



January 3, 2013

VIA ELECTRONIC MAIL

Hon. Jeffrey C. Cohen
Acting Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223

RE: Notice of Intent to Retire Dynergy Danskammer, L.L.C. Units 1 - 6

Dear Acting Secretary Cohen:

In accordance with the New York State Public Service Commission's ("Commission") *Retirement Order*,¹ Dynergy Danskammer, LLC ("Dynergy") hereby provides written notice that it intends to discontinue operation of the Danskammer Generating Station ("Danskammer Facility" or "Facility") in Newburgh, New York, and permanently retire all six generating units at the Facility.² As more fully described below, the Danskammer Facility has been unavailable to the power grid for more than 60 days. Following the retirement of the Facility, Dynergy will transfer the Facility to a salvage company to dismantle the Facility.

¹ Case 05-E-0889, *Proceeding on Motion of the Commission to Establish Policies and Procedures Regarding Generation Unit Retirements*, Order Adopting Notice Requirement for Generation Unit Retirements (Dec. 20, 2005) ("*Retirement Order*"). In its Retirement Order, the Commission defined "retirement" to "collectively include shut-downs, abandonments, mothballing, and other circumstances where a generating unit is taken out of service for a substantial period of time, excluding scheduled maintenance and forced outages." *Retirement Order*, at 1, n.1.

² The Danskammer Facility is comprised of six units. Units 1 and 2 are "peakers" (power plants that generally run only during periods of peak demand for electricity) with a net capacity of 130 MW. Units 3 and 4 have a net capacity of 370 MW (summer rating). Units 5 and 6 are emergency diesel generators with a net capacity of 5 MW, which are currently not in operation and not connected to the power grid. The NYISO Market Information System has assigned the units the following names and identifying numbers:

DANSKAMMER__1	PTID 23586
DANSKAMMER__2	PTID 23589
DANSKAMMER__3	PTID 23590
DANSKAMMER__4	PTID 23591
DANSKAMMER__DIESEL (Units 5 & 6)	PTID 23592

Dynergy requests that the Commission waive the normal 180-day requirement for retirement notices provided in the *Retirement Order*.

Non-operating Status of Danskammer

On October 29, 2012, Units 1 through 4 at the Facility were flooded due to high water from Super Storm Sandy; Units 1 through 4 have been in a forced outage status since that time. Units 5 and 6 were not exposed to flood water, but the power transformer for these generators was damaged by flood water. During the intervening period, Dynergy has retained contractors to assess the full extent of the damage at the Facility. Their assessment indicates that the flooding damaged approximately 90% of the motors and 60% of the switchgear in the Facility. Based on this assessment, the estimated costs to repair the Danskammer Facility are significant.

Bankruptcy and Sale Process

On November 7, 2011, Dynergy Holdings, LLC (“Dynergy Holdings”) and certain of its subsidiaries, including Dynergy,³ commenced bankruptcy proceedings in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) with the filing of petitions for voluntary protection under Chapter 11 of the United States Bankruptcy Code.⁴ Dynergy’s bankruptcy was largely a consequence of the poor economics of operating the Danskammer Facility and the fact that further, substantial additional investment would be necessary to maintain the Danskammer Facility safely and reliably as well as to continue to conform to current and future environmental regulations.

Beginning in June of 2012, as the result of a settlement agreement approved by the Bankruptcy Court, the Operating Debtors and Blackstone Advisory Partners L.P. (“Blackstone”) worked with various parties to the bankruptcy proceeding, including the Creditors’ Committee, to develop and execute a sale process to market and sell the Danskammer Facility and the Dynergy Roseton, L.L.C. power generation facility.

On September 10, 2012, the Bankruptcy Court entered an order confirming a joint plan of reorganization for Dynergy Inc. and Dynergy Holdings (the “Plan”).⁵ As contemplated by the Plan, an auction for the Danskammer Facility commenced on November 19, 2012. After several rounds of bidding in late November and early December, the Operating Debtors determined that a bid from ICS NY Holdings, LLC (“ICS”) was the highest and otherwise best bid for the Danskammer Facility. The Danskammer Facility will be sold to ICS for \$3.5 million in cash and

³ The Dynergy affiliates filing bankruptcy were Dynergy Holdings, LLC; Dynergy Northeast Generation, Inc.; Hudson Power, L.L.C.; and Dynergy Roseton, L.L.C. (collectively, “Operating Debtors”).

⁴ 11 U.S.C. §§ 1101, *et seq.* (2006). The voluntary petitions and other materials relating to the Chapter 11 proceedings of Dynergy and certain of its affiliates are available at: <http://dm.epiq11.com/DHL/Project#>.

⁵ *See Dynergy Inc.*, Order Confirming the Joint Chapter 11 Plan of Reorganization for Dynergy Holdings, LLC and Dynergy Inc., Case No. 12-36728 (CGM) (Sept. 10, 2012).

ICS's assumption of certain liabilities, including tax and environmental liabilities associated with the site (the "Transaction"). Following closing of the sale and this retirement notification process, ICS will demolish any remaining structures and own the site. On December 26, 2012, the Bankruptcy Court issued an Order approving the Transaction.⁶

Waiver Request

Dynegy requests that the Commission waive the normal 180-day requirement for retirement notices. In support thereof, Dynegy states the following:

1. This is not a planned retirement that could have been anticipated with prior notice. Units 1 through 4 at the Facility were placed into forced outage status as a result of catastrophic damage due to Super Storm Sandy as outlined above and have already been unavailable to the power grid for more than 60 days.
2. The sale of the Danskammer Facility is a key component of the Plan approved by the Bankruptcy Court, and is necessary to fully effectuate the Plan's terms. All bids received for the Danskammer Facility in the auction process, including the winning bid by ICS, were for salvage value.
3. The Danskammer Facility is located in the service territory, and interconnected to the transmission and distribution system, of Central Hudson Gas and Electric Corporation ("Central Hudson"). The Operating Debtors and Central Hudson have entered into a Settlement and Release Agreement dated October 24, 2012, which provides Central Hudson with the option to purchase certain equipment from the Operating Debtors to resolve any reliability issues Central Hudson would face due to the retirement of the Danskammer Facility (the "Settlement and Release Agreement"). The Settlement and Release Agreement was filed with the Bankruptcy Court and on December 7, 2012, the Bankruptcy Court issued an order authorizing the Operating Debtors to enter into the Settlement and Release Agreement. The Settlement and Release Agreement contemplates Central Hudson, at the request of the Operating Debtors, filing a notice in a proceeding such as this stating that Central Hudson deems all reliability issues resolved and that it has no opposition to the termination of operations at the Danskammer Facility.

⁶ See *In re Dynegy Holdings, LLC*, Order Under 11 U.S.C §§ 105, 363, 365, and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014 Approving (A) Sale of Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (B) Assumption and Assignment of Executory Contracts to Successful Bidders, and (C) Related Relief, Case No. 11-38111 (CGM) (Dec. 26, 2012).

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Dynegy is also simultaneously providing a copy of this Notice to the New York Independent System Operator.

Please feel free to contact me at 713-767-0328 or Dean.Ellis@dynegy.com with any questions or concerns. Thank you for your attention in this matter.

Sincerely,

A handwritten signature in dark ink that reads "Dean M. Ellis". The signature is written in a cursive style with a large initial 'D'.

Dean M. Ellis

Sr. Director, Government Affairs

cc: New York Independent System Operator (via e-mail at generator_retirement@nyiso.com)
Paul A. Colbert, Central Hudson Gas and Electric Corporation (via e-mail)