:

Not applicable

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V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynergy South Bay, LLC
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Other comments:

The following supporting documents have been provided to the ISO:

- *Capitalized Maintenance by Project*
- *The Authorization for Expenditure forms related to each of the seven projects*
- *Dynergy Capital vs Expense Policy*

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V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynergy South Bay, LLC
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20100812-0009 FERC PDF (Unofficial) 08/12/2010

SOUTH BAY		CAPITALIZED MAINTENANCE BY PROJECT			Amount requested	Detail				
Item/Project No.	Description	Reference	Amount		Date Capitalized	Amount Capitalized During the Period Ended 6/30/2008	Amount Capitalized During the Period Ended 6/30/2009	Amortization Recorded in Cost Year 6/30/2008 and Included in AFRR	Total Capitalized Less amount recovered in AFRR	
						(a)	(b)	(c)	(a) + (b) - (c)	
1. Components of Capitalized Maintenance:										
47465	Unit 2 Turbine Refurbishment	General Ledger	\$ 405,589	-	Dec-07	\$ 686,190	\$ 3,549	\$ 284,150	\$ 405,589	
47709	Unit 1 Main Transformer Bladder Replacement	General Ledger	43,682	-	Apr-08	46,388		2,706	43,682	
47900	Unit 3 FD Fan Motor Repair	General Ledger	90,724	-	May-08	93,852		3,128	90,724	
47968	Unit 2 CW Pump Motor Repair	General Ledger	74,791	-	Jul-08		74,791		74,791	
48595	Unit 1 FD Fan & CW Pump Motor Rewinds	General Ledger	239,642	-	Mar-09		239,642		239,642	
	Total		\$ 854,427	-		\$ 826,430	\$ 317,981	\$ 289,985	\$ 854,427	
2. Components of Work In Progress:										
48353	Unit 3 CW Pump Motor Rewinds	General Ledger	\$ 136,799	-	Nov-08		136,799		136,799	
48126	CEM Upgrade	General Ledger	61,237	-	Apr-08	34,303	26,934		61,237	
48595	Unit 1 FD Fan & CW Pump Motor Rewinds	General Ledger	3,224	-	May-09		3,224		3,224	
			\$ 201,260	-		\$ 34,303	\$ 166,956	\$ -	\$ 201,260	
	GRAND TOTAL		\$ 1,055,687	-		\$ 860,734	\$ 484,937	\$ 289,985	\$ 1,055,687	
Total of Major Maintenance and Work in Progress										
47465	Unit 2 Turbine Refurbishment		\$ 405,589	-		\$ 686,190	\$ 3,549	\$ 284,150	\$ 405,589	
47709	Unit 1 Main Transformer Bladder Replacement		43,682	-		46,388		2,706	43,682	
47900	Unit 3 FD Fan Motor Repair		90,724	-		93,852		3,128	90,724	
47968	Unit 2 CW Pump Motor Repair		74,791	-			74,791		74,791	
48595	Unit 1 FD Fan & CW Pump Motor Rewinds		242,866	-			242,866		242,866	
48353	Unit 3 CW Pump Motor Rewinds		136,799	-			136,799		136,799	
48126	CEM Upgrade		61,237	-		34,303	26,934		61,237	
	\$	\$	\$ 1,055,687	-	\$ -	\$ 860,734	\$ 484,937	\$ 289,985	\$ 1,055,687	

Issued by: Eric P. Watts,
 V.P. Commercial Power Operations
 Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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California Independent System Operator Corporation

August 11, 2010

Via FedEx & Email

Randy Hickok
 Managing Director, Asset Management West
 4140 Dublin Boulevard, Suite 100
 Dublin, CA 94568

Re: Dynegy South Bay, LLC, FERC Docket No. ER10-166

Dear Mr. Hickok:

The California Independent System Operator Corporation ("ISO") has received two Schedule L-1 Unplanned Repair Notices ("Notices") from Dynegy South Bay, LLC ("South Bay"). The Notices describe two projects for which payment is being sought in accordance with Section 7.5 of the RMR agreement. The parties to the Settlement Agreement filed in FERC Docket No. ER10-166 on August 11, 2010, agree to process the following two projects described in the Notices under Schedule L-1:

1. **Employee retention payments with a Net Repair Cost of \$3,308,329.**
 Severance pay was paid to all employees released from South Bay employment as a result of the closing of Units 3 and 4 at South Bay. Payments were made in the first quarter of 2010 in accordance with the South Bay Severance Plan.
2. **Capitalized Major Maintenance with a Net Repair Cost \$1,055,687.**
 Certain maintenance work required at South Bay was performed during the period December 2007 through May 2009. Under the Dynegy Capital vs. Expense Policy, the cost of this work was capitalized and then amortized to expense over a multi-year period. All of the equipment involved is used and useful for providing reliable electric service.

The ISO understands and accepts that the costs incurred for both of these expenses were incurred and paid in order to maintain the reliability of the units at South Bay.

The ISO approves these repairs subject to the following:

1. The ISO authorizes an ISO Repair Share of \$3,308,329 for the employee retention payments and \$1,055,687 for the capitalized major maintenance.

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Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Dynegy South Bay, LLC
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2. FERC approval of the CAISO Repair Share must be obtained before invoicing in accordance with Section 7.5 of the RMR Agreement. The CAISO Repair Share will be paid as a lump sum payment.

Please contact Gil Grotta at 916-608-5916 if you have any questions or comments.

Regards,



Stephen Berberich
Vice President and Chief Operating Officer

GG/km
Attachment

cc: Joseph Paul (South Bay)
Barbara Walsh (South Bay)
Bruce Richardson (South Bay)
Laurence Chaset (CPUC)
Jim Walsh (SDG&E)
Chris Soderlund (SDG&E)

California Independent System Operator

Issued by: Eric P. Watts,
V.P. Commercial Power Operations
Issued on: August 12, 2010

Effective Date: January 1, 2010

Attachment C to Settlement Agreement

Dynegy South Bay, LLC

Docket No. ER10-166-000

Invoicing Process

INVOICING PROCESS

1. Upon the earlier of the approval set forth in Paragraph 18 of the Settlement Agreement or approval of the Settlement Agreement by the Commission without material modification or condition ("Effective Date"), specified charges under the RMR Agreements affected by the terms of the Settlement Agreement shall be recalculated as though such terms were in place and effective on the dates specified in the Settlement Agreement, and any resulting differences from the charges actually invoiced under the RMR Agreements beginning January 1, 2010 shall be subject to credit or surcharges with interest, as described below:

Any differences between the charges resulting from such recalculation and the charges previously paid for the period commencing January 1, 2010 shall result in credit or surcharges, as appropriate, with interest.

- a. Credit or surcharges, as appropriate, due for each Billing Month in which a Revised Adjusted RMR Invoice has not yet been submitted to CAISO by South Bay on the date thirty (30) days after the Effective Date, shall be submitted in accordance with Article 9.1(b)(v) of the RMR Agreement; that is, South Bay shall submit a Revised Adjusted RMR Invoice that reflects the rates set forth in the Settlement Agreement.

To the extent that the total amount of the Revised Adjusted Invoice shows a credit (surcharge) due to CAISO or South Bay, such credit (surcharge) shall be paid to CAISO or South Bay on the date that payment of the Revised Adjusted RMR Invoice for RMR services is due, by wire transfer or such other method as CAISO and South Bay may agree upon.

- b. Credits or surcharges due for all Billing Months in which a Revised Adjusted RMR Invoice has already been submitted to CAISO by South Bay on or prior to the Effective Date shall be shown as a credit (surcharge) on the first Estimated RMR Invoice for RMR services issued by South Bay after the Effective Date or if the first Estimated RMR Invoice is due within five (5) business days after the Effective Date, then on the subsequent Estimated RMR Invoice and shall be paid as a credit (surcharge) on the subsequent Revised Estimated RMR Invoice.

South Bay shall credit the full refund amount due, regardless of the level of the charges on that invoice. CAISO shall pay the full surcharge amount regardless of the levels of charges on that invoice.

To the extent that any portion of a credit (including applicable interest) exceeds amounts due to South Bay, such portion shall be paid to CAISO, on the date that payment of the Revised Estimated RMR Invoice for RMR services is due, by wire transfer or such other method as CAISO and South Bay may agree upon. In no event shall the credit for these Billing Months be shown on a Revised Estimated RMR Invoice later than sixty (60) days after the Effective Date.

To the extent that any portion of a surcharge (including applicable interest) is in addition to the amounts due to South Bay, such portion shall be paid to South Bay, on the date that payment of the Revised Estimated RMR Invoice for RMR services is due, by wire transfer or such other method as CAISO and South Bay may agree upon. In no event shall the surcharge for these Billing Months be shown on the Revised Estimated RMR Invoice later than sixty (60) days after the Effective Date.

2. To support the amounts to be credited or billed, South Bay shall, for each applicable Billing Month:

- a. compute and set forth the difference between (i) the amount payable by CAISO to South Bay in accordance with the rates in effect prior to the Effective Date, and (ii) the amounts payable by CAISO to South Bay in accordance with the rates that result from the Settlement Agreement;
- b. compute, set forth and add interest to the difference calculated in accordance with (a) above, with interest computed pursuant to Section 35.19a of the Commission's Regulations, 18 C.F.R. § 35.19a (2010);¹
- c. set forth the total amount of the refund or surcharge; and
- d. include this supporting documentation with the invoice on which each refund amount is credited or surcharge is owed.

3. No later than the date twenty (20) days after the final credit or surcharge is paid, South Bay shall prepare and provide CAISO a report with a level of detail sufficient to permit verification of the accuracy of the amounts refunded or surcharged.

4. The ISO will revise its RMR Settlement Database to reflect the amount that South Bay actually received for each Billing Month.

¹ For Billing Months described by paragraph 1(b), the dates used to calculate interest for each Billing Month are the Revised Estimated RMR Invoice payment date for the applicable Billing Month and the Revised Estimated RMR Invoice payment date for the invoice on which the credit or the surcharge is owed. For Billing Months described by paragraph 1(a), interest is calculated in accordance with the invoice template.

5. In the event that, in the future, a Prior Period Change is required for a matter other than an adjustment resulting from the Settlement Agreement, and a Prior Period Change Worksheet is submitted by South Bay, in accordance with Article 9.1(g) of the RMR Agreement, that includes any Billing Month for which a credit or surcharge was provided in accordance with this section, South Bay shall show the actual amount paid for the applicable Billing Month(s) in the Revised Adjusted columns of the Prior Period Change Worksheets.

6. In no event shall the calculation of the credit or surcharge amount, the surcharge or credit amount actually paid or refunded by South Bay, or the accompanying surcharge or credit amount relating solely to surcharges or credits arising under the Settlement Agreement include any charge, credit, or offset or any other adjustment that is not listed in points (1) and (2).

Explanatory Statement

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

Dynegy South Bay, LLC

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Docket No. ER10-166-000

EXPLANATORY STATEMENT

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 385.602 (2010), Dynegy South Bay, LLC (“South Bay”), the California Independent System Operator Corporation (“CAISO”) and San Diego Gas & Electric Company (“SDG&E”) (collectively, the “Parties” or individually a “Party.”) submit this Explanatory Statement concerning the Settlement Agreement, dated as of August 11, 2010, by and among the Parties (“Agreement”).¹ The Parties submit that the Agreement resolves all issues relating to Docket No. ER10-166-000 without the need for any further proceedings regarding those issues. The Parties further assert that the Agreement is in the public interest, and the Parties urge the Commission to approve the Agreement on its terms, without modification or condition. This Explanatory Statement summarizes the Agreement and the procedural history leading up to the filing of the Agreement. This Explanatory Statement is not intended to modify or alter any provision of the Agreement.

I.

FACTUAL AND PROCEDURAL BACKGROUND

On October 30, 2009, South Bay filed with the Commission, in Docket No. ER10-166-000, revisions to certain Reliability Must-Run (“RMR”) Rate Schedules (“RMR Schedules”) of

¹ The California Public Utilities Commission (“CPUC”) supports the Agreement, and the City of Chula Vista (“Chula Vista”) and Commission Trial Staff do not oppose the Agreement.

its Must-Run Service Agreement (“RMR Agreement”) with the CAISO and amendments to the RMR Agreement (“RMR Amendment”) (together with the RMR Schedules, the “Annual 205 Filing”). South Bay also submitted an informational filing of the proposed changes in its Annual Fixed Revenue Requirement (“Filed AFRR”), pursuant to Schedule F of the RMR Agreement (“Schedule F Filing”) (together with the Annual 205 Filing, the “South Bay Filing”).

Notice of the filing was published in the *Federal Register*, 74 Fed. Reg. 58,269 (2009), with interventions and protests due on or before November 20, 2009. The following interventions and protests were filed in this proceeding: (1) the November 19, 2009 motion to intervene by the CPUC; (2) the November 20, 2009 motion to intervene by Steve Castaneda, Councilmember of Chula Vista; (3) the November 20, 2009 motion to intervene and protest of SDG&E; (4) the November 20, 2009 motion to intervene of the CAISO and joint protest of the CAISO, CPUC, and SDG&E (“Joint Protest”); and (5) the January 4, 2010 motion to intervene out-of-time and comments of Chula Vista (to which the CAISO responded on January 14, 2010).

In the Joint Protest, the CAISO, CPUC, and SDG&E requested “that the Commission provide all parties with a reasonable opportunity, until January 31, 2010, to resolve this issue before initiating either a hearing or settlement judge procedures.” Joint Protest at 5. The Joint Motion went on to further describe the discussions that were underway. On December 1, 2009, South Bay filed a response in support of the request to permit the parties to continue the ongoing settlement negotiations and the deferral of Commission action until January 31, 2010.

By order dated January 29, 2010, the Commission accepted South Bay’s proposed revisions to the RMR Agreement and the rate schedules for filing, suspended them for a nominal period, to become effective on January 1, 2010, and established hearing and settlement judge procedures. *Dynegy South Bay, LLC*, 130 FERC ¶ 61,076 (2010) (“South Bay Order”). In

response to the request of the parties, Chief Judge Curtis L. Wagner, Jr. deferred appointment of a settlement judge until March 1, 2010, to permit the parties to continue the ongoing settlement discussions. Chief Judge Wagner continued to grant additional requested extensions, deferring appointment of the settlement judge through May 3, 2010. In response to the May 3, 2010 request of the parties seeking appointment of a settlement judge to assist with a subset of issues that remained unresolved, Chief Judge Wagner appointed Judge Bruce L. Birchman as the Settlement Judge.

With the assistance of Judge Birchman, the parties continued to actively engage in settlement discussions. As a result of those discussions, the undersigned have reached the agreement memorialized in the Agreement by which they resolve all issues relating to Docket No. ER10-166-000.

II.

AGREEMENT

Although the provisions of the Agreement control, essential terms of the Agreement are summarized below:

A. Settlement Terms

The Parties agree that South Bay's revenue requirement for RMR service for 2010 will be \$36,016,016 (the "Revised 2010 Revenue"), consisting of a negotiated "Black Box" settlement (1) AFRR for 2010 of \$31,652,000 (the "Revised AFRR") and a lump sum payment to South Bay in the amount of \$4,364,016 ("Lump Sum Payment"). The Revised AFRR is set forth in RMR Schedule B. RMR Schedule B is included in Attachment A to the Agreement, which contains clean and redline versions of revised RMR Schedules ("Revised RMR Schedules"). The Revised RMR Schedules, with a requested effective date of January 1, 2010, shall supersede

the corresponding RMR Schedules. The Lump Sum Payment is described in two Schedule L-1 submissions and a letter dated August 11, 2010, from Mr. Stephen Berberich, CAISO Vice President and Chief Operating Officer, to Mr. Randy Hickok, Managing Director, Asset Management West, approving the Lump Sum Payment (“Berberich Letter”). The Schedule L-1 submissions and the Berberich Letter replace Section 8.7 and Schedule Q as filed and are included in Attachment B to the Agreement, which contains clean and redline versions of revised and added RMR Amendments (“Revised RMR Amendments”).

The Revised 2010 Revenue is a decrease of \$16,391,862 from the total revenue requirement included in the South Bay Filing for the Filed AFRR and under Schedule Q (“Filed 2010 Revenue”).

The Parties agree that the Revised AFRR includes \$6,000,000 for payments from South Bay to the Unified Port District of San Diego (“Port”) for rent for the period of November 1, 2009 through December 31, 2010 (“Operating Rent”). Determination of the amount of the Operating Rent is subject to procedures under the Lease Agreement dated as of April 1, 1999 between the Port and South Bay. Under the Agreement, the Operating Rent will be adjusted to reflect the actual Operating Rent once known, provided, however, that the Operating Rent shall not be less than \$3,000,000 or greater than \$6,000,000 (“Settlement Operating Rent”). To the extent the Settlement Operating Rent is greater than \$3,000,000, but less than \$6,000,000, the Revised AFRR shall be reduced by the difference between \$6,000,000 and the Settlement Operating Rent to arrive at the “Rent Adjusted AFRR.” To the extent the Operating Rent is finally determined to be less than \$3,000,000, the Settlement Operating Rent shall be set at \$3,000,000. When the Settlement Operating Rent is finally established, a one-time billing adjustment will be made to reflect the Rent Adjusted AFRR. To the extent a refund is due the

CAISO from revenues collected by South Bay for the monthly difference between the Revised AFRR and the Rent Adjusted AFRR, such revenues will be refunded to the CAISO using the procedures set forth in Attachment C. South Bay shall also file with the Commission a revised Schedule B reflecting the Rent Adjusted AFRR followed by a refund report setting forth the calculation of any such revenues to be refunded together with the interest calculation.

The Parties agree that the CAISO shall not terminate service under the RMR Agreement for the 2010 Contract Year (as the term "Contract Year" is defined in the RMR Agreement). Accordingly, Section 2.2(f), which addresses early termination, and references to Section 2.2(f) have been deleted. Nothing in the Agreement shall be construed as taking any position on the permissibility or impermissibility of South Bay proposing the same or similar terms and conditions as set forth in Section 2.2(f) in connection with any future RMR designation.

The Parties agree that, with the exception of the potential refund obligation identified in connection with the Operating Rent adjustment, South Bay has no refund obligation. While South Bay has been collecting monthly an amount under the Filed AFRR, under an agreement with the Parties, South Bay deferred collection of revenues under Schedule Q. Because the total of the monthly amounts of the Filed AFRR that South Bay has collected to date is less than the total of the monthly amounts of the Filed 2010 Revenue, there has been no over-collection based on the Revised 2010 Revenue that gives rise to a refund obligation. Instead, South Bay has under-collected. Because the monthly Revised AFRR is higher than the monthly Filed 2010 Revenue that has been invoiced to date, the Parties agree that South Bay will be paid the difference between the Revised AFRR and the Filed AFRR with interest, using the procedures set forth in Attachment C. Although South Bay should be able to collect monthly the Revised 2010 Revenue, including the under-recovered amounts with interest, prior to Commission action

on the Settlement because the Revised 2010 Revenue is less than the Filed 2010 Revenue, South Bay is filing a "Motion of Dynegy South Bay, LLC for Authorization to Implement Settlement Rates on an Interim Basis and Request for Expedited Action" ("Motion") out of an abundance of caution in order to implement the settlement rates on an interim basis pending Commission action on the Agreement.

The Parties agree that, in the event one or more South Bay units are designated RMR for 2011, \$125,000 shall be added to the amount calculated for AFRR for the 2011 Contract Year. For any year beyond 2011 that one or more South Bay units are designated RMR, an additional amount X, which is calculated $X = \$125,000 \times (1+0.025)^t$ with t equal to 1 for 2012 and increasing by 1 for each year beyond 2012, will be added to the amount calculated for AFRR for that Contract Year. For example, if two South Bay units are designated as RMR for 2012, \$128,125 shall be added to the amount calculated for AFRR ($\$128,125 = \$125,000 \times (1+0.025)^1$).

The Parties agree that, except as expressly provided in Paragraph 21 of the Agreement, the revenue requirement for RMR service for any Contract Year after 2010 shall not include any rent payments to the Port for the period after the end of South Bay's RMR status, any remediation or demolition cost of any kind, or any severance costs ("Excluded Costs"). Neither South Bay nor any successor thereto shall collect in RMR rates for any year after the 2010 Contract Year any payments of any kind for Excluded Costs. This issue shall not be reopened in any future proceeding. Nonetheless, the Parties acknowledge that South Bay has previously received substantial contributions to cover the costs of demolition of the plant and remediation of the site, including, and without limitation, approximately \$21.5 million held in escrow pursuant

to a California state appropriation in 1999, and approximately \$32 million in payments received under previous RMR agreements.²

B. General Terms

The terms of the Agreement apply only to the Parties and their successors and assigns, and neither the Agreement nor the Parties' performance of their obligations thereunder, are deemed to be an admission of any fact or of any liability. The Agreement is binding on the Parties only with respect to the subject matter of the Agreement, and does not bind the Parties or the Commission to apply the principles or provisions of the Agreement to any other agreement, arrangement, or proceeding. The Agreement establishes no principles and no precedent with respect to any issue in this proceeding. The approval of the Agreement by the Commission does not in any respect constitute a determination by the Commission as to the merits of any allegation or contention made in this proceeding. The resolution of any matter in the Agreement will not be deemed a "settled practice," as that term was interpreted and applied in *Public Serv. Comm'n of the State of New York v. FERC*, 642 F.2d 1335 (D.C. Cir. 1980).

The Agreement, including any attachments, constitutes the entire agreement among the Parties with regard to the matters addressed in Docket No. ER10-166-000, and no other agreement with regard to these matters will be binding on the Parties except by written amendment to the Agreement. Except for the terms and conditions enumerated in the Agreement

² By way of background, for these prior years, SDG&E owned and operated the facility until April 22, 1999, at which time the facility was conveyed to the Unified Port District of San Diego, which leased the facility to Duke Energy South Bay, LLC. Under the terms of the lease, the plant owner is required to demolish the facility and perform site remediation. In May 2006, LS Power Generation, LLC acquired all of the indirect ownership interests in the facility held by Duke Energy Corporation. In 2007, Dynegy Inc. acquired the facility from LS Power Generation, LLC. For the period April 1, 1998 through December 2002, the CAISO designated all of the units at the facility as RMR units. For Contract Year 2003, Unit 4 was not subject to such designation. For Contract Years beginning January 1, 2004 through Contract Year ending December 31, 2009, all units at the facility were designated as RMR units by the CAISO. The CAISO released South Bay Units 3 and 4 from RMR service and designated South Bay Units 1 and 2 plus the combustion turbine as RMR for Contract Year 2010.

and any attachment thereto, the Parties acknowledge and agree that they have not made any other promises, warranties, or representations to each other or any other party regarding any aspect of the settlement of the matters addressed in the Agreement. Each of the Parties acknowledges that it has read the Agreement and has executed it without relying upon any other promise, warranty, or representation, written or otherwise, of any other Party. Each Party acknowledges that no other Party has made any promise, warranty, or representation, express or implied, to induce the Parties to execute the Agreement.

No provision of the Agreement may be waived except through a writing signed by an authorized representative of the waiving Party. Waiver of any provision of the Agreement will not be deemed to waive any other provision. The Agreement may be amended only by written agreement of the Parties.

The discussions between the Parties that have produced the Agreement were conducted on the explicit understanding, pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2010), that all offers of settlement and discussions relating thereto are privileged and confidential, are without prejudice to the position of any Party or participant presenting any such offer or participating in any such discussion, and are not to be used in any manner in connection with these proceedings, any other proceeding, or otherwise, except to the extent necessary to enforce its terms.

For service after the 2010 Contract Year, nothing contained in the Agreement may be construed as affecting the right of South Bay to make application to the Commission to amend the RMR Agreement pursuant to Section 14.3 and/or Section 14.4 of the RMR Agreement under Section 205 of the FPA and pursuant to the Commission's rules and regulations promulgated thereunder, except insofar as such amendment would have the effect of changing any term of the

Agreement that by its nature has effect for any Contract Year after 2010, or the right of any Party to oppose, to seek modification, to seek rejection, to seek suspension, or to seek refunds of any such proposed amendment. For service after the 2010 Contract Year, nothing contained in the Agreement shall be construed as affecting any Party's right to file with the Commission with respect to the RMR Agreement pursuant to Section 14.3 and/or Section 14.4 of the RMR Agreement under Section 206 of the FPA and pursuant to the Commission's rules and regulations promulgated thereunder, except insofar as such amendment would have the effect of changing any term of the Agreement that by its nature has effect for any Contract Year after 2010, or the right of any other Party to oppose such filing.

For service during the 2010 Contract Year, the Parties may not initiate a change to the Agreement. For service after the 2010 Contract Year, all prospective changes to the Agreement requested by the Parties will be governed by the just and reasonable standard, but shall not change any term of the Agreement that by its nature has effect for any Contract Year after 2010. The Agreement does not prevent the Commission from acting on its own motion. The standard of review for any modifications to the Agreement requested by a non-party to the Agreement or initiated by the Commission will be the most stringent standard permissible under applicable law.

The Agreement will become effective as provided for in Paragraph 32 thereof.

The Parties shall actively seek and cooperate in securing Commission approval of the Agreement. The Agreement shall bind the Parties upon signing, and the effective date of the settlement provisions will be the date established by the Commission upon acting on the Agreement. If the Commission should, by order, condition its approval of the Agreement or seek to require its modification in a material manner, any Party may notify the other Parties within

five (5) business days of the issuance of such order that it does not agree to the Agreement as so conditioned or modified. In such event, or in the event the Commission rejects the Agreement, the Parties will meet within ten (10) business days after such notification is provided to negotiate in good faith alternate, mutually acceptable terms. If such an alternate agreement cannot be reached, the Agreement shall be of no force and effect, and the South Bay Filing shall be in effect, subject to refund, pending further Commission action in this proceeding. Additionally, unless otherwise ordered by the Commission, invoicing shall be adjusted to reflect the Filed 2010 Revenue with South Bay to be paid the monthly differences between the Filed 2010 Revenue and the Revised 2010 Revenue together with interest, using the process set out in Attachment C.

III.

POLICY ISSUES AND OTHER ISSUES ARISING UNDER THIS SETTLEMENT

Consistent with Commission policy, the Parties address policy and other issues arising under the Agreement.

A. What Are The Issues Underlying The Settlement And What Are The Major Implications?

The issues underlying the Agreement are related to the appropriate compensation for RMR service from South Bay for the 2010 Contract Year. The Parties agree that the Agreement resolves all issues relating to Docket No. ER10-166-000.

B. Whether Any Of The Issues Raise Policy Implications

The Parties submit that none of the issues settled in these proceedings raise policy implications, or require the Commission to re-examine or change any existing policy or procedure.

C. Whether Other Pending Cases May be Affected

The Parties know of no other pending cases that will be directly affected by the Agreement.

D. Whether The Settlement Involves Issues Of First Impression, Or If There Are Any Previous Reversals On The Issues Involved

The Parties submit that the Agreement does not raise any issues of first impression and there are no previous reversals on the issues involved.

E. Is The Proceeding Subject to the Just and Reasonable Standard or the *Mobile-Sierra* Standard?

For service during the 2010 Contract Year, the Parties may not initiate a change to the Agreement. For service after the 2010 Contract Year, all prospective changes to the Agreement requested by the Parties will be governed by the just and reasonable standard, but shall not change any term of the Agreement that by its nature has effect for any Contract Year after 2010. The Agreement does not prevent the Commission from acting on its own motion. The standard of review for any modifications to the Agreement requested by a non-party to the Agreement or initiated by the Commission will be the most stringent standard permissible under applicable law.

Proposed Letter Order

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

[_____] , 2010

In Reply Refer To:
Dynergy South Bay, LLC
Docket No. ER10-166-000

Mr. Bruce L. Richardson
King & Spalding LLP
1700 Pennsylvania Avenue, N.W.
Washington, DC 20006

Dear Mr. Richardson:

1. On August 12, 2010, you filed a Settlement Agreement, including revised tariff sheets, on behalf of Dynergy South Bay, LLC ("South Bay"), the California Independent System Operator Corporation ("CAISO"), and San Diego Gas & Electric Company ("SDG&E") (collectively, the "Parties"). On September 1, 2010, comments on the Settlement Agreement were filed by _____.
2. The Settlement Agreement resolves all of the issues between the Parties in the above-captioned proceeding. The Settlement is fair, reasonable, and in the public interest and is hereby approved. Commission approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate the rates, terms, and conditions under section 206 of the Federal Power Act, 16 U.S.C. § 824e (2006).
3. The revised tariff sheets submitted as part of the Settlement Agreement are properly designated, accepted for filing, and made effective January 1, 2010, as set forth in the Settlement Agreement. See *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulation Preambles July 1996-December 2000 ¶ 31,096 (2000).
4. This letter order terminates Docket No. ER10-166-000.

By direction of the Commission.

Kimberly D. Bose
Secretary

cc: All parties of record


Certificate of Service

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x

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in these proceedings.

Dated at Washington DC, this 12th day August, 2010.



Grace Su