December 19, 2012

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

Re: Commonwealth Edison Company
Transmission Upgrade Agreement with Ameren Energy Resources Generating Company
Docket No. ER13-

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”)¹ and Part 35 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) regulations, 18 C.F.R. Part 35 (2012), Commonwealth Edison Company (“ComEd”), on behalf of itself and its wholly-owned subsidiary Commonwealth Edison Company of Indiana, Inc. (“ComEd”) submits for filing the Transmission Upgrade Agreement by and between ComEd and Ameren Energy Resources Generating Company (“Ameren”).² Ameren has requested that ComEd upgrade certain portions of the ComEd transmission system in order to allow Ameren to move forward with the MISO-approved J046 project, a generation upgrade in MISO that impacts the neighboring ComEd grid. ComEd requests waiver of the sixty-day notice requirement so as to begin working promptly to upgrade the selected portions of the transmission system. Since these upgrades will improve system reliability, good causes exists to grant waiver of the sixty day notice requirement and permit an effective date of December 20, 2012.

I. Identification of Applicant

ComEd, an Illinois corporation, is an operating subsidiary of Exelon Corporation, a Pennsylvania corporation. ComEd maintains more than 91,000 miles of overhead and underground transmission and distribution lines in northern Illinois (and in Northern Indiana on behalf of its subsidiary Commonwealth Edison Company of Indiana) and provides delivered

² Pursuant to Order No. 714, this filing is submitted by PJM Interconnection, L.L.C. (“PJM”) on behalf of ComEd as part of an XML filing package that conforms with the Commission’s regulations. PJM has agreed to make all filings on behalf of the PJM Transmission Owners in order to retain administrative control over the PJM Tariff. Thus, ComEd has requested PJM submit the enclosed materials.
electric power to more than 3.8 million customers. ComEd does not own any generation facilities. ComEd transferred operational control over its transmission facilities to PJM Interconnection, LLC (“PJM”) on May 1, 2004. ComEd’s retail electric service is regulated by the Illinois Commerce Commission (“ICC”), while PJM’s provision of transmission service over its transmission facilities and its sales for resale of electric energy in interstate commerce are regulated by this Commission.

II. Persons to Whom Correspondence Should be Addressed

<table>
<thead>
<tr>
<th>Stan Berman</th>
<th>Eugene Bernstein</th>
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III. Background and Statement of Nature, Reasons and Basis for Filing

Ameren has entered into an Interconnection Agreement with the Midwest Independent System Operator, Inc. (“MISO”) for a 31 MW generation upgrade at the Ameren-owned Duck Creek Generating Facility (“J046 Project”). Pursuant to the terms of the MISO Interconnection Agreement for the J046 Project, MISO performed a System Impact Study and identified ComEd as an Affected System for the J046 Project.

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3 An “Affected System” is defined in the MISO Interconnection Agreement as “an electric transmission or distribution system or the electric system associated with an existing generating facility or of a higher queued Generating Facility, which is an electric system other than the Transmission System that may be affected by the Interconnection Request.” See Fourth Revised Service Agreement No. 1810, Article 1 (definitions).
Accordingly, Ameren and ComEd entered into the Transmission Upgrade Agreement to provide the terms and conditions for the Affected System Study and set forth the construction responsibility for any identified upgrades that are necessary to preserve the safety and reliability of the transmission system. The Transmission Upgrade Agreement, included here as Attachment 1, defines the responsibilities and obligations of ComEd and Ameren with respect to the upgrade of the ComEd system to accommodate the J046 Project.

ComEd has completed the Study, as provided in the Agreement, and has identified the upgrades that will be necessary in order to accommodate Ameren’s J046 Project. As reflected in Attachment 3 (CEII), the J046 Project will require replacement of a Relay Panel on the ComEd side of the interconnection. Ameren has agreed to pay ComEd the actual costs for such transmission upgrades, but ComEd will not begin Work until the Commission accepts the Transmission Upgrade Agreement.

ComEd is a transmission-owning member of PJM, while Ameren is a member of MISO. Consistent with the Commission’s findings in American Electric Power Service Corp., regarding utility-to-utility transmission interconnection agreements, ComEd and Ameren executed an Addendum to the Transmission Upgrade Agreement in order to actively involve PJM and MISO in the process, and to provide PJM and MISO with the ability to identify any reliability or operational concerns presented by the Transmission Upgrade Agreement. PJM and MISO have completed their review of the Agreement and are signatories to the document.

IV. Compliance with Commission Requirements

A. List of Documents Submitted

Applicants submit herewith an original and six copies of:

1. This transmittal letter;

2. Copy of the Transmission Upgrade Agreement (Attachment 1);

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4 See Transmission Upgrade Agreement at § 6.1 (providing that Ameren shall pay ComEd for all actual Costs that ComEd incurs related to the Work).

5 See id. at 1.1.16 (defining “Work”).


7 Am. Elec. Power Serv. Corp., 112 FERC at P 14 (“Requiring the RTO to be a signatory to the agreement versus providing it with just an opportunity to comment ensures that RTO is actively involved and reviews the document in a timely manner to ensure that any reliability and operations-related concerns are addressed prior to the agreement’s execution and filing.”).
3. Signature Pages (Attachment 2);

4. List of Work to be completed pursuant to the Agreement (CEII) (Attachment 3).

B. Request for CEII Designation

In accordance with 18 C.F.R. § 388.112, ComEd requests that Attachment 3 to this Filing (List of Work to be completed pursuant to the Agreement) be treated as critical energy infrastructure information (“CEII”). Attachment 3 provides detailed information regarding ComEd’s transmission system and the Powerton substation, and is appropriately designated as CEII. Such information must be protected, as its disclosure may aid an attack to compromise ComEd’s system. If ComEd’s system was breached, public security, health, and safety could be compromised. Accordingly, this information is appropriately designated as CEII.8

ComEd is submitting a complete version of the Filing that includes CEII materials, with Attachment 3 marked as “Contains Critical Energy Infrastructure Information as defined in 18 C.F.R. § 388.113 – Do Not Release.” A redacted version of the filing labeled “Public Version” is also being submitted and may be posted publicly. Individuals seeking to access Attachment 3 should follow the Commission’s procedures set forth at http://www.ferc.gov/legal/ceii-foia/ceii.asp.

C. Proposed Effective Date

Pursuant to Section 35.11 of the Commission’s regulations, ComEd respectfully requests waiver of the sixty day notice requirement and an effective date of December 20, 2012.

The Commission will permit waiver of the sixty day notice requirement for good cause.9 The Commission has recognized the importance of balancing the statutory requirement that utilities file their rates promptly with the utilities’ desire to transact business on short notice.10 In this instance, waiver of the sixty day prior notice will allow ComEd to begin working promptly to upgrade the selected portions of the transmission system. Since these upgrades will improve system reliability, good cause exists to grant waiver of the sixty day notice requirement.

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8 See 18 C.F.R. § 388.113 (providing that critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure and includes materials that relate details about the production, generation, transportation, transmission, or distribution of energy).
10 Central Hudson, 60 FERC at 61,339.
D. Designation

The Transmission Upgrade Agreement will be designated as PJM Original Service Agreement No. 3421.

E. Section 205 Compliance Requirements

1. Names and Addresses of Person to Whom a Copy of this Filing has been Mailed

Pursuant to Section 35.2(d) of the Commission’s regulations, a copy of this filing is being served on representatives for PJM, MISO, Ameren, and the ICC. PJM will post a copy of this filing to the FERC filings section of its internet site, located at the following link: http://www.pjm.com/documents/ferc-manuals/ferc-filings.aspx with a specific link to the newly-filed document. Copies of this filing are also available for inspection at ComEd’s office.

2. Description of the Filing

A description of the filing is set forth above.

3. Statement of the Reasons for the Submission

This transmittal letter and the attachments explain the reasons for the filing.

4. Requisite Agreement

No agreement is required by contract for the filing of proposed changes.

5. Statement Regarding Inclusion of Any Expense of Costs in Cost of Service Statements that Have Been Alleged or Adjudged Illegal, Duplicative, or Unnecessary Costs that are Demonstrably the Product of Discriminatory Employment Practices

There are no costs included in this filing that have been alleged or adjudged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs, nor has any expense or cost been demonstrated to be the product of discriminatory or employment practices, within the meaning of Section 35.13(d)(3) of the Commission’s regulations.
6. Cost of Service and Revenue Information to Support Filing and Request for Waiver

This Rate Schedule does not affect ComEd’s cost of service or rate design. Applicants believe that they have provided sufficient information for the Commission to determine the reasonableness of the proposed changes. To the extent that this filing requires waivers of Section 35.13 of the Commission’s regulations, Applicants respectfully request such waivers, including waivers of Section 35.13(c), (d), (e), and (h) of the Commission’s regulations, 18 C.F.R. §§ 35.13(c), (d), (e), and (h). This filing, and the accompanying attachments, provides ample support for the Commission to accept for filing the Rate Schedule. To the extent that this filing fails to contain any information otherwise required for technical compliance with the Commission’s regulations, Applicants respectfully request that compliance with such regulations be waived.
V. Conclusion

WHEREFORE, for the foregoing reasons, ComEd respectfully requests the Commission accept the enclosed Rate Schedule, effective December 20, 2012.

Respectfully submitted,

/s/ Stan Berman
Stan Berman
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/s/ Eugene Bernstein
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eugene.bernstein@exeloncorp.com

Attorneys for Commonwealth Edison Company

Enclosures
CERTIFICATE OF SERVICE

I hereby certify that I have this day served an electronic copy of the foregoing document upon on representatives for PJM, MISO, Ameren, and the ICC.

Dated at Washington, D.C. this nineteenth day of December, 2012.

/s/ Heather Curlee
Heather Curlee
1501 K Street NW
Washington, DC 20005
(202) 736-8838
Attachment 1

Transmission Upgrade Agreement
TRANSMISSION UPGRADE AGREEMENT

By and Between

COMMONWEALTH EDISON COMPANY

and

AmerenEnergy Resources Generating Company LLC

Dated

February 17, 2011
TRANSMISSION UPGRADE AGREEMENT

THIS TRANSMISSION UPGRADE AGREEMENT ("Agreement"), dated as of February __, 2011 is entered into by and between Commonwealth Edison Company, an Illinois company, (hereinafter referred to as “ComEd”) and AmerenEnergy Resources Generating Company, a Delaware corporation (hereinafter referred to as “Utility”). ComEd and Utility are referred to herein individually as “Party” and collectively as “Parties.”

RECITALS:

A. ComEd and Utility entered into an interconnection agreement dated February, 17 2011, to govern the interconnection of their respective transmission systems.

B. Utility has requested that ComEd conduct an engineering study to address the possible upgrade needed on line 1352 at Powerton. The Midwest Independent Transmission System Operator, Inc. (“Midwest ISO”) has identified line 1352 at Powerton as a possible constraint that may require an upgrade in order to deliver an additional 31 MWs of capacity from Utility’s Duck Creek facility.

C. Utility has agreed to pay ComEd for such transmission upgrades in accordance with the terms herein.

NOW THEREFORE, in consideration of the mutual representations, covenants, and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Definitions. Wherever used in this Agreement with initial capitalization, the following terms shall have the meanings specified or referred to in this Article 1.

1.1.1 “Agreement” shall mean this Agreement by and between ComEd and Utility, including all appendices attached hereto, as the same may be amended, supplemented, revised, altered, changed or restated in accordance with its terms.

1.1.2 “Cancellation Costs” means ComEd charges, actual costs and liabilities incurred by ComEd upon the termination of this Agreement pursuant to Articles 13 and 14 in taking one or more of the following actions: (a) canceling supplier and contractor orders and agreements entered into by ComEd to design, construct, and install the transmission upgrades or perform the Work, or (b) removing such transmission upgrades, or (c) partially or entirely completing the transmission upgrades as necessary to preserve the integrity or reliability of the ComEd Transmission System, or (d) undoing the changes to the ComEd Transmission System that were made pursuant to this Agreement.

1.1.3 “ComEd Transmission System” shall mean the facilities owned by ComEd for
purposes of providing transmission service under the PJM Tariff.

1.1.4 “Costs” shall mean all direct and indirect charges and expenses of ComEd, including, but not limited to, capital expenditures, if applicable, the costs of financing and taxes, Cancellation Costs, and any incidental expenses.

1.1.5 “Effective Date” shall mean the effective date of this Agreement as set forth in Section 2.1 of this Agreement.

1.1.6 “FERC” shall mean the Federal Energy Regulatory Commission or its successor.

1.1.7 “Force Majeure Event” means acts of God, war, terrorism, civil commotion, embargoes, strikes, epidemic, fires, cyclones, droughts, floods, emergencies, labor, production or transportation difficulties or accidents to or involving machinery, equipment or lines of pipe, shortages of materials, power, fuel, equipment, transportation or labor (or the inability to obtain the same without litigation or paying penalties, premiums or unusual prices or otherwise agreeing to unreasonable terms or conditions), or any governmental law, regulation (or its interpretation), order, request, instruction or injunction, or failure to provide or cancellation of rights-of-way, permits, licenses or other authorization, whether valid or invalid, or any other cause whether or not similar to the foregoing, beyond the reasonable control of a Party hereto, provided that a Force Majeure Event shall not include events caused by the willful misconduct of the Party claiming the Force Majeure Event.

1.1.8 “Good Utility Practice” shall mean any of the applicable practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment by a Party in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition, giving due regard to the requirements of governmental agencies having jurisdiction. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather includes all acceptable practices, methods, or acts generally accepted in the region as they may be applicable to either Party.

1.1.9 “IRS” shall mean the Internal Revenue Service.

1.1.10 “PJM” shall mean the PJM Interconnection, L.L.C., or its successor or equivalent, an entity to which ComEd has transferred or will transfer responsibility to direct the operation of ComEd Transmission System.

1.1.11 “PJM Tariff” shall mean that certain Open Access Transmission Tariff on file with FERC, as it may be amended or superseded from time to time, under which transmission service is provided over the ComEd Transmission System and elsewhere within PJM.

1.1.12 “Regulatory Requirements” shall mean any of the applicable laws, and regulations
and tariffs of FERC, PJM, or other governmental agencies or regional transmission operators having jurisdiction over the Parties with regard to the subject matter of this Agreement, or the successor of any of them.

1.1.13 “Schedule of Work” shall mean that schedule setting forth the timing of Work to be performed by the Parties pursuant to this Agreement, as attached in Appendix A, which schedule shall be revised from time to time as necessary.

1.1.14 “Study” shall mean the Phase I Engineering Study.

1.1.15 “Study Scope” shall have the meaning set forth in Section 3.1 of this Agreement.

1.1.16 “Work” means all of the materials, labor, supervision, administration, equipment, contractor services and other services identified in the Scope of Work, as attached in Appendix B or otherwise required to complete the transmission upgrades.

ARTICLE 2
EFFECTIVE DATE AND DURATION

2.1 Effective Date. Subject to any applicable regulatory acceptance, this Agreement shall be effective on the date filed with FERC (“Effective Date”).

2.2 Duration. Subject to Section 14.4, this Agreement shall remain in effect from the Effective Date until 180 days after ComEd’s completion of the Work.

2.3 FERC Filing. ComEd will file this Agreement with FERC as a transmission upgrade agreement under the PJM Tariff, and request that FERC accept it for filing effective as of the filing date.

ARTICLE 3
STUDY

3.1 Scope. ComEd shall perform the Study in accordance with the Study Scope attached hereto as Appendix B.

3.2 Payment. Within five (5) days after the execution of this Agreement, Utility agrees to pay ComEd a $20,000 advance payment to commence performance of the Study. ComEd shall invoice Utility in advance for any Study costs and fees that exceed the $20,000 payment, and Utility shall pay such invoices within ten (10) days after receipt. If the payments made by Utility under this section exceed the actual Study costs and fees, ComEd will return the difference to Utility if no notice to proceed is subsequently issued by Utility, or apply the difference to the cost of the Work if Utility issues a notice to proceed.

3.3 Access to Property and Facilities. Utility shall provide ComEd such access rights as may be necessary for ComEd’s performance of its obligations under this Agreement. Any access rights granted by Utility shall not be exercised by ComEd so as to interfere with Utility’s use of its premises.
ARTICLE 4
GENERAL CONSTRUCTION OBLIGATIONS

4.1 Notice to Proceed. Utility shall notify ComEd within thirty (30) days after its receipt of the Study regarding its determination whether to proceed with the Work. If Utility fails to notify ComEd within such period, ComEd may terminate this Agreement subject to the required government approvals.

4.2 Work. Subject to the terms of this Agreement, ComEd will perform the Work identified in the Scope of Work after it receives a notice to proceed from Utility.

4.3 Schedule of Work. ComEd will use reasonable efforts to perform the Work in accordance with the Schedule of Work. If the Parties have not agreed upon a Schedule of Work by the Effective Date, they shall develop such schedule prior to commencement of the Work.

4.4 Warranties. ComEd warrants that the Work will be performed in accordance with this Agreement and Good Utility Practice.

4.5 Disclaimer of Warranties. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 4.4 HEREIN, COMED MAKES NO OTHER WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING THE WORK, INCLUDING THOSE AS TO ACCURACY, RELIABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4.6 Access to Property and Facilities. Utility shall provide ComEd such easements and access rights as may be necessary for ComEd’s performance of its obligations under this Agreement. Any easements or access rights granted by Utility shall not be exercised by ComEd so as to interfere with Utility’s use of its premises.

4.7 Monitoring. Upon reasonable notice to ComEd, Utility personnel may monitor the performance of Work to ensure conformity with this Agreement.

4.8 Inspection and Testing of Work.

4.8.1 Inspection and Testing. ComEd shall inspect and test the Work upon completion. Such inspection and testing shall be held at times and on a schedule mutually agreed to by the Parties, and Utility shall have the right to attend and observe. If requested by Utility, ComEd shall provide to Utility the written results of such inspection and testing and Utility shall provide ComEd a written acknowledgement that it has received the inspection and testing results.

4.8.2 Work Defects. If any Party discovers any defects in the Work, ComEd shall, at Utility’s expense, take actions to correct such defects.
ARTICLE 5
PERMITS, LICENSES AND APPROVALS

5.1 ComEd shall make applications to obtain from appropriate governmental authorities any permit, license or approval required to perform the Work, but ComEd shall not be obligated to exercise the power of eminent domain in furtherance of the performance of the Work. Utility shall provide any assistance reasonably requested by ComEd to enable ComEd to obtain any such permit, license or approval.

5.2 Utility shall pay ComEd in advance all Costs associated with obtaining any permit, license or approval required to perform the Work.

ARTICLE 6
COSTS; PAYMENTS

6.1 Responsibility for Actual Costs. Utility shall be responsible for, and shall pay ComEd, all Costs that ComEd incurs related to the Work and in accordance with Appendix C.

6.2 Utility Payments. ComEd shall invoice Utility in advance for the estimated Costs of the Work, and Utility shall pay the estimated Costs in accordance with Article 7 herein. Utility’s payment of such estimated Costs shall not diminish, change or affect Utility’s obligation to pay ComEd’s actual Costs.

6.3 Reconciliation. Within ninety (90) days after completion of the Work, ComEd shall provide to Utility a reconciliation setting forth the nature and amount of the Costs ComEd actually incurred in performing its obligations under this Agreement. If the total of such Costs exceed the total payments made by Utility to ComEd, Utility shall be responsible for and shall pay to ComEd any such differential within thirty (30) days after Utility’s receipt of the final reconciliation. If total payments made by Utility to ComEd exceed such Costs, ComEd shall refund to Utility within thirty (30) days after issuance of the reconciliation any such overpayment.

ARTICLE 7
BILLING PROCEDURES

7.1 Payment. Consistent with Article 6, ComEd shall prepare and deliver to Utility an invoice setting forth the estimated Costs for the Work. Payment of the invoice shall be due within thirty (30) days after Utility’s receipt of the invoice. ComEd shall have no obligation to commence Work until it has received payment in full of the estimated Costs. All payments by Utility shall be made to ComEd as instructed by ComEd in its invoice.

7.2 Payments for Increases in Estimated Costs. If the estimated Costs increase after Utility’s payment to ComEd in accordance with Section 7.1, ComEd may prepare and deliver to Utility invoices setting forth any increases in the estimated Costs. Utility shall pay such increases in the estimated Costs within ten (10) days after its receipt of ComEd’s invoices.
ARTICLE 8
SUSPENSION OF PERFORMANCE

8.1 Failure to Pay. If Utility fails to remit any payment to ComEd under this Agreement by the day such payment is due, ComEd may, in addition to any other remedy or right it may have under this Agreement, suspend performance of the Work.

8.2 Resumption of Work. If ComEd suspends performance of Work, it shall resume Work in accordance with Good Utility Practice, upon its receipt of all payments due and owing by Utility under this Agreement. ComEd shall revise the Schedule of Work as may be necessary to reflect the suspension and subsequent resumption of ComEd’s performance of the Work.

ARTICLE 9
TAXES

9.1 Tax Liability. The Parties intend that all Costs paid by Utility to ComEd, including without limitation, for materials, labor, supervision, administration, equipment, contractor services and other services identified in the Scope of Work or otherwise required to complete the Work, including studies, engineering, design, construction, installation, and testing, shall be non-taxable contributions to capital, and shall not be taxable as contributions in-aid of construction (“CIAC”) in connection with this Agreement.

9.2 Tax Indemnity. Utility shall indemnify ComEd for any costs that ComEd incurs in the event that the IRS and/or a state department of revenue (“State”) determines that the Costs paid by Utility with respect to the Work are taxable income to ComEd. Utility shall pay to ComEd, on demand, the amount of any income taxes that the IRS or a State assesses to ComEd in connection with any payment to ComEd, plus any applicable interest and/or penalty charged to ComEd. If ComEd chooses to contest such assessment, either at the request of Utility or on its own behalf, and prevails in reducing or eliminating the tax, interest and/or penalty assessed against it, ComEd shall refund to Utility the excess of its demand payment made to ComEd over the amount of the tax, interest and penalty for which ComEd is finally determined to be liable.

ARTICLE 10
REGULATORY AUTHORITY

10.1 Regulatory Authorities. This Agreement is made subject to the jurisdiction of any governmental authorities having jurisdiction over the Parties, the transmission systems of the Parties, this Agreement or the subject matter hereof.

10.2 Adverse Regulatory Change. ComEd shall submit this Agreement for filing with the FERC. Any changes or conditions imposed by the FERC or any other governmental authority with competent jurisdiction in connection with such submission or otherwise in respect of this Agreement, any of which are unacceptable to a Party after the Parties’ good faith attempt to negotiate a resolution to such objectionable change or condition, shall be cause for termination of this Agreement upon thirty (30) days’ prior written notice by the non-consenting Party to the other Party or Parties hereto.

ARTICLE 11
FORCE MAJEUER

11.1 If ComEd is prevented from or delayed in performing any of its obligations under this Agreement by reason of a Force Majeure Event, ComEd shall notify Utility in writing as soon as practicable after the onset of such Force Majeure Event and shall be excused from the performance of its obligations under this Agreement to the extent such Force Majeure Event has, in ComEd’s sole discretion, interfered with such performance. ComEd’s failure to perform shall not be deemed a Default.

ARTICLE 12
LIABILITY; INDEMNIFICATION

12.1 Limitation on Liability. IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL COMED BE LIABLE TO UTILITY FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING LOSS OF PROFITS OR REVENUE, OR COST OF CAPITAL.

12.2 Indemnity Obligation. Each Party shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the other Parties and their officers, directors, employees, agents, representatives, subsidiaries, affiliates, successors, and assigns (“Indemnified Parties”) against all losses, claims, damages, expense (including reasonable attorneys’ fees and costs) and liabilities sustained or incurred by the Indemnified Parties for any direct damage, harm, loss or injury of any kind to any property or person (including death), including claims for injuries to employees of the Indemnified Parties, contractor and/or any subcontractor, arising directly out of any act of gross negligence or willful misconduct by indemnifying party, its contractors or subcontractors or their respective officers, directors, employees, agents, representative, subsidiaries, successors, or assigns (“Indemnifying Parties”) in connection with or in any manner associated with the Work under this Agreement, except to the extent cause by the gross negligence or willful misconduct of the Indemnified Parties.

12.3 Indemnification for Claims by Governmental Authorities or Others. The Indemnifying Parties shall indemnify, defend, and hold harmless the Indemnified Parties from any claim, liability, damage, expense, suit, or demand (including reasonable attorneys’ fees and costs) for claims by governmental authorities or others for any (i) actual or asserted failure of the Indemnifying Parties to comply with any law or regulation or (ii) any actual or asserted failure of any of the Indemnified Parties to comply with any law or regulation by reason of any act, omission, conduct, negligence or default by Indemnifying Parties.

ARTICLE 13
BREACH, CURE AND DEFAULT

13.1 Breach. A breach of this Agreement shall occur upon the failure by a Party to perform or observe any material term or condition of this Agreement.

13.2 Events of Breach. A breach of this Agreement shall include:

13.2.1 The failure to pay any amount when due;
13.2.2 The failure to comply with any material term or condition of this Agreement, including but not limited to any material breach of a representation, warranty or covenant made in this Agreement;

13.2.3 If a Party: (i) by decree of a court of competent jurisdiction, is adjudicated bankrupt or insolvent; (ii) files a voluntary petition in bankruptcy under any provision of any Federal or state bankruptcy law or shall consent to the filing of any bankruptcy or reorganization petition against it under any similar law; (iii) makes a general assignment for the benefit of its creditors; or (iv) consents to the appointment of a receiver, trustee or liquidator;

13.2.4 Assignment of this Agreement in a manner inconsistent with the terms of this Agreement;

13.2.5 Failure of any Party to provide such easement or access rights, or a Party’s attempt to revoke or terminate such easement or access rights, as provided under this Agreement; or

13.2.6 Failure of any Party to provide information to the other Party as required under this Agreement.

13.3 Cure and Default.

13.3.1 Upon the occurrence of any breach of this Agreement, the Party not in breach (hereinafter the “Non-Breaching Party”), when it becomes aware of any such breach, shall give written notice of the breach to the breaching Party (the “Breaching Party”). Such notice shall set forth, in reasonable detail, the nature of the breach, and where known and applicable, the steps necessary to cure such breach. Upon receiving written notice of the breach hereunder, the Breaching Party shall have ten (10) days to cure such breach. If the Breaching Party fails to cure the breach within such ten (10) day time period, the Breaching Party will be in “Default” of the Agreement.

13.3.2 Upon the occurrence of a Default, the Non-Breaching Party may terminate this Agreement by providing written notice of termination to the Breaching Party.

13.4 Right to Compel Performance. Notwithstanding the foregoing, upon the occurrence of a Default, any Non-Breaching Party shall be entitled to: (i) commence an action to require the Breaching Party to remedy such default and specifically perform its duties and obligations hereunder in accordance with the terms and conditions hereof, and (ii) exercise such other rights and remedies as it may have in equity or at law.

ARTICLE 14
TERMINATION

14.1 Termination. This Agreement may be terminated: (i) if the Parties mutually agree or (ii) by any Party upon the occurrence of any of the following events: (a) permanent removal of either Party’s transmission system from service; or (b) a Default occurs in accordance with Article 13; or (c) as otherwise expressly provided for in this Agreement.
14.2 **FERC Approval.** No termination hereunder shall become effective until the terminating Party (or the Parties jointly) tender(s) to FERC any required notification of termination of this Agreement and obtains such acceptance thereof by the FERC as may be necessary to comply with applicable Regulatory Requirements.

14.3 **Cancellation Costs.** If ComEd incurs Cancellation Costs, ComEd shall serve Utility with invoices for such costs, and Utility shall make payment to ComEd for any Cancellation Costs within ten (10) days after Utility’s receipt of such invoices.

14.4 **Survivability.** The sections of this Agreement that are intended to survive, as indicated by their sense and context, shall survive the termination of this Agreement, including, but not limited to, Sections 4.4, 4.5, 9.1, 9.2, 12.1, 12.2, 12.3, 16.1, 16.2 and 16.3.

**ARTICLE 15**

**CONTRACTORS AND SUBCONTRACTORS**

15.1 Nothing in this Agreement shall prevent a Party from utilizing the services of contractors and subcontractors as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its contractors and subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services.

**ARTICLE 16**

**CONFIDENTIALITY**

16.1 **Nondisclosure.** No Party shall disclose the other Party’s Confidential Information to any person or entity other than its contractors and subcontractors who need to know in connection with performing the Work under this Agreement. Nothing contained herein shall be deemed to prevent a receiving Party from disclosing any of the Confidential Information if such disclosure is legally required to be made in a judicial, administrative, or governmental proceeding pursuant to a valid subpoena or other applicable order; provided, however, the receiving Party shall give the disclosing party prompt prior written notice before disclosing any of the Confidential Information in any such proceeding and, in making such disclosure, the receiving Party shall disclose only that portion thereof required to be disclosed and shall take all reasonable efforts to preserve the confidentiality thereof, including obtaining protective orders.

16.2 **Definition.** “Confidential Information” means any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise. Confidential Information shall include, without limitation, all information relating to a Party’s technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this Agreement. Confidential Information shall not include information that the receiving Party can demonstrate: (i) is generally available to the public other than as a result of a disclosure by the receiving Party; (ii) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (iii) was supplied to
the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party, was under no obligation to the other Party to keep such information confidential; or (iv) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party.

16.3 **Standard of Care.** Each Party shall protect Confidential Information it receives using at least the same standard of care its uses to protect its own Confidential Information, but in any event, no less than a reasonable standard of care.

**ARTICLE 17**

**AUDIT RIGHTS**

17.1 Each Party shall have the right, during normal business hours, and upon prior reasonable written notice to the other Party, to audit at its own expense the other Party’s accounts and records pertaining to the performance of this Agreement. Any audit shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Agreement.

**ARTICLE 18**

**NOTICES AND COMMUNICATIONS**

18.1 Unless otherwise specified herein, all notices, requests, claims, demands and other communications required or permitted to be given under this Agreement must be in writing, and must be given by hand delivery, overnight express delivery, or by mail (registered or certified, postage prepaid) to the respective Parties as follows:

**To Utility:**


**To ComEd:**

Thomas W. Kay  
Manager, Interconnection Services  
Exelon Energy Delivery  
9th floor, Two Lincoln Centre  
Oakbrook Terrace, IL 60181-4260  
T: (630) 437-2758  
F: (630) 437-2354

Any such notice or communication will be deemed to have been given as of the date received.

18.2 Either party may change its address or designated representative for notices by notice to
the other in the manner provided above.

ARTICLE 19
MISCELLANEOUS

19.1 Governing Law.

19.1.1 This Agreement and all rights and obligations of the Parties hereunder will be governed by the laws of the State of Illinois, without reference to its rules relating to choice of law, except to the extent preempted by the laws of the United States of America.

19.1.2 Except for those matters covered in this Agreement that are jurisdictional to FERC, any action arising out of or concerning this Agreement must be brought in a state or Federal court of competent jurisdiction located in Cook County, Illinois.

19.2 Compliance With Law. In performing its obligations under this Agreement, each Party shall comply with all applicable laws and Regulatory Requirements.

19.3 Relationship of the Parties. Nothing in this Agreement is intended to create a partnership, joint venture, or other joint legal entity making any Party jointly or severally liable for the acts of the other Party. Unless otherwise agreed to in a writing signed by both Parties, neither Party shall have any authority to create or assume in the other Party’s name or on its behalf any obligation, express or implied or to act or purport to act as the other Party’s agent or legally-empowered representative for any purpose whatsoever.

19.4 No Third Party Rights. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties hereto, any benefits, interests, rights, or remedies under or by reason of the Agreement.

19.5 Waiver. Except as otherwise provided in this Agreement, a Party’s compliance with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

19.6 Amendment. Except as otherwise set forth herein, this Agreement may be amended or modified only by a writing executed by the authorized representatives of both Parties. Any amendment or modification that is not in writing and so executed shall be null and void from its inception.

19.7 Severability. If any term, condition, covenant, restriction or other provision of this Agreement is held by a court or regulatory agency of competent jurisdiction or by legislative enactment to be invalid, void or otherwise unenforceable, the remainder of the terms, conditions, covenants, restrictions and other provisions of this Agreement shall remain in full force and effect unless such an interpretation would materially alter the rights and privileges of any Party hereto. If any term, condition, covenant, restriction or other provision of this Agreement is held invalid, void or otherwise unenforceable, the Parties shall attempt to negotiate an appropriate and equitable replacement, revision or
adjustment to the provision of this Agreement to restore the benefits and obligations conferred under the original Agreement.

19.8 Headings and Captions. Article headings, section headings, and/or other captions are included in this Agreement for reference purposes only and shall not constitute a part of this Agreement or in any way affect the meaning or interpretation of this Agreement.

19.9 Entire Agreement. This Agreement, including all schedules, and other attachments hereto and made part hereof, sets forth the entire understanding and agreement of the parties as to the subject matter of this Agreement and supersedes all prior written and oral understandings, offers, agreements, commitments, representations, writings, discussions or other communications of every kind between the parties pertaining to the Work and constitutes the entire agreement between the Parties with respect to its subject matter, and as to all other representations, understandings, or agreements which are not fully expressed herein.

19.10 Rights Cumulative. The rights and remedies set forth in this Agreement are cumulative and non-exclusive.

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

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement as of the date first above written.

COMMONWEALTH EDISON COMPANY

By: ___________________________________________
Name: Susan O. Ivey
Title: Vice President, ComEd Transmission Operations & Planning

UTILITY AmerenEnergy Resources Generating Company

By:
Name: Christopher A. Iselin
Title: Vice President, Ameren Energy Resources

REVIEWED AND ACKNOWLEDGED:
The PJM and Midwest ISO signatures below by their authorized officers are for the limited purpose of acknowledging that authorized officers of PJM and the Midwest ISO have read this Agreement.

PJM INTERCONNECTION, L.L.C.

By:________________________________________________________
Name: 
Title: 

MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.

By:________________________________________________________
Name: 
Title: 

APPENDIX A

SCHEDULE OF WORK

ComEd and Utility acknowledge and agree that the estimated schedule for the work is only an estimate and may change based on availability of materials and resources.

ComEd shall use all reasonable efforts in accordance with the Good Utility Practice to complete the Work by December 31, 2011; provided, however, that ComEd shall not be in breach of this Agreement if it does not complete the work by that date.

ComEd will conduct the Study to address the possible upgrade needed on line 1352 at Powerton. The Study will evaluate the current equipment and identify the required upgrades to the Relay, SCADA and all associated equipment including cabling, housing and structural modifications.

Upon written acceptance of the Study results and agree of estimated costs by the Utility, ComEd will develop a Scope of Work and procure materials and schedule resources to complete the Work.

Estimated Work Schedule:
05/31/2011 – Engineering Study Complete
07/31/2011 – Procurement of Material
12/15/2011 – Completion of System Upgrades
APPENDIX B

SCOPE OF WORK

ComEd and Utility acknowledge and agree that the estimated Scope of Work is only an estimate and may change based upon the Study results and/or current field conditions.

ComEd will conduct the Study to address the possible upgrade needed on line 1352 at Powerton. The Study will evaluate the current equipment and identify the required upgrades to the Relay, SCADA and all associated equipment including cabling, housing and structural modifications.

ComEd or approved contractor will complete all work necessary to upgrade L1352 at Powertown, including the demolition, abandonment and installation of equipment. ComEd will have responsibility for the coordination of necessary line outages on L1352 through communications with PJM.

The detailed Scope of Work will be provided by ComEd to Utility upon completion of the Study.
APPENDIX C

COST ESTIMATE

ComEd and Utility acknowledge and agree that the estimated cost for the Work is only an estimate and that Utility hereby agrees to and shall pay ComEd for all actual costs incurred for the Work. The actual cost of the Work shall include, but is not limited to, charges incurred by ComEd for materials, labor, supervision, administration, equipment, contractor services and other services identified in the Scope of Work or otherwise required for the performance of Work. The estimated cost for the Study is $20,000, which Utility shall pay to ComEd upon the execution of this Agreement. The estimated costs to perform the Work shall be provided by ComEd to Utility after the completion of the Study, and ComEd shall not commence the Work prior to Utility’s written approval of the estimated costs and payment to ComEd for the Work.

ADDENDUM TO THE TRANSMISSION UPGRADE AGREEMENT BETWEEN COMMONWEALTH EDISON COMPANY AND AMEREN ENERGY RESOURCES GENERATING COMPANY, LLC DATED FEBRUARY 17, 2011

Whereas, in American Electric Power Service Corp., 121 FERC ¶ 61,128, P 14 (2005), the Commission held that “Both PJM and Midwest ISO, in short, should be signatories to the interconnection agreement because each RTO has planning and operating criteria and responsibilities that may be impacted by the terms of the agreement.”

Whereas, both PJM Interconnection, L.L.C. (“PJM”) and Midwest Independent Transmission System Operator, Inc. (“MISO”) require that the service agreements contain language to clarify that neither PJM nor MISO are parties to the agreement.

Accordingly, consistent with Section 19.6 of the Transmission Upgrade Agreement dated February 17, 2011 (“Agreement”), the Parties hereby amend the Agreement to incorporate the following clarifications:

For avoidance of doubt, the use of the term “Party” and “Parties” in the Agreement shall not include either PJM or MISO. The Federal Energy Regulatory Commission has required the Parties to the Agreement to include MISO and PJM as signatories to the Agreement in order to ensure that MISO and PJM are kept fully apprised of the matters addressed and so that MISO and PJM may be kept aware of any reliability and planning issues that may arise.
Limitation of Liability: the Parties acknowledge and understand that the signatures of the authorized officers of MISO and PJM on this Addendum is for the limited purpose of acknowledging that representatives of MISO and PJM have read the terms of the Agreement. The Parties, MISO and PJM further state that they understand that FERC desires that the Parties keep MISO and PJM fully apprised of the matters addressed herein as well as any reliability and planning issues that may arise under this Agreement, and that the signature of the PJM or MISO officers shall not in any way be deemed to imply that MISO and PJM are taking responsibility for the actions of any Party, that MISO and PJM have any affirmative duties under this Agreement or that MISO and PJM is liable in any way under this Agreement.

COMMONWEALTH EDISON COMPANY

BY: ___________________________________________

Name:
Title:

AMEREN ENERGY RESOURCES GENERATING COMPANY, LLC

BY: ___________________________________________

Name:
Title:

REVIEWED AND ACKNOWLEDGED:
The PJM and MISO signatures below by their authorized officers are for the limited purpose of acknowledging that authorized officers of PJM and the MISO have read the Transmission Interconnection Upgrade Agreement.

PJM INTERCONNECTION, LLC

BY: ___________________________________________

Name:
Title:

MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.

BY: ___________________________________________

Name:
Title:
Attachment 2

Signature Pages
other provision of this Agreement is held invalid, void or otherwise unenforceable, the Parties shall attempt to negotiate an appropriate and equitable replacement, revision or adjustment to the provision of this Agreement to restore the benefits and obligations conferred under the original Agreement.

19.8 **Headings and Captions.** Article headings, section headings, and/or other captions are included in this Agreement for reference purposes only and shall not constitute a part of this Agreement or in any way affect the meaning or interpretation of this Agreement.

19.9 **Entire Agreement.** This Agreement, including all schedules, and other attachments hereto and made part hereof, sets forth the entire understanding and agreement of the parties as to the subject matter of this Agreement and supersedes all prior written and oral understandings, offers, agreements, commitments, representations, writings, discussions or other communications of every kind between the parties pertaining to the Work and constitutes the entire agreement between the Parties with respect to its subject matter, and as to all other representations, understandings, or agreements which are not fully expressed herein.

19.10 **Rights Cumulative.** The rights and remedies set forth in this Agreement are cumulative and non-exclusive.

19.11 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused their authorized representatives to execute this Agreement as of the date first above written.

**COMMONWEALTH EDISON COMPANY**

By: ________________________________

Name: ______________________________

Title: ______________________________

**UTILITY AmerenEnergy Resources Generating Company**

By: ________________________________

Name: Christopher A. Iselin

Title: Vice President, Ameren Energy Resources
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**IN WITNESS WHEREOF,** the Parties have caused their authorized representatives to execute this Agreement as of the date first above written.

**COMMONWEALTH EDISON COMPANY**

By: 

Name: Susan O. Ivey  
Title: Vice President, ComEd Transmission Operations & Planning

**UTILITY AmerenEnergy Resources Generating Company**

By:  

Name: Christopher A. Iselin  
Title: Vice President, Ameren Energy Resources
REVIEWED AND ACKNOWLEDGED:

The PJM and Midwest ISO signatures below by their authorized officers are for the limited purpose of acknowledging that authorized officers of PJM and the Midwest ISO have read this Agreement.

PJM INTERCONNECTION, L.L.C.

By: ________________________________
Name:________________________________
Title: ______________________________

MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.

By: __________________________________________
Name: WILLIAM C. PHILLIPS
Title: Vice President
       Standards Compliance & Strategy

12-18-12
ADDENDUM TO THE
TRANSMISSION UPGRADE AGREEMENT BETWEEN
COMMONWEALTH EDISON COMPANY AND AMERENENERGY RESOURCES
GENERATING COMPANY, DATED FEBRUARY 17, 2011

Whereas, in American Electric Power Service Corp., 112 FERC ¶ 61,128, P 14 (2005), the Commission held that “Both PJM and Midwest ISO, in short, should be signatories to the interconnection agreement because each RTO has planning and operating criteria and responsibilities that may be impacted by the terms of the agreement.”

Whereas, both PJM Interconnection, L.L.C. (“PJM”) and Midwest Independent Transmission System Operator, Inc. (“MISO”) require that the service agreements contain language to clarify that neither PJM nor MISO are parties to the agreement.

Accordingly, consistent with Section 19.6 of the Transmission Upgrade Agreement dated February 17, 2011 (“Agreement”), the Parties hereby amend the Agreement to incorporate the following clarifications:

For avoidance of doubt, the use of the term “Party” and “Parties” in the Agreement shall not include either PJM or MISO. The Federal Energy Regulatory Commission has required the Parties to the Agreement to include MISO and PJM as signatories to the Agreement in order to ensure that MISO and PJM are kept fully apprised of the matters addressed and so that MISO and PJM may be kept aware of any reliability and planning issues that may arise.

Limitation of Liability: the Parties acknowledge and understand that the signatures of the authorized officers of MISO and PJM on this Addendum is for the limited purpose of acknowledging that representatives of MISO and PJM have read the terms of the Agreement. The Parties, MISO and PJM further state that they understand that FERC desires that the Parties keep MISO and PJM fully apprised of the matters addressed herein as well as any reliability and planning issues that may arise under this Agreement, and that the signature of the PJM or MISO officers shall not in any way be deemed to imply that MISO and PJM are taking responsibility for the actions of any Party, that MISO and PJM have any affirmative duties under this Agreement or that MISO and PJM is liable in any way under this Agreement.

COMMONWEALTH EDISON COMPANY

By: _____________________________

Name: TIMOTHY M. MCGUIRE
Title: VP TRANSMISSION & SUBSTATIONS

AMERENENERGY RESOURCES GENERATING COMPANY

By: _____________________________

Name: _____________________________
Title: _____________________________
ADDENDUM TO THE
TRANSMISSION UPGRADE AGREEMENT BETWEEN
COMMONWEALTH EDISON COMPANY AND AMERENENERGY RESOURCES
GENERATING COMPANY, DATED FEBRUARY 17, 2011

Whereas, in American Electric Power Service Corp., 112 FERC ¶ 61,128, P 14 (2005), the Commission held that “Both PJM and Midwest ISO, in short, should be signatories to the interconnection agreement because each RTO has planning and operating criteria and responsibilities that may be impacted by the terms of the agreement.”

Whereas, both PJM Interconnection, L.L.C. (“PJM”) and Midwest Independent Transmission System Operator, Inc. (“MISO”) require that the service agreements contain language to clarify that neither PJM nor MISO are parties to the agreement.

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Limitation of Liability: the Parties acknowledge and understand that the signatures of the authorized officers of MISO and PJM on this Addendum is for the limited purpose of acknowledging that representatives of MISO and PJM have read the terms of the Agreement. The Parties, MISO and PJM further state that they understand that FERC desires that the Parties keep MISO and PJM fully apprised of the matters addressed herein as well as any reliability and planning issues that may arise under this Agreement, and that the signature of the PJM or MISO officers shall not in any way be deemed to imply that MISO and PJM are taking responsibility for the actions of any Party, that MISO and PJM have any affirmative duties under this Agreement or that MISO and PJM is liable in any way under this Agreement.

COMMONWEALTH EDISON COMPANY

BY: ________________________________

Name:
Title:

AMERENENERGY RESOURCES GENERATING COMPANY

BY: ________________________________

Name: Christopher A. Iselin
Title: Senior Vice President, AER Generation
REVIEWED AND ACKNOWLEDGED:
The PJM and MISO signatures below by their authorized officers are for the limited purpose of
acknowledging that authorized officers of PJM and the MISO have read the Transmission
Interconnection Upgrade Agreement.

PJM INTERCONNECTION, LLC
BY: ____________________

Name: Steven R. Herling
Title: Vice President, Planning

12-12-12

MIDWEST INDEPENDENT TRANSMISSION SYSTEM OPERATOR, INC.
BY: ____________________

Name: WILLIAM C. PHILLIPS
Title: Vice President Standards Compliance & Strategy

12-10-12
Attachment 3

List of Work to be completed pursuant to the Agreement

Redacted
Contains CEII Materials
Redacted

Contains CEII Materials