

RESOLUTION
CAYUGA OPERATING COMPANY LLC

A regular meeting of the Tompkins County Industrial Development Agency was convened on April 13, 2017, at 4:00 p.m.

The following resolution was duly offered and seconded, to wit:

**RESOLUTION AUTHORIZING AMENDMENTS TO THE PAYMENT IN LIEU OF
TAX AGREEMENT BETWEEN THE TOMPKINS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY AND CAYUGA OPERATING COMPANY LLC**

WHEREAS, the TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY (hereinafter called the "Agency") entered into a Third Amended and Restated Payment in Lieu of Tax Agreement dated as of July 17, 2015 (hereinafter "2015 PILOT Agreement") with CAYUGA OPERATING COMPANY LLC (hereinafter "the Company") as the successor in interest to AES EASTERN ENERGY, L.P.; and

WHEREAS, the Company and the Agency seek to further amend the 2015 PILOT Agreement pursuant to the provisions of paragraphs 5.2 and 5.3 of the Rider to the 2015 PILOT Agreement; and

WHEREAS, a PILOT negotiating committee comprised of representatives from the affected taxing jurisdictions met on the following dates to develop the amended PILOT schedule: August 31, September 21, October 11, November 10, and December 5 and 12, 2016 and January 23 and February 8, 2017;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency hereby approves the following amendment of the terms of the 2015 PILOT Agreement, which will be set forth in the Fourth Amended and Restated Payment In Lieu of Tax Agreement (hereinafter referred to as "the 2017 PILOT Agreement"):

- a. The taxable value of the Facility for tax year 2017 is hereby set at \$35,000,000; for 2018, at \$25,000,000; and for 2019, at \$20,000,000. In addition to the PILOT payments due based on a taxable value of the Facility (as defined in the 2017 PILOT Agreement), the Company will pay additional PILOT payments in the event that the Net Operating Income ("NOI") of the Facility exceeds \$8,000,000 in 2017, \$5,750,000 in 2018, or \$4,600,000 in 2019. In this event, there will be an additional PILOT payment due to the taxing jurisdictions.
- b. The additional PILOT payment will be calculated using the following formula: one half of the Company's NOI in excess of the NOI threshold for the pertinent year as set forth above will be divided by a capitalization rate of 23.06% to determine the Imputed Value. The Imputed Value will be multiplied by 74% to determine the Imputed Taxable Value. The Imputed Taxable Value will be multiplied by the combined tax rate of the taxing jurisdictions to determine the amount of the additional PILOT payment, which will be distributed proportionally to the taxing jurisdictions. The additional PILOT payment (if any) will take effect with the 2017-18 school taxes and the 2018 Town and County taxes, based on the Imputed Taxable Value of the Facility for 2017.

- c. An extraordinary circumstance necessitating a review and/or modification of the Facility's taxable values shall include, but not be limited to, a notice by the Company effective no sooner than the 2018 Assessment Roll stating that the Company's management has decided to shut down operations of the Facility for a period of time of at least sixty (60) consecutive days with no reasonable expectation of re-opening.

The final form of the Fourth Amended and Restated Payment In Lieu of Tax Agreement shall be approved by the Administrative Director and legal counsel for the Agency and the Tompkins County Director of Assessment.

Section 2. The Administrative Director of the Agency is hereby authorized to execute the Fourth Amended and Restated Payment-In-Lieu-Of-Tax Agreement in final form and all other documents necessary to give effect to this resolution.

Section 4. These resolutions shall take effect immediately.


The question of the adoption of the foregoing resolutions was duly put to a vote by roll call, which resulted as follows:

<u>Member names</u>	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
James P. Dennis, Chairperson	[✓]	[]	[]	[]
Martha Robertson, Vice Chairperson	[✓]	[]	[]	[]
Svante L. Myrick, Secretary	[✓]	[]	[]	[]
Will Burbank	[✓]	[]	[]	[]
Grace Chiang	[]	[]	[]	[✓]
Jennifer Tavares	[✓]	[]	[]	[]
Richard T. John	[✓]	[]	[]	[]

The resolutions were thereupon duly adopted.

I, Svante L. Myrick, as Secretary of the Tompkins County Industrial Development Agency, hereby certify that the above is a true and correct copy of a duly authorized resolution of the Tompkins County Industrial Development Agency.

Dated: April 25, 2017



 Svante L. Myrick