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CONTAINS REQUEST FOR PRIVILEGED TREATMENT

September 15, 2021

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

RE: ***Constellation Mystic Power, LLC***
2021 Informational Filing
Docket No. ER21-____-000

Dear Secretary Bose:

Pursuant to the Federal Energy Regulatory Commission's ("Commission") orders in Docket No. ER18-1639-000 and Sections I.B.1.i. and II.6.of Schedule 3A ("Protocols") of the executed cost-of-service agreement ("Mystic Agreement") among Constellation Mystic Power, LLC ("Mystic"), Exelon Generation Company, LLC ("ExGen"), and ISO New England Inc. ("ISO-NE"),[1] Mystic submits for informational purposes this transmittal letter and supporting materials ("Informational Filing") that support the capital expenditures and related costs that Mystic projects will be collected as an expense between June 1, 2022 to December 31, 2022 ("2022 CapEx Projects").

I. BACKGROUND

Mystic initially filed the Mystic Agreement on May 16, 2018. The purpose of the Mystic Agreement is to compensate Mystic Units 8 & 9 at their cost of service for providing fuel security to ISO-NE for two Capacity Commitment Periods, starting June 1, 2022 and ending May 31, 2024 ("Term"), and to establish the terms of such fuel security service. Because it was filed several years before commencement of the Term, Mystic proposed a rate based on projected annual costs of providing service, including capital expenditures necessary to allow the units to provide fuel security during the Term. On July 13, 2018, the Commission issued an order directing Mystic to establish true-up procedures to determine the rate.[2] Mystic filed the Protocols as Exhibit No. MYS-0022 on July 30, 2018. With limited exceptions, the scope of the

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[1] *See* Constellation Mystic Power, LLC, FERC FPA Electric Tariff, Cost of Service Agreement, Rate Schedule FERC No. 1, 0.0.0. ("Mystic Agreement").

[2] *Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 (2018).

Informational Filings under the Protocols was not contested. After a hearing and post-hearing briefs, the Commission affirmed acceptance of the Mystic Agreement, including the revised Protocols filed as Exhibit No. MYS-0051, effective June 1, 2022, subject to conditions. *See Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 (2018) ("*Mystic Hearing Order*"). Since that time, Mystic has made five compliance filings, including minor changes to the Protocols. The Commission accepted the fourth compliance filing on July 29, 2021, and the version of the Mystic Agreement accepted in that proceeding is the current, on-file version of the agreement.[3] The fifth compliance filing is still pending before the Commission. That compliance filing, if accepted, only reflects changes to the annual fixed revenue requirement and proposes no changes to the Protocols.

The Protocols: 1) establish the method for Mystic to update projected costs and true up those costs for each year of the Term, including annual informational processes and filings to the Commission; and 2) provide a formula rate template referred to as the "Methodology" to establish the rate for each year of the Term. The Protocols are modeled on the formula rate protocols for transmission owners in the Midcontinent Independent System Operator and require Mystic to substantiate its rate through a series of annual informational processes and filings. *Mystic Hearing Order*, 165 FERC ¶ 61,267 at P 165. Specifically, the Protocols describe filings that Mystic is required to make in 2021, 2022, 2023, 2024, and 2025. Each annual filing has its own purpose and requirements as described in Section I.B. of the Protocols. Exhibit No. MYS-0023, which was an uncontested exhibit submitted at the hearing in Docket No. ER18-1639-000, provides a summary overview of the actions required for each filing under the protocols. The substance of that exhibit is copied here:

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[3] Several issues related to the Mystic Agreement are subject to appeal in D.C. Court of Appeals Docket No. 1913104, including whether the Commission could require Mystic to true-up the rate. This filing is made subject to the outcome of that ongoing appeal.

Summary of Actions to Be Performed in Each Filing

ACTIONS	2021 Filing	2022 Filing	2023 Filing	2024 Filing	2025 Filing
Substantiation of CapEx for next calendar year	X	X	X		
Update Net Plant for CapEx incurred between 1/1/2018 – 12/31/2021		X			
Update Projected Costs for CapEx, O&M, A&G, and TOTIT for entire Term		X			
Update Net Plant by truing-up all CapEx prior to term, i.e., incurred between 1/1/2018 – 5/31/2022			X		
True-Up to Actual Costs incurred during prior calendar year for CapEx, O&M, A&G, and TOTIT			X	X	X

I. 2021 INFORMATIONAL FILING

Section I.A of the Protocols describes the subject to be covered in annual filings, commencing in 2021, and Section II describes the procedures for such filings. Relevant to this filing, Section I.A.1, "2021 Filing" requires Mystic to provide support "for Capital Expenditures necessary to meet the reliability need between June 1, 2022 and December 31, 2022." As explained by Mystic's witness who originally sponsored the Protocols, the 2021 Filing is a "before-the-fact informational posting to substantiate the nature of the proposed work to be done, and update projected costs" associated with those projects.[4] The 2022 CapEx Project costs will become an input into Mystic Schedule D and Everett Schedule D of the Methodology as "RMR CapEx" and actual costs will be trued-up in the 2023 Filing. Accordingly, this filing is limited to providing information to demonstrate that the proposed 2022 CapEx Projects are appropriate capital expenditures under the Mystic Agreement. No other aspect of the Protocols, Methodology, or Mystic Agreement are within the scope of this filing.

Section II of the Protocols describes the annual informational posting and filing process, including what information must be filed with each annual filing. Section II.6. of the Protocols provides that, by September 15 of each year, Mystic shall submit to the Commission an

[4] Prepared Supplemental Direct Testimony of Alan C. Heintz, Exh. No. MYS-0020 at 4-5 (Jul. 30, 2018).

Informational Filing that includes, "if applicable, the information that is reasonably necessary to determine:

(1) that input data under the Methodology are properly recorded in any underlying workpapers;

(2) that the Owner has properly applied the Methodology and these procedures;

(3) the accuracy of data and the consistency with the Methodology of the Annual Fixed Revenue Requirement;

(4) the extent of accounting changes that affect inputs;

(5) whether a capital expenditure collected as an expense during the Term is necessary in order to meet the obligations of the Agreement; and

(6) whether a capital expenditure collected as an expense during the Term is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement."

The Protocols further require that the Informational Filing describe any corrections or adjustments made since the Informational Posting and all aspects of the Methodology or its inputs that are the subject of an ongoing dispute under the Informal or Formal Challenge procedures. Protocols at Section 6.A.

In response to the applicable aspects of these requirements, i.e., those relevant to the list of 2022 CapEx Projects, Mystic provides the following:

Attachment A: List of 2022 CapEx Projects, including a description of each project, an explanation of why the project is needed to meet the obligations of the Mystic Agreement, whether each project is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement, and the expected cost and timing for each project. Also included with this filing as Attachment A-1 is a copy of the affidavit of Michael Brown and Abigail Piollo-Alam that was provided in support of the April 2021 Informational Posting, and which provides additional support for the 2022 CapEx Projects and is cross-referenced in Attachment A.

Attachment B: Summary of substantive corrections and adjustments made to the 2022 CapEx Projects since the April 1, 2021 Informational Posting. Changes from the Informational Posting include removal of projects from the version of Attachment A filed with that posting that are not 2022 CapEx Projects because they were: completed before June 1, 2022; deferred until after December 31, 2022; cancelled; or reclassified as operations and maintenance expense. Other changes include updates to the scope and projected costs for certain 2022

CapEx Project in order to reflect the most current available information.

Attachment C: List of all aspects of the April 1, 2021 Informational Posting that were subject to an informal challenge and which potentially may still be subject to ongoing dispute despite Mystic's good faith efforts to respond to and resolve any outstanding issues within the scope of this informational process. Mystic received informal challenges from the New England States Committee on Electricity ("NESCOE") and the Eastern New England Consumer-Owned Systems ("ENECOS") on August 2, 2021. Mystic submitted responses to these informal challenges on August 27 and August 30, 2021, respectively. The informal challenges and Mystic's responses are included in Attachment 3 and are labelled Attachment C-1 through Attachment C-4.

Mystic has complied with the deadlines and requirements of the Protocols. The Protocols require that Mystic submit its annual Informational Posting to ISO-NE by April 1 of each year (or the next business day if April 1 falls on a weekend or Commission holiday) and that ISO-NE provide notice of such posting within two business days. The posting of the Informational Posting triggers the commencement of the Information Exchange Procedures. Interested Parties had until June 1, 2021 to serve reasonable information and document requests, and Mystic was required to make a good faith effort to respond all requests within 15 business days, but by no later than July 10, 2021. Interested Parties had until August 2 to submit informal challenges to Mystic, and Mystic was required to make a good faith effort to respond to all informal challenges within 15 business days, but by no later than August 31, 2021. The following table summarizes Mystic's compliance with the specific deadlines set forth in the protocols:

Due Date	**Activity**	**Date Activity Completed**
April 1, 2021	Submit 2021 Filing providing support for the 2022 CapEx Projects to ISO-NE.	April 1, 2021. Mystic submitted an errata on April 27, 2021.
2 Days After Posting	ISO-NE provides notice	April 1, 2021
No less than 20 days prior to Annual Meeting	Provide notice on ISO-NE website of Annual Meeting	April 8, 2021
May 1, 2021	Hold Annual Meeting	April 28, 2021
No less than 7 days prior to Technical Session	Provide notice of Technical Session	May 3, 2021
June 1, 2021	Hold Technical Session	May 20, 2021

Additionally, Mystic made a good faith effort to respond to all reasonable information and document requests within 15 business days and responded to all reasonable information and document requests by July 10, 2021.[5] Further, Mystic made a good faith effort to respond to all Informal Challenges within 15 business days and responded to all Informal Challenges by August 31, 2021.

II. REQUEST FOR CONFIDENTIAL TREATMENT

Pursuant to 18 C.F.R. § 388.112, Mystic respectfully requests privileged treatment for Attachment C to this filing. These documents contain commercial data, trade secrets, and financial information that is confidential and privileged.[6] Accordingly, good cause exists for the Commission to grant this request for privileged treatment. A public redacted version of each of the above-referenced documents will be provided in accordance with the Commission's regulations. In accordance with Section 388.112(b)(2)(i), Mystic is attaching a proposed protective agreement based on the Commission's Model Protective Order and attached hereto as Attachment D.

III. NOTICE

In accordance with Section II.6.A. of the Protocols, Mystic will notify ISO-NE of this filing and provide the docket number for posting on the ISO-NE website and OASIS and via an email exploder list. As a courtesy and because this is the first annual filing, Mystic also commits to serving the official service list in the underlying docket accepting the Mystic Agreement, ER18-1639.

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5 Recently, after a dialogue with counsel for NESCOE, Mystic has agreed to accept an additional information request from NESCOE, as a follow-up to Mystic's responses to NESCOE's informal challenges. Mystic received this additional information request on September 9, 2021, and is currently preparing a response.

6 18 C.F.R. § 388.107(d) (2020).

IV. CONCLUSION

Please contact the undersigned if you have any questions regarding this submission.

Respectfully submitted,

/s/ Noel Symons

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Attachment A-1

Affidavit of Michael Brown and Abegail Piollo-Alam

AFFIDAVIT OF MICHAEL BROWN AND ABEGAIL PIOLLO-ALAM ON BEHALF OF CONSTELLATION MYSTIC POWER IN SUPPORT OF APRIL 1, 2021 CAPITAL EXPENDITURES INFORMATIONAL POSTING

Affiants and Company

Affiant 1: Michael Brown, Manager of Technical Services, Northeast Region, with Exelon Generation Company, LLC

1. My name is Michael Brown. My business address is 173 Alford Street, Charlestown, Massachusetts 02129. I am Manager of Technical Services for the Northeast Region at Exelon Generation Company, LLC ("ExGen"). This affidavit is on behalf of ExGen and Constellation Mystic Power, LLC ("Mystic").

2. My responsibilities include managing the capital approval process for ExGen's Northeast Region. Additionally, I provide direction and support to a team of technical professionals, engineers and outage management. Prior to my current position, I was the Principal Engineer for the Northeast Region, supporting the Technical Services Manager and assisting and supporting technical support team as well as managing projects at the various facilities in the Northeast Region. I joined Mystic Station in 2001, under a previous owner, during construction of Mystic 8 & 9 and have been an engineer supporting the station since. Prior to working with the Mystic assets, I was employed by Stone & Webster Engineering Corp in their Heavy Construction department, providing construction and construction management services for the Tennessee Valley Authority, Salt River Project, Massachusetts Water Resources Authority and other clients. I hold a Bachelor of Science in Engineering from the University of Lowell, 1989, a Professional Engineers License in the State of Massachusetts, and hold Certificates in Project Management from Worcester Polytechnic Institute and Villanova University.

Affiant 2: Abegail Piollo-Alam, Director of Finance at ExGen

3. My name is Abegail Piollo-Alam. My business address is 300 Exelon Way, Kennett Square, Pennsylvania. I am a Director of Finance of ExGen. This affidavit is on behalf of ExGen and Mystic.

4. My responsibilities include various business planning activities including financial planning, analyses and reporting for the ExGen non-nuclear generation facilities to determine their economic health and long-term profitability. In this capacity, I provide oversight for the capital approval process for the ExGen facilities fueled by gas, oil, solar, hydropower and wind. I have been employed by ExGen or its affiliate companies since 2003 and have held positions as Senior Planning and Evaluations Analyst, Executive Assistant to the President of Exelon Power, Manager of Financial Planning & Analysis/Business Analysis and as Director of Asset Optimization. Prior to working for ExGen, I was employed by KPMG Consulting in Singapore as an Associate Managing Consultant and at Procter and Gamble, Philippines as a Product Supply Cost Analyst, a Financial Analyst and Treasury Manager. I received a Master of Business

Administration from the Wharton School of the University of Pennsylvania in 2003, and a Bachelor of Science in business administration and accountancy from the University of the Philippines in 1996. I provided prior testimony before FERC in Docket No. ER14-329-000.

Purpose of Affidavit

5. The purpose of this affidavit is to provide support for Mystic's April 1, 2021 Informational Posting ("2021 Informational Posting") required by Schedule 3A of the Amended and Restated Cost-of-Service Agreement[1] ("Mystic Agreement") among Mystic, ExGen, and ISO New England Inc. (the "ISO"). Specifically, Schedule 3A requires that Mystic submit an informational posting by April 1, 2021 of capital expenditures at Mystic Units 8 & 9 and the Everett Marine Terminal facility ("Everett") necessary to meet the reliability need between June 1, 2022 and December 31, 2022 ("2022 CapEx Projects"), and that for all 2022 CapEx Projects, Mystic "[d]emonstrate that the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement."[2]

6. Attachment A to the Informational Posting lists each of the 2022 CapEx Projects, and includes supporting cost and reliability need information, including a description of why each project is the least cost commercially reasonable option. As described below, the 2022 CapEx Projects were identified and determined to be necessary through ExGen's well-established process for capital expenditures, as conducted through its Exelon Power group. Accordingly, we explain how Exelon Power tracks and approves capital expenditures ("CapEx"), to provide context and explanation for the CapEx projects described in the 2021 Informational Posting.

Overview of Exelon Power's Capital Tracking and Approval Process

7. Exelon Power generally utilizes a two-step planning process to track and approve expected CapEx on a fleet-wide basis. Exelon Power uses this process when determining how to make investment decisions for its merchant generation fleet, for which it has no guarantee of cost recovery and is using the same process to determine necessary CapEx for Mystic and Everett during the term of the Mystic Agreement.

8. The first step is long range planning and involves a rolling five-year forward financial forecast of all expected operating costs, including CapEx, that is used to help inform and guide overall company operational/financial planning. The list of CapEx projects and cost forecasts are developed by a combination of operations, maintenance, technical and financial personnel within Exelon Power and at the specific facilities, and are further informed by third party recommendations, such as equipment manufacturers and service

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[1] *See* Constellation Mystic Power, LLC, Cost of Service Agreement, Rate Schedule FERC No. 1, 4.0.0 ("Mystic Agreement"). Capitalized words not otherwise defined shall have the meaning ascribed to them in the Mystic Agreement.

[2] *See* Mystic Agreement at Schedule 3A, Section III.3.A.b.

providers. For any given facility, projects included in the long-range planning forecast generally include reoccurring capital costs, such as battery replacements and periodic costs, such as valves, pumps and motors, along with specific projects identified as needed at the facility. The CapEx cost forecasts incorporate the then-best current view of CapEx projects that will be required to maintain safe and reliable operations, with an understanding that project scope, requirements and timing may change due to ongoing assessments (testing, inspection, etc.) of equipment health. During the long-range planning stage of planning, CapEx cost estimates are typically based upon engineering experience, historical spends, and judgement. As described below, detailed costing and consideration of alternatives are subsequently established prior to formal project approval.

9. Formal approval to execute any CapEx project is secured through a second step, referred to as the capital approval process. Approvals are given on a periodic basis when a project is ready to commence, subject to delegations of authority. For each such CapEx project, a committee comprised of plant operations, site/corporate engineering, site/corporate environmental, safety, finance and others review proposed projects, including alternatives, to establish that the proposed project represents the least-cost commercially-reasonable option, consistent with Good Utility Practice. Cost estimates in this step are more refined than in the long-range planning process, though still typically include contingencies. Exelon's supply chain group is engaged in project development, advising on contracting strategies, identifying vendors of choice, with whom ExGen has pre-negotiated rates, administering the competitive bid process after project approvals or negotiating final cost and terms with sole source providers.

10. Many of the CapEx projects identified in this 2021 Informational Posting for the June 2022 through December 2022 time period are still in the long-range planning phase, and therefore do not yet have formal internal approvals, formalized alternatives, or more final cost estimates. Once formal internal approvals are secured, documentation establishing the projects as the least-cost, commercially-reasonable option, consistent with Good Utility Practice, will be available for parties to review. It was determined to be infeasible and inconsistent with ExGen's best practice, which we believe has driven optimal results for our fleet, to attempt to establish a separate approval process just for the Mystic Agreement or to pursue project approval and project commitments on an advanced timeline. Further, because the Mystic Agreement requires an updated projection of costs in April of 2022 and a true-up to actual costs in 2023, interested parties will have ample opportunity to review the actual, final costs when they are known.

Support for 2022 CapEx Projects

11. The majority of the projects identified in the long range planning phase for Mystic and Everett for calendar year 2022 are based primarily on the substantial experience of plant operations and financial forecasters and include the same types of projects that ExGen would propose in its normal course of business for a facility in its merchant fleet of the same age, type, and with a similar anticipated remaining life as Mystic. In other words,

Exelon Power would pursue the projects without a guaranteed recovery of costs. These projects include, for example, valve and motor replacements.

12. In addition, the 2022 CapEx Projects include two projects that will be completed prior to the Term of the Mystic Agreement and that Mystic would not have otherwise undertaken but for the Mystic Agreement. Accordingly, Mystic is seeking to expense those projects. Specifically, the 2022 CapEx Projects include: 1) four comprehensive rotor inspections ("CRI Projects") for the turbines at the two Mystic units, and 2) a project to segregate auxiliary boiler services, including electrical power, water, air supply, and industrial waste-water processes from the Mystic 7 facility so that they can be supplied from Mystic 8 & 9 for the term of the Mystic Agreement (referred to as the "Campus Segregation Project"). Mystic is undertaking these projects directly as a result of Mystic Agreement and the heightened performance obligations contained therein.

13. The CRI Projects are based on manufacturer specifications – specifically, the OEM programmatic recommendation for the age and use these units. Further, pre-CRI inspection and findings performed by Mitsubishi Hitachi Power System ("MHPS") on the turbine at Mystic called "GT93" during its second major inspection in 2017 identified compressor disc erosion, disc root pitting, rust and corrosion, compressor disc creep and corrosion on turbine discs 1, 3, and 4. MHPS recommended further evaluation and action be performed at a CRI. Black & Veatch, an independent third party, evaluated the pre-CRI inspection and operating history and concluded that performing CRIs on all four gas turbines at the next inspection was recommended. Exelon engineers agree with this recommendation. The cost of the CRIs is determined by MHPS. Mystic does not have any alternatives to complete the project and it cannot competitively bid out the project. The work must be done by the manufacturer. However, ExGen determined that performing the work ahead of the Mystic Agreement term will allow Mystic to complete the project at a lower cost because the work can be done during existing scheduled maintenance inspections. In addition, completing the work prior to the term avoids Mystic having to take outages to allow for this work during the Term of the Mystic Agreement.

14. The Mystic Campus Segregation Project is necessary to allow Mystic 8 & 9 to continue operating after Mystic 7, a different unit at the station, retires (anticipated in 2021). Mystic 8 & 9 rely on start up steam from Mystic 7, or when Mystic 7 is not online, from the auxiliary boiler, which is located at the Mystic 7 site. Mystic would not have pursued any costs related to the auxiliary boiler if it were going to retire in 2022 because it would have been able to temporarily use the Mystic 7 facility to continue to provide electrical power, water, air supply and industrial waste services to the auxiliary boiler to supply start up steam to Mystic 8 & 9 on an interim basis through May of 2022. As explained during the proceeding in ER18-1639, extending interim measures past 2022 would not be feasible. *See* Exh. No. MYS-0053 (Rebuttal Testimony of Michael Schnitzer). Mystic originally proposed to relocate or replace the auxiliary boiler to ensure that Mystic 8 & 9 would have a source of start up steam during the term of the Mystic Agreement. After further review, Mystic determined that it could instead make several upgrades to segregate services currently supplied to the auxiliary boiler and firepump house by the

Mystic 7 facility and allow Mystic 8 & 9 to provide these services, specifically electric power, water, air supply, and industrial waste-water, so that the auxiliary boiler can support Mystic 8 & 9 operations after Mystic 7 retires.

15. As noted above, any interim measures that may be acceptable for auxiliary boiler and firehouse operations to support normal operations at Mystic 8 & 9 until June 2022 cannot be extended through the entire term of the Mystic Agreement. First, equipment that currently supports Mystic 7 (including the auxiliary boiler) is likely to be decommissioned coincident with the retirement date of Mystic 7. Specifically, Mystic understands that an Eversource-owned 25 kV structure that supplies Mystic 7 and the auxiliary boiler with reserve station power ("25 kV House") is expected to be retired coincident with or soon after Mystic 7's retirement. The 25 kV House is 1950's vintage, has many pieces of equipment that are obsolete and only serves two clients; Mystic 7 and a Secondary Feed to the Everett Marine Terminal that is scheduled to be replaced. Additionally over the past several years, the 25 kV House has been an unreliable source of reserve station power and suffered outages, which has resulted in forced outages at Mystic 8 & 9 or created a higher risk of outages. With the Mystic 7 main boiler retired, the auxiliary boiler would not be able to supply start up steam without the 25 kV House, which presents an unreasonable reliability risk.

16. Further, Mystic 7 is 46 years old, and many of the components and systems, including those that support the auxiliary boiler, are still the original assets. These systems include those that would be necessary to be in service to support operation of the auxiliary boiler (e.g., demineralized water, plant and instrument air, waste-water treatment, reserve power, chemical systems, distributed controls system, feed water). Equipment of that age is considered less reliable, and the Campus Segregation Project more comprehensively upgrades necessary systems to ensure reliable operations. Finally, the Campus Segregation Project is designed to provide redundant, diverse power supplies via the 115kV and 345kV systems. This provides a reliable powering philosophy. And the supporting systems that would be coming from Mystic 8 & 9 as part of the project also benefit from that power diversity.

    Based on this information, Mystic determined that refurbishing and segregating services provided to the auxiliary boiler so that it can provide services to Mystic 8 & 9 after Mystic 7's retirement would be a reliable solution that could be accomplished at a lower cost than relocation or full replacement. The costs of the Mystic Campus Segregation Project were evaluated against alternative options, including:

    - Relocating the auxiliary boiler. The cost of this would be similar to installing a new auxiliary boiler, and would require putting Mystic 8 & 9 in an outage for an extemded period of time.

    - Purchasing and installing a new boiler. This was determined to be higher cost than the preferred alternative.

    - Leasing an auxiliary boiler and building support infrastructure. This was determined to be cost prohibitive.

- Perform extensive conversions to Mystic 8 & 9 to convert to air-cooled units. This was determined to be cost prohibitive and not technically feasible at this time as it has never been designed or implemented elsewhere on the Mitsubishi 501G1 fleet.

- Do nothing. This option was determined to be unacceptable from a reliability perspective for the reasons discussed above.

17. Exelon Power selected these projects with the primary goal of ensuring safe and reliable operation of the Mystic 8 & 9 generating units during the term of the Mystic Agreement on a least-cost basis. The Mystic Agreement simultaneously exposes Mystic to substantial penalties if it does not meet its performance obligations[3] while limiting Mystic's flexibility to actually meet those same obligations through means normally available to it, such as through purchase of replacement capacity.[4] So, while in the normal course of business, ExGen would evaluate all options on the table when deciding whether to undertake significant CapEx costs for a facility nearing retirement, including running the unit to failure, it is not commercially reasonable to do so here, nor would it serve the purpose of the Mystic Agreement, which is to ensure that Mystic 8 & 9 will be physically available to provide reliability service during the term of the Agreement.

18. This concludes our affidavit.

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[3] *See* Mystic Agreement, Section 3.7 ("Winter Fuel Security Penalty").

[4] *See* Mystic Agreement, Section 3.3 ("Bilateral Agreements") (restricting Mystic's ability to purchase replacement capacity)

VERIFICATION OF MICHAEL BROWN

Pursuant to 28 U.S.C. § 1746 (2020), I state under penalty of perjury that the foregoing testimony is true and correct to the best of my knowledge, information, and belief.

Executed this 30TH day of MARCH, 2021.

Michael Brown
Exelon Generation/Constellation Mystic Power
Manager of Technical Services

VERIFICATION OF ABEGAIL PIOLLO-ALAM

Pursuant to 28 U.S.C. § 1746 (2020), I state under penalty of perjury that the foregoing testimony is true and correct to the best of my knowledge, information, and belief.

Executed on this 30th day of March, 2021.

Abegail A. Piollo-Alam

Abegail Piollo-Alam
Exelon Generation LLC
Director of Finance

Attachment B

Changes from Project List Included with April 2021 Informational Posting

Table 1: Projects Included on Attachment A in April Informational Posting for Reference but Removed for Purposes of Informational Filing[1]

Project Name	Reason Project is Not a 2022 CapEx Project
Mystic 8 & 9	
[5M8C22002] MYD8 GT81 & GT82 Exp Joints 00	Completed prior to Term
[5M8C22004] MYD8 Capital Motors	Completed prior to Term
[5M8C22009] MYD8 Waterfront Rip Rap	Deferred
[5M8C22010] MYD8 Transmssn Trnsfrmr Prote	Completed prior to Term
[5M8C22011] MYD8 Generator Projection Refr	Completed prior to Term
[5M8C22012] MYD8 GT SFC Refresh	Completed prior to Term
[5M8C22014] MYD8 UPS Replacement	Completed prior to Term
[5M9C22003] MYD9 GT93/GT94 Exp Jts 00	Completed prior to Term
[5M9C22004] MYD9 GT93/GT94 Exp Jts 01	Completed prior to Term
[5M9C22008] MYD9 Waterfront Rip Rap	Deferred
[5M9C22009] MYD9 Transmssn Trnsfrmr Protec	Completed prior to Term
[5M9C22010] MYD9 Generator Projection	Completed prior to Term
[5M9C22013] MYD9 UPS Replacement	Completed prior to Term
[5M9C22015] MYD9 ST 96 Valves (even)	Deferred
NERC-CIP Incremental Capex	No longer necessary
Everett	
Recoat LNG Storage Tanks (incl Outer Shell Welds)	Now classified as O&M
[053C20003] DeNOx Refurbishment Repl (SCR)	Deferred
[053C19003] Safety & Relief Valve Replacemts	Deferred
[053C19004] Regulatory Instrumentation Rep	Deferred
Site Water Removal System Improvements	Deferred
[053C22002] Jetty/Dock Structure Improvmt	Deferred
[053C22003] Corrosion Cntrl Upgrade/Dock	Deferred
Reperlite (top-off) LNG Tank	Completed prior to Term
[053C22006] Plant Steam Modifications	Deferred
[053C20010] Boil-Off Compressor Upgrade	Deferred
[053C21008] Secondary Feed	Now expected to be classified as O&M

[1] All projects in this table were included in the Informational Posting Attachment A as capital projects originally anticipated to be expensed in 2022 when the Mystic Agreement was first filed on May 16, 2018. For the reasons described in Table 1, above, Mystic is no longer seeking to treat these projects at 2022 CapEx Projects. Mystic provided information about these projects in the Informational Positing for reference, but it was not necessary under the Protocols. Accordingly, they are not within the scope of this September 15 Informational Filing and are not included in Attachment A.

Table 2: 2022 CapEx Projects with Modified Scope and/or Cost Since April Informational Posting

Project	Change
Mystic 8 & 9	
[5M8C21004] MYD8 CRI GT82	Project scope has been narrowed to a replacement of the existing rotor with rotor returning from a Comprehensive Rotor Inspection. The rotor being removed will not receive a CRI, as a result projected costs have decreased from $9,969,000 to $3,600,000.
[5M9C21005] MYD9 Mystic Campus Segregation	Projected costs increased to $8.25 million based on actual competitive bids being higher than project estimates and modification to project scope during the execution of the work including rerouting of fuel gas supply and addition of condensate tank make up supply system.
Everett	
[053C21017] MV Electrical System Replace	Projected costs increased from $200,00 to $550,000. Increase in costs due to an inadvertent error in the April 2021 Informational Posting. Engineering work is currently ongoing that will determine the ultimate cost of this project. The project number is updated to 053C21017 and expected in-service date has been updated from Q2 to Q4 2022.
[053C19007] HA Bypass for SCR (HAB) Repl	Projected costs updated to reflect a decrease from $2,050,000 to $2,000,000 based on current approvals.
[053C21021] Tank Base Heater Replacement	Project costs increased from $700,000 to $1,260,000 based on new information from hard quotes and bids. Project number updated to 053C21021.
[053C22012] HA Bypass for SCR (HAB) Repl	Project number changed from 053C19007 to 053C22012 to reflect the numbering used in the relevant approval. The numbering is the result of an original placeholder project being split into two phases, with the first phase being completed before the Term and the second phase being updated number 053C22012. The project scope and costs for 053C22012 are the same as what was previously shown for 053C19007. This change does not have substantive relevance but is being explained here to avoid potential confusion.
[053C19006] Firewater Main Repl/Upgrade	Start date of project updated from Q1 2021 to Q1 2022 due to deferral of scoping work. No change to the expected in-service date.
[053C21005] Forward Bollard	Start date deferred to Q1 2022, when authorization for expenditures is expected. No change to the expected in-service date.

Project	Change
[053C22007] Structural Suppt Upgr-Conduit	Start of project updated to Q1 2022 due to the deferral of scoping work. No change to the expected in-service date.
[053C22009] Mooring Hooks	In-service date updated to Q4 2022, because this project has been sequenced to be implemented in conjunction with – and to go in-service just after completion of – the [053C21005] Forward Bollard project.

Attachment C-1

Informal Challenges of ENECOS

INFORMAL CHALLENGES OF THE EASTERN NEW ENGLAND CONSUMER-OWNED SYSTEMS TO CONSTELLATION MYSTIC POWER, LLC'S APRIL 1, 2021 INFORMATIONAL POSTING

The Eastern New England Consumer-Owned Systems ("ENECOS")[1] present the following Informal Challenges to the April 1, 2021 Informational Posting of Constellation Mystic Power, LLC ("April 1 Posting"), concerning the inputs to the Annual Fixed Revenue Requirement ("AFRR") and Supplemental Capacity Payment ("SCP") established under Schedules 3 and 3A of the Amended and Restated Cost of Service Agreement ("COSA") among Constellation Mystic Power, LLC ("Mystic"), Exelon Generation Company, LLC ("ExGen"), and ISO New England, Inc. ("ISO-NE"), dated as of February 15, 2019. ENECOS present these Informal Challenges pursuant to Schedule 3A, Part II, Section 4 of the COSA. Based on the limited information provided by Mystic during the Information Exchange Procedures outlined in Schedule 3A, Part II, Section 3 of the COSA, Mystic has failed to establish the justness and reasonableness of including the following inputs proposed to be used by Mystic in its Schedule 3A formula rate template, and the referenced inputs should therefore be rejected and removed from the calculation of any AFRR or SCP under the COSA.

<u>ENECOS Informal Challenge No. 2021-1</u>

The claimed "rate base capex" asserted in Attachment C (Mystic 8&9), Schedule D, page 1, Column C, lines 5-21 appears to reflect a misapplication of Electric Plant Instruction No. 10 of the Uniform System of Accounts, and mischaracterizes historical costs of turbine inspections as capital expenditures that would instead have been treated as operations and maintenance ("O&M") expenses under the Uniform System of Accounts.[2] Under the principles explained by the Commission in its prior orders in this proceeding, accounting inconsistent with the

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[1] The Eastern New England Consumer-Owned Systems are: Braintree Electric Light Department, Concord Municipal Light Plant, Georgetown Municipal Light Department, Hingham Municipal Lighting Plant, Littleton Electric Light & Water Department, Middleborough Gas & Electric Department, Middleton Electric Light Department, Norwood Light & Broadband Department, Pascoag (Rhode Island) Utility District, Reading Municipal Light Department, Taunton Municipal Lighting Plant, and Wellesley Municipal Light Plant.

[2] *See, e.g., Northern Natural Gas Co.*, 121 FERC ¶ 61,002 at P 24 (2007) ("the fact that [a particular expenditure] is an expensive maintenance procedure does not alter the fact that it is maintenance. For instance, in the *SoCal Edison* proceeding, the Commission found that $58 million of sleeving (pipe/tube modification) costs could not be capitalized as plant in service"), *citing So. Cal. Edison Co.*, 40 FERC ¶ 61,124 at p. 61,370 (1987). *See also Dow Corning Corp.*, 59 FERC ¶ 61,191 at p. 61,666 (1992); *Unison Transformer Svcs., Inc.*, 48 FERC ¶ 61,327 at pp. 62,077-78 (1989).

requirements of the Uniform System of Accounts during periods when a generation facility is operating under market-based rates must be conformed to the requirements of the Uniform System of Accounts when the facility changes to cost-of-service rates.[3] Mystic's failure to do so with what appear to be historical operation and maintenance costs attributable to generator inspections over the operating history of Mystic 8 and 9 overstates the rate base on which Mystic claims depreciation and return on equity (plus income tax allowance) for the period July 1, 2004 through December 31, 2020 in the amounts shown in the following table.

Disputed Mystic Claimed "Rate Base Capex" from April 1, 2021, Informational Posting Attachment C, Schedule D, page 1		
Line	**Period**	**Amount**
5	7/1/2004-6/30/2005	$14,425,792
6	7/1/2005-6/30/2006	$93,466
7	7/1/2006-6/30/2007	$15,612,344
8	7/1/2007-6/30/2008	$7,263,741
9	7/1/2008-6/30/2009	$1,275,933
10	7/1/2009-6/30/2010	$9,542,480
11	7/1/2010-6/30/2011	$28,136,869
12	7/1/2011-6/30/2012	$4,269,211
13	7/1/2012-6/30/2013	$11,334,186
14	7/1/2013-6/30/2014	$21,049,177
15	7/1/2014-6/30/2015	$29,772,177
16	7/1/2015-6/30/2016	$16,036,590
17	7/1/2016-12/31/2016	$9,666,594
18	1/1/2017-12/31/2017	$18,576,222
19	1/1/2018-12/31/2018	$10,023,000
20	1/1/2019-12/31/2019	$21,009,000
21	1/1/2020-12/31/2020	$9,050,000
	Total Contested	$227,136,782

[3] *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 65 (2018) ("In other words, we are calculating how the assets would be valued now if USofA accounting had been required throughout the assets' life"), *reh'g denied*, 172 FERC ¶ 61,044 at PP 105-111 (2020), *order on compliance filing*, 172 FERC ¶ 61,045 at PP 45-47 (2020). *PacifiCorp*, 124 FERC ¶ 61,147 at PP 28-31 (2008).

Mystic uniformly declined to respond to information requests concerning the basis for the above-listed asserted capital expenditures, stating in response to each of ENECOS Information Request Nos. ENC-MYS-1-17 through ENC-MYS-1-51:

> Mystic objects to this question as beyond the scope of this proceeding, which is established by Schedule 3A, Section II.3.A of the Mystic Agreement and states that information and document requests "shall be limited to what is necessary to determine:
>
> a. Whether the capital expenditure is necessary in order to meet the obligations of the Agreement;
>
> b. Whether the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement; and
>
> c. Whether either of the following occurred: (i) the project was scheduled for before the Term but delayed into the Term, or (ii) the project is scheduled for during the Term but should have been completed prior to the Term."
>
> As noted in Mystic's cover letter to its April 1, 2021 Informational Filing, the populated version of the Mystic Methodology was provided for "informational purposes only" as the protocols do "not require full updated projected costs or a true-up." Accordingly, the populated version of the template "only reflects the addition of the costs of the 2022 CapEx Projects" in Schedule D of the Mystic and Everett templates in the row designated as being updated based on the 2021 Informational Filing. All questions about other aspects of the Methodology are thus outside of the scope of this information exchange process.

Mystic also asserted that these issues have previously been litigated in the proceedings leading up to the Commission's December 20, 2018 Order in this proceeding. That assertion is without merit. The Commission observed in its July 17, 2020, Order on Mystic's March 2019 Compliance filing (*Constellation Mystic Power, LLC*, 172 FERC ¶ 61,045 at P 47) (footnotes omitted, emphasis in original):

> In the December 2018 Order, the Commission stated that Mystic's corrected original cost study would form the basis of its gross plant-in-service and accumulated depreciation values, *subject to true-up*. At the time of the true-up, Mystic must adequately support its

> claimed gross plant-in-service and accumulated depreciation values. Specifically, the inputs to formula rates must be transparent, and costs recovered under a formula rate must be reasonable and prudently incurred. We find, however, that the cost inputs underlying Mystic's gross plant-in-service values (and, by extension, its accumulated depreciation values) are appropriately addressed in the true-up process. Accordingly, we decline to make findings on them here.

Mystic's "Rate Base Capex" claims are properly subject to challenge here in light of "[t]he Commission's long-standing precedent . . . that, under formula rates, parties have the right to challenge the inputs to or the implementation of the formula at whatever time they discover errors in the inputs to or implementation of the formula."[4] As Mystic has failed to support its assertion that it is entitled to include these claimed expenditures in rate base, these amounts should be rejected and removed from Mystic's claimed rate base.

<u>ENECOS Informal Challenge No. 2021-2</u>

Mystic's April 1 Posting provided dollar amounts of further claimed capital expenditures attributed to (1) Mystic 8 and 9 rate base during the period January 1, 2021, through December 31, 2022[5] and (2) Everett "rate base" during the period November 1, 2018, through December 31, 2022.[6] For Mystic 8 & 9, these claimed capital expenditures total $38,253,000 (Mystic 8 & 9 Schedule D, sum of lines 22-23). For the Everett Marine Terminal these claimed capital expenditures total $33,075,000 through December 31, 2021 (EMT Schedule D, sum of lines 2-6).

Mystic refused to provide information requested by ENECOS during the Information Exchange process described in COSA Schedule 3A, Part II, Section 3, as to the projects making up this additional rate base, based on the same *pro forma* objection it asserted to ENECOS' requests for information concerning the claimed 2004-2020 "Rate Base Capex" included as rate base for Mystic 8 and 9.[7] The information that Mystic provided on its forecasted capital expenditures for 2022 indicates that these costs are more appropriately treated as operation and

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4 *Ameren Corp.*, 147 FERC ¶ 61,225 at P 27 (2014), *citing American Elec. Pwr. Svc. Corp.*, 124 FERC ¶ 61,306 at P 35 (2008).

5 Posting, Attachment C, page 5 of 74 (Schedule D Mystic 8 & 9).

6 Posting, Attachment C, page 69 of 74 (Schedule D Everett).

7 *See* e.g., Request Nos. ENC-MYS-1.04; ENC-MYS-1.27 and Mystic's responses thereto.

maintenance expenses that should have been expensed in the period incurred (which is prior to the June 1, 2022 Effective Date of the COSA) as required by the Uniform System of Accounts (and particularly Electric Plant Instruction No. 10),[8] rather than capitalized and added to rate base. Any costs incurred prior to the Effective Date established by Section 2.1 of the COSA that should have been accounted for under the Uniform System of Accounts as operation and maintenance expenses ("pre-COSA O&M") should be removed from the rate base incorporated in the calculation of the AFRR or SCP for Mystic 8 and 9 and Everett.

At a minimum, the expenditures identified in Mystic's response to NES-MYS-1-01.b. through k. as having been capitalized (response attached) should instead have been treated as pre-COSA O&M in the year incurred. These expenditures should therefore be removed from Mystic 8 and 9 rate base.

<u>ENECOS Informal Challenge No. 2021-3</u>

According to Paragraph 12 of the Affidavit of Michael Brown and Abegail Piollo-Alam (Attachment B to Mystic's April 1 Posting):

> In addition, the 2022 CapEx Projects include two projects that will be completed prior to the Term of the Mystic Agreement and that Mystic would not have otherwise undertaken but for the Mystic Agreement. Accordingly, Mystic is seeking to expense those projects. Specifically, the 2022 CapEx Projects include: 1) four comprehensive rotor inspections ("CRI Projects") for the turbines at the two Mystic units, and 2) a project to segregate auxiliary boiler services, including electrical power, water, air supply, and industrial waste-water processes from the Mystic 7 facility so that they can be supplied from Mystic 8 & 9 for the term of the Mystic Agreement (referred to as the "Campus Segregation Project"). Mystic is undertaking these projects directly as a result of Mystic Agreement and the heightened performance obligations contained therein.

The full cost of the CRIs is anticipated to equal $34,077,959, as shown in Attachment A (Public) to the April 1 Posting at lines 18 (CRI GT81 at $8,031,000), 19 (CRI GT 82 at $9,969,000), 23 (CRI GT 93 at $8,322,953) and 35 (CRI GT 94 at $7,755,006). Two inspections have been completed, and the other two are expected to be finished by November 30, 2021. Mystic asserts that its decision to perform the CRIs is driven by "heightened performance obligations" it associates with the COSA,

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8 *See* cases cited at footnotes 2 and 3.

and relies on that assertion as justification for characterizing the full $34 million cost of the CRIs as capital expenditures to be recovered from ISO-NE customers during the last seven months of 2022. This is over 78 percent of Mystic's projected 2022 CapEx for Mystic 8 & 9.

A. Mystic's CRIs Are Pre-COSA O&M Not Recoverable under the COSA

The entire $34,077,959 in actual and projected CRI costs are pre-COSA O&M. These costs are therefore not recoverable under the COSA and should be removed from Mystic 8 and 9 rate base.[9]

B. Mystic's CRIs Are Inadequately Justified and Impose Excessive Costs

Mystic's reliance on **BEGIN CU-PRIV-HC** [redacted] **END CUI-PRIV-HC** is unusual and inadequate engineering justification for the comprehensive rotor inspections ("CRI") for these four Mystic combustion turbines. This is particularly true given (i) the relatively short period of projected continued operation (retirement anticipated as of May 31, 2024), (ii) the magnitude of costs involved, and **BEGIN CUI-PRIV-HC [**[redacted]**] END CUI-PRIV-HC** A Mitsubishi Hitachi Power Systems comprehensive rotor inspection results in the manufacturer's certification of the rotor for 100,000 operating hours or twelve years, whichever occurs first. This is substantially in excess of the anticipated continued operation of these four rotors. The record provided contains no specific technical analysis of the Mystic turbines, at best limited pre-CRI inspection on only one of the four rotors. The limited information concerning industry practices of manufacturers (*e.g.*, General Electric, Siemens, and Mitsubishi) for comprehensive rotor inspections does not furnish appropriate technical support for the incurrence of costs of this magnitude to support rotor certification substantially in excess of what is required for the June 1, 2022, through May 31, 2024, term of the COSA.

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9 *Northern Natural Gas Co.*, 121 FERC ¶ 61,002 at P 24 (2007) ("the fact that [a particular expenditure] is an expensive maintenance procedure does not alter the fact that it is maintenance. For instance, in the *SoCal Edison* proceeding, the Commission found that $58 million of sleeving (pipe/tube modification) costs could not be capitalized as plant in service"); *So. Cal. Edison Co.*, 40 FERC ¶ 61,124 at p. 61,370 (1987).

Accepted industry practice would have deployed finite element analysis ("FEA") – a computer simulation that creates a comprehensive three-dimensional model of the rotor, which is then used to examine the risk to operating limits, stresses, and start-up conditions. FEA, coupled with the data input of specific rotor information, is highly accurate and can be a more accurate tool in some cases than empirical testing through non-destructive examination and testing (NDT). Mystic's decisional process for implementation of the CRIs should have been supported by a comprehensive pre-CRI inspection and by appropriate and detailed analysis consistent with industry practices considering the limited remaining operating hours for the turbines.

C. <u>Mystic's "Campus Segregation Project" Is a Pre-COSA O&M Expense</u>

Mystic's "Campus Segregation Project" consists of re-routing steam piping and other interconnection facilities to enable the use of an existing boiler associated with the Mystic Unit 7 steam turbine generating unit (expected to be decommissioned in May 2022) to provide start-up steam used for cooling the turbine blades in the Mitsubishi 501G combustion turbines that are the prime movers for the Mystic 8 and 9 units. The work described in the ultimate work plan (provided in response to NES-MYS-1-06b), describing the $6,250,000 in work involved in reconfiguring the interconnection arrangements for the Mystic 7 boiler is pre-COSA O&M and is not appropriately characterized as rate base capital expenditures. The $6.25 million in costs for "[r]eplacement of retired support utilities; *i.e.,* power, water, communications, with utilities provided by Mystic 8&9" shown in line 41 of Attachment A (Public) to the April 1 Posting should be removed in their entirety from Mystic 8 and 9 rate base and are not entitled to recovery under the COSA.

<u>ENECOS Informal Challenge 2021-4</u>

A. <u>Mystic's Claimed Rate Base for the EMT Is Pre-COSA O&M</u>

Mystic's "rate base" for the Everett Marine Terminal was set to zero by the Commission's Order Accepting Agreement, Subject to Condition, and Directing Briefs in *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at PP 148-151 (2018), *reh'g denied*, 172 FERC ¶ 61,044 at PP 117-120 (2020), *appeal pending sub nom. Constellation Mystic Power, LLC v. FERC*, No. 20-1343 (D.C. Cir. filed Sept. 8, 2020). The rate base claimed by Mystic at line 5 of page 69 of 74 of Attachment C to the April 1 Posting (Everett Schedule D page 1) implies that Mystic has added $33,075,000 in rate base to the Everett Marine Terminal over the period from acquisition of the Everett Marine Terminal effective November 1, 2018, through December 31, 2021. During the Information Exchange period following the April 1 Posting, Mystic declined to respond to any information requests concerning the basis for its assertion at Everett Schedule D page 1 that it is entitled to a return of and on the $33,075,000 in EMT-related expenditures through December 31, 2021. In the absence of any supporting data, and given Mystic's practices elsewhere in attempting to characterize pre-COSA O&M as capital expenditures entitled to inclusion in rate base, the $33,075,000 in claimed "rate base" in the Everett Marine Terminal appear to be pre-COSA O&M expenditures that are not entitled to recovery under the COSA. ENECOS also note that the Commission-approved allocation of 91 percent of the costs of the Everett Marine Terminal to ISO-NE customers (172 FERC ¶ 61,044 at P 64) is pending review before the United States Court of Appeals for the District of Columbia Circuit in No. 20-1343, and reserve their rights with respect to that appeal.

B. Mystic's 2022 "Capital Expenditures" Include Pre-COSA O&M and Expenditures Unrelated to the Provision of Fuel to Mystic 8 and 9

Mystic claims a further $9,525,000 in "RMR CapEx" expenditures related to the Everett Marine Terminal during 2022 (Attachment A (Public) at lines 13-31. Of that $9,525,000, a total of $5,625,000 appears to be ineligible for recovery under the COSA.

The following expenditures are, in whole or in part, pre-COSA O&M costs not entitled to recovery under the COSA:

Line	Description	Amount
13	Liquid Level Gauge Replacement initiated Q1 2022	$ 400,000
14	Cryo Insulation initiated Q1 2022	$ 475,000
15	Balance of Plant Maintenance Capital	$ 500,000
17	Cryogenic Valve Replacement initiated Q1 2022	$ 100,000
18	Balance of Plant Capital Valves initiated Q1 2022	$ 100,000
19	Balance of Plant Capital Motors	$ 100,000
20	Balance of Plant Capital Pumps	$ 100,000
22	MV Electrical System Replacement (completed Q2 2022)	$ 200,000
23	Firewater Main Replacement/Upgrade	$ 100,000
24	Hot Air Bypass for SCR (initiated Q4 2020)	$2,050,000
Total Disputed as Ineligible for COSA Recovery		$4,125,000

The following expenditures are unrelated to the provision of fuel to Mystic 8 and 9 and therefore not recoverable under the COSA:

Line	Description	Amount
25	Forward Bollard	$1,100,000
28	Mooring Hooks	$ 400,000
Total Disputed as Unrelated to Fuel Supply to Mystic 8 & 9		$1,500,000

ENECOS Informal Challenge 2021-5

Mystic's proposed recovery through Fuel Supply Agreement charges of formula-allocated affiliate-related administrative and general costs is excessive, unjust, and unreasonable. Attachment C (Public) to the April 1 Posting at page 65 of 74 (Everett Schedule A page 1) at line 14 shows an expense of $9,301,457 for "Corporate A&G." It is unclear to what extent, if any, the $2,464,277 in 2022 "Administrative" O&M charges shown in Attachment C (Public) to the April 1 Posting at page 66 of 74 (Everett Schedule B page 1) at line 4 are derived using a formula allocation of affiliate overheads, and ENECOS therefore dispute the appropriateness of the recovery of both the "Corporate A&G" and the "Administrative" O&M charges identified above. ENECOS understand that Exelon uses a "Massachusetts" or a "modified Massachusetts" formula[10] for allocating affiliated A&G overheads. However, because these charges are fundamentally unrelated to the provision of fuel supply to Mystic 8 and 9 and because the Commission has stated that its jurisdiction in this case is limited to the justness and reasonableness of the fuel supply charges imposed by Mystic and does not extend to regulating the cost of service of the Everett Marine Terminal (172 FERC ¶ 61,044 at PP 64-66; 172 FERC ¶ 61,261 at PP 27-28), the recovery of allocated affiliate overheads through Fuel Supply charges is not just and reasonable. Approximately 90 percent of this amount should be eliminated from costs recoverable under the COSA. There has been no finding, and certainly no showing, that the allocation of corporate administrative and general expenses to the Everett Marine Terminal is just and reasonable.

ENECOS Informal Challenge 2021-6

The Commission concluded that it would "no longer require that the Mystic Agreement include the sliding scale mechanism or any other revenue crediting mechanism" against Mystic's recovery of allocated Everett Marine Terminal fixed costs as fuel supply charges (172 FERC ¶ 61,044 at P 66). In the absence of a revenue crediting mechanism under which the proceeds of third-party sales of vaporized LNG will reduce the cost exposure of ISO-NE customers, it is unjust and unreasonable to continue to include the $17,598,473 in 2022 annual fixed pipeline transportation charges shown as an Everett Marine Terminal O&M cost at page 66 of 74 of Attachment C to the April 1 Posting (Everett Schedule B page 1) at line 7, as costs chargeable under the COSA. These pipeline transportation charges should be eliminated from the Everett costs chargeable under the COSA because, in the absence of revenue crediting, third-party sales do not benefit ISO-NE customers.

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10 *See Distrigas of Massachusetts Corp.*, 41 FERC ¶ 61,205 at 61,555-61,556 (1987).

ENECOS Informal Challenge 2021-7

ENECOS adopt and join, as though fully set forth herein, in all Informal Challenges submitted by other Interested Parties as to Mystic's April 1 Posting and the charges proposed to be levied on ISO-NE customers as a result of ISO-NE's agreement to the COSA.

/s/ John P. Coyle
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Consumer-Owned Systems

August 2, 2021
Washington, D.C.

CONSTELLATION MYSTIC POWER, LLC
OBJECTIONS AND RESPONSES TO NESCOE
FIRST SET OF INFORMATION AND DOCUMENT REQUESTS

Pursuant to the Information Exchange Procedures of Schedule 3A to the Cost of Service Agreement between Constellation Mystic Power, LLC ("Mystic"), Exelon Generation Company LLC, and ISO New England Inc., ("Mystic Agreement"), Mystic hereby objects and responds to the New England State Committee on Electricity ("NESCOE") First Set of Information and Document Requests as follows.

NES-MYS-1-01: For each of the following projects, please clarify whether the project costs are (i) no longer being charged to consumers or if (ii) they were added to rate base or (iii) if they were expensed.

Mystic 8&9 Template
a. [5M8C22001] MYD8 BOP Capital (Row 6)
b. [5M8C22002] MYD8 GT81 & GT82 Exp Joints 00 (Row 7)
c. [5M8C22010] MYD8 Transmssn Trnsfrmr Prote (Row 13)
d. [5M8C22011] MYD8 Generator Projection Refr (Row 14)
e. [5M8C22012] MYD8 GT SFC Refresh (Row 15)
f. [5M8C22014] MYD8 UPS Replacement (Row 17)
g. [5M9C22003] MYD9 GT93/GT94 Exp Jts 00 (Row 24)
h. [5M9C22004] MYD9 GT93/GT94 Exp Jts 01 (Row 25)
i. [5M9C22009] MYD9 Transmssn Trnsfrmr Protec (Row 30)
j. [5M9C22010] MYD9 Generator Projection (Row 31)
k. [5M9C22013] MYD9 UPS Replacement (Row 33)

EMT Template
l. Recoat LNG Storage Tanks (incl Outer Shell Welds) (Row 6)
m. [053C20003] DeNOx Refurbishment Repl (SCR) (Row 7)
n. Site Water Removal System Improvements (Row 10)

RESPONSE:

Mystic objects to the form of the question, which implies a limited set of answers. Mystic interprets the question to inquire whether the costs of each such project will be an input to the rate under the Mystic Agreement and, if so, whether the costs will be fully recovered under the Mystic Agreement or added to rate base. Mystic's answer reflects that understanding. Notwithstanding the foregoing and without waiving or in any way limiting the objection, Mystic makes a good faith effort to respond as follows:

Mystic 8&9 Template	**Responses:**
a. [5M8C22001] MYD8 BOP Capital (Row 6)	The amount budgeted has been reduced. This is a contingency we maintain in case it is needed; it is uncertain at present whether it will be needed.
b. [5M8C22002] MYD8 GT81 & GT82 Exp Joints 00 (Row 7)	To be added to rate base.

c. [5M8C22010] MYD8 Transmssn Trnsfrmr Prote (Row 13)	To be added to rate base.
d. [5M8C22011] MYD8 Generator Projection Refr (Row 14)	To be added to rate base.
e. [5M8C22012] MYD8 GT SFC Refresh (Row 15)	To be added to rate base.
f. [5M8C22014] MYD8 UPS Replacement (Row 17)	To be added to rate base.
g. [5M9C22003] MYD9 GT93/GT94 Exp Jts 00 (Row 24)	To be added to rate base.
h. [5M9C22004] MYD9 GT93/GT94 Exp Jts 01 (Row 25)	To be added to rate base.
i. [5M9C22009] MYD9 Transmssn Trnsfrmr Protec (Row 30)	To be added to rate base.
j. [5M9C22010] MYD9 Generator Projection (Row 31)	To be added to rate base.
k. [5M9C22013] MYD9 UPS Replacement (Row 33)	To be added to rate base.
EMT Template	
l. Recoat LNG Storage Tanks (incl Outer Shell Welds) (Row 6)	Work is ongoing and expected to continue into the term. Costs prior to term will not be charged under the Mystic Agreement. Costs incurred during the term will be expensed as O&M.
m. [053C20003] DeNOx Refurbishment Repl (SCR) (Row 7)	Deferred to a later date; Monitor for material condition.
n. Site Water Removal System Improvements (Row 10)	Deferred to a later date; Monitor for material condition.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by a means authorized by Rule 2010(f) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010(f)) upon counsel for Constellation Mystic Power, LLC.

John P. Coyle ___________
John P. Coyle
Duncan & Allen LLP

Dated at Washington, D.C.
this 2nd day of August 2021.

Attachment C-2

Informal Challenges of NESCOE

Public Redacted Version

New England States Committee on Electricity Informal Challenges to
<u>Mystic's April 2021 Informational Posting</u>

August 2, 2021

In accordance with the protocols contained in Schedule 3A to the Amended and Restated Cost-of-Service Agreement among Constellation Mystic Power, LLC ("Mystic"), Exelon Generation Company, LLC, and ISO New England Inc. ("Agreement"),[1] the New England States Committee on Electricity ("NESCOE") submits the following Informal Challenges to the Informational Posting that Mystic made available on April 1, 2021 ("2021 Informational Posting").

I. INTRODUCTION

Section I.B.1.i of Schedule 3A requires Mystic to file on or before April 1, 2021, "appropriate support for the capital expenditures and costs that will be collected as an expense during the Term in calendar year 2022 (June 1, 2022 to December 31, 2022). . . . The Annual Fixed Revenue Requirement, the Maximum Monthly Fixed Cost Payment, and the Fixed O & M/Return on Investment component of the Monthly Fuel Cost Charge for the relevant period of the Term in Schedule 3 will be updated in accordance with the Methodology . . . ."

In the 2021 Informational Posting, Mystic provided:

- A cover letter;

[1] Schedule 3A is referred herein to as "the Protocols." Capitalized terms not defined in this Informal Challenge are intended to have the meaning given to such terms in the Protocols (and if not defined in the Protocols, then the meaning given to such terms in the Agreement).

Public Redacted Version

- Attachment A, a list of 2022 capital expenditure ("CapEx") projects related to the Mystic 8 & 9 units (the "Mystic 8&9 Template"), and for the Everett Marine Terminal ("Everett" or "EMT") (the "EMT Template");
- Attachment B, the Affidavit of Michael Brown and Abegail Piollo-Alam ("Affidavit");
- Attachment C, which Mystic described as "[a] version of the Methodology including the total costs of the 2022 CapEx Projects[;]"[2] and
- Attachment D, a confidentiality agreement.

In accordance with Section 3 of the Protocols, NESCOE submitted three sets of information and document requests to Mystic.

NESCOE has reviewed the 2021 Informational Posting and the responses to its information and document requests through the lens of the Protocols and the orders of the Federal Energy Regulatory Commission ("FERC" or the "Commission"). Below, NESCOE submits Informal Challenges related to Mystic's 2022 CapEx projects (Section II) and to other aspects of the Informational Posting (Section III).

II. ATTACHMENT A - 2022 CAPEX PROJECTS

The 2021 Informational Posting is when Mystic needs to support its proposed 2022 CapEx projects (*i.e.*, capital expenditures to be incurred June 1, 2022 – December 31, 2022): "Capital expenditures that will be incurred during the term *will be supported prior to their incurrence* and are subject to a true-up adjustment to the actual costs in accordance with the

[2] Mystic stated: "the populated Methodology included as Attachment C is being included for informational purposes only and only reflects the addition of the costs of the 2022 CapEx Projects" and that "[t]he version of the Methodology used is the same as the populated Methodology submitted as Attachment C-1 to Mystic's September 15, 2020 compliance filing submitted in Docket No. ER18-1639-007, which is currently pending before the Commission."

protocols . . . ."[3] Indeed, the Protocols make clear that Interested Parties may *not* wait until the true-up process to challenge projected capital expenditures: "For capital expenditures previously identified as being necessary to meet the reliability need, this [2023] filing will only true-up the amount for each capital expenditure to actuals, not whether a capital expenditure should have been designated as necessary to meet the reliability need."[4]

The Protocols describe what Mystic needs to do to support CapEx projects:

> If the Filing will support the capital expenditures that will be incurred during the Term it shall:
>
> 1. Provide an explanation of need that explains why the capital expenditure is necessary in order to meet the obligations of the Agreement;
>
> 2. Demonstrate that the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement; and
>
> 3. Include a description of the project(s), the need for the project(s), the alternatives considered with respect to the least-cost alternatives, the expected start and completion date(s), and the project costs.
>
> 4. Identify whether either of the following occurred for projects that it is proposing to expense over the term of the Agreement, and if so explain why: (a) the project was scheduled for before the Term but delayed into the Term, or (b) the project was scheduled for during the Term but should have been completed prior to the Term.[[5]]

[3] Schedule 3A, Section I (emphasis supplied).

[4] Schedule 3A, Section I.B.3.ii. *See also id*. at I.B.4.i (2024 filing) and I.B.5.i (2025 filing).

[5] Schedule 3A, Section II.2.A. Aspects of these provisions are under review at the U.S. Court of Appeals for the D.C. Circuit in Case. No. 20-1343.

As discussed below, Mystic has not supported a number of the 2022 CapEx projects. The Affidavit states that "because the Mystic Agreement requires an updated projection of costs in April of 2022 and a true-up to actual costs in 2023, interested parties will have ample opportunity to review the actual, final costs when they are known."[6] However, as noted above, the Protocols specify that the time to challenge projected CapEx projects on the basis that they are not needed for reliability or other reasons related to Mystic's fulfilling its obligations under the Agreement, is now—at the time of the relevant Informational Posting, not in the future.

Accordingly, NESCOE includes below Informal Challenges related to CapEx projects that Mystic has failed to adequately support.

A. Mystic 8&9 Template

1. CapEx Projects Lacking Project Approval

As shown in Attachment A, there are a number of CapEx projects that are included in the Mystic 8&9 Template where Mystic has provided no supporting information:

- MYD8 BOP Capital (Row 6) (see also A.3, below)
- MYD8 GT 81/82 Exp Jts 01 (Row 8)
- MYD8 Capital Valves (Row 9)
- MYD8 ST 85 Valves (even) (Row 10)
- MYD8 Steam Attemperators (Row 11)
- MYD8 LCB II Replacement (Row 16)

[6] Attachment B, Affidavit at P 10.

- MYD8 Compressors (Row 20)
- MYD9 Capital Motors (Row 26)
- MYD9 Capital Valves (Row 27)
- MYD9 Steam Attemperators (Row 28); and
- MYD9 LCB II Replacement (Row 32).

Rather, Mystic has simply stated with respect to each of these CapEx projects: "Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with this informational posting. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained."[7]

Because Mystic has provided no supporting information about these capital expenditures in the 2021 Informational Posting, there is no way for NESCOE to verify if Mystic has made the requisite demonstrations regarding its right to recover these costs under the Agreement. As such, these projects are unsupported and the costs cannot be incurred until they have been supported in accordance with the Protocols.

2. <u>Comprehensive Rotor Inspections (CRIs) of Gas Turbine 81, 82, 93, and 94 (Rows 18, 19, 23, 35)</u>[8]

Mystic provided information discussing the need for comprehensive rotor inspections ("CRIs") of its four gas turbines. However, Mystic has not demonstrated that these costly CRIs

[7] Attachment A, Mystic Template, Column L of Rows 6, 8, 9, 10, 11, 16, 20, 26, 27, 28, and 32.

[8] Source: NES-MYS-1-02; NES-MYS-3-02; NES-MYS-3-03; NES-MYS-3-04; NES-MYS-3-05.

need to be performed before or during the Term in order to keep the Mystic units running for the additional two years of the Term under the Agreement. Rather, these capital expenditures appear **[BEGIN CUI-PRIV//HC]** [redacted] **[END CUI-PRIV//HC]** Nor has Mystic demonstrated that the CRI expenditures are the least-cost commercially reasonable option consistent with Good Utility Practice.

3. BOP Capital (Row 6)[9]

Mystic has set aside a certain amount capital of expenditures for "emergent material conditions." Mystic has indicated that it maintains this contingency in case it is needed. However, as noted above, Mystic is required to support any capital expenditures prior to their being incurred. Because there is no supporting information on these contingency capital expenditures, there is no way to determine whether they are or will be related to the reliability need under the Agreement or if they will be the least-cost commercially reasonable option consistent with Good Utility Practice.

B. EMT Template

As is the case with the unsupported CapEx projects in the Mystic 8&9 Template, Mystic includes many items in the EMT Template that are likewise unsupported.

The EMT CapEx projects that NESCOE identifies below suffer from two additional problems. First, Mystic has not demonstrated that the costs are related to extending Mystic's operations by the two-year period covering the Agreement. Rather, these EMT CapEx projects are routine in nature and appear related to extending Everett's operations beyond the Term of the

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9 Source: NES-MYS-01, subpart a.

Agreement.[10] Mystic's position appears to be that *any* repair that will take place prior to the Term of the Agreement is necessary for the sole purpose of meeting its reliability obligations under the Agreement, including where a repair would have been needed prior to the Term and where a repair could be postponed until after the Term. Second, even if Mystic can demonstrate that the capital expenditures are related to the reliability need under the Agreement (which NESCOE believes it has not), in light of the lack of a clawback provision, Mystic has not explained why these capital expenditures should be treated as expense to be recovered during the two-year period instead of being capitalized, added to rate base, and recovered over an extended period beyond the Term.

1. EMT CapEx Projects Lacking Project Approval

As is the case with the Mystic CapEx projects discussed above (*see* Section A.1, above), there are a number of Everett CapEx projects shown in Attachment A that are included in the EMT Template where Mystic has provided no supporting information. (For the items with an asterisk, Mystic provided some information in response to NESCOE's information and documents requests, and these items are discussed in more detail below.)

- *Recoat LNG Storage Tanks (incl Outer Shell Welds) (Row 6) (see B.2, below)
- Liquid Level Guage Replacement (Row 13)
- *Cryo Insulation (Row 14) (see B.8, below)
- BOP Maintenance Capital (Row 15)

[10] The issue of whether Mystic has an obligation to refund costs paid by ratepayers related to Everett if Everett remains in operation beyond the Term of the Agreement is pending on appeal in the D.C. Circuit.

- Cryogenic Valve Replacement (Row 17)
- BOP Capital Valves (Row 18)
- BOP Capital Motors (Row 19)
- BOP Capital Pumps (Row 20)
- MV Electrical System Replacemt (Row 22)
- Firewater Main Repl/Upgrade (Row 23)
- *Forward Bollard (Row 25) (see B.4, below)
- *Secondary Feed (Row 26) (see B.5, below)
- Structural Suppt Upgr-Conduit (Row 27)
- *Mooring Hooks (Row 28) (see B.4, below)
- *Tank Base Heater Replacment (Row 30) (see B.7, below)

Here, again, the EMT Template just notes: "Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with this informational posting. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained."[11]

Because Mystic has not provided sufficient supporting information about these capital expenditures in the 2021 Informational Posting, there is no way for NESCOE to verify if Mystic has made the requisite demonstrations regarding its right to recover these costs under the

11 EMT Template, Column L (for the rows specified above).

Agreement. For the same reasons as discussed above with respect to unsupported Mystic CapEx projects (see Section A), NESCOE includes these CapEx projects in this Informal Challenge.

2. Recoat LNG Storage Tanks (incl Outer Shell Welds) (Row 6)[12]

NESCOE understands that Mystic is treating the recoating of the EMT LNG storage tanks as an O&M expense, rather than as a capital expenditure, and that Mystic is intending to expense approximately **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** Mystic states that the project was reclassified as O&M. Specifically, the approximately **[BEGIN CUI//PRIV-HC]** [redacted]**[END CUI//PRIV-HC]**, were not treated as O&M, but rather as capital costs.

This means that there is **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** in EMT's rate base on which Mystic will collect a return. If Mystic is going to treat this recoating project as an O&M expense, then the amounts expended previously by EMT on it should likewise be treated as O&M expense and should be removed from EMT's rate base. Otherwise, Mystic benefits from this change in accounting by recovering a portion of the costs of the project as an expense during the two-year Term of the Agreement, in addition to recovering a return on the other portion of the costs of the project that was completed prior to the Term of the Agreement.

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12 Source: NES-MYS-1-01, subpart l; NES-MYS-3-01.

3. <u>HA (Bypass for SCR (HAB) Repl) (Row 24)</u>[13]

[BEGIN CUI//PRIV-HC] [redacted] **[END CUI//PRIV-HC]**

Additionally, Mystic has not demonstrated that the costs of this project are associated with EMT providing fuel service to Mystic only during the Term of the Agreement. Rather, these are general repair costs that predate the Agreement and are unrelated to Mystic's obligations under the Agreement.

13 Source: NES-MYS-1-04, subpart b; NES-MYS-3-06; NES-MYS-3-07; ENC-MYS-1-11.

4. Forward Bollard (Row 25) and Mooring Hooks (Row 28)[14]

Based on the information provided by Mystic in response to NESCOE information requests, Mystic has not demonstrated that replacing the forward bollard or the mooring hooks are projects needed during the Term of the Agreement for Mystic to meet its reliability obligations under the Agreement.

Indeed, Everett has been in continuous operations, even since the failure identified on January 24, 2020, and yet to this date, these capital expenditures have "not yet been presented to management for funding authorization." In light of this, Mystic has not demonstrated why these projects could not wait until after the end of the Term. And Mystic has likewise not demonstrated that these capital expenditures are related to Mystic's meeting the reliability need under the Agreement. From the information provided, these appear to be routine repairs that may or may not need to be completed during the Term, and that will last for decades beyond the Term. Additionally, Mystic had not demonstrated that these expenditures are reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice.

Accordingly, to the extent that Mystic does demonstrate a need for the forward bollard or mooring hooks to be replaced now, there is no justification to expense these capital costs during the Term of the Agreement. These are long-term projects that will last for decades, and these types of capital investments should be treated as a capital expense with costs recovered over time, not just during the Term of the Agreement.

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[14] Source: NES-MYS-1-04, subparts c and f; NES-MYS-3-08; NES-MYS-3-10.

5. **Secondary Feed (Row 26)**[15]

This capital project relates to **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** Mystic has not supported ratepayers bearing these capital expenses as they go well beyond what Mystic would need to meet the reliability need under the Agreement.

6. **Heated Vent Hot Water Piping (Row 29)**[16]

NESCOE understands that this CapEx project relates to replacement of hot water piping between heaters and LNG Storage tank heated vents. Mystic has indicated that the damage to

[15] Source: NES-MYS-1-04, subpart d; NES-MYS-3-09.

[16] Source: NES-MYS-1-04, subpart g; NES-MYS-3-11.

the piping has already been repaired. There appears to be no basis, therefore, for Mystic to recover these capital costs as expenses during the Term of the Agreement, rather than including them in EMT's rate base and recovering them over the life of the project.

As with the case of the forward bollard and mooring hooks, as far as NESCOE can tell based on the information provided, these repairs appear related to extending Everett's operations and will clearly benefit Everett long past the Term of the Agreement.

7. <u>Tank Base Heater Replacement (Row 30)</u>[17]

NESCOE's understanding of the tank base heater replacement project is that **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** Additionally, Mystic has not demonstrated that this expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice.

[17] Source: NES-MYS-1-04, subpart h; NES-MYS-3-12; NES-MYS-3-13.

8. Cryo Insulation (Row 14)[18]

To date, Mystic has not provided any supporting data for this project. Mystic has said that documentation of the Cryogenic Insulation Project is expected to be available in the first quarter of 2022.

Given the lack of data, it is impossible to know whether the costs are justified and in compliance with the cost recovery provisions of the Agreement and the Commission's orders.

III. ATTACHMENT C

A. General Challenge and Reservation of Rights

NESCOE submitted a number of information requests and document requests to Mystic regarding Attachment C. *See* NES-MYS-1-08 through NES-MYS-1-28; NES-MYS-2-01; and NES-MYS-3-16.

With the exception of NES-MYS-1-10 and NES-MYS-3-16, Mystic did not provide responses to any of these questions. For most of the information requests, Mystic provided the following objection:

> Mystic objects to this question as beyond the scope of this proceeding, which is established by Schedule 3A, Section II.3.A of the Mystic Agreement and states that information and document requests "shall be limited to what is necessary to determine:
>
> a. Whether the capital expenditure is necessary in order to meet the obligations of the Agreement;
>
> b. Whether the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with

[18] Source: NES-MYS-1-07; NES-MYS-3-14.

> Good Utility Practice to meet the obligations of the Agreement; and
>
> c. Whether either of the following occurred: (i) the project was scheduled for before the Term but delayed into the Term, or (ii) the project is scheduled for during the Term but should have been completed prior to the Term."

> As noted in Mystic's cover letter to its April 1, 2021 Informational Filing, the populated version of the Mystic Methodology was provided for "informational purposes only" as the protocols do "not require full updated projected costs or a true-up." Accordingly, the populated version of the template "only reflects the addition of the costs of the 2022 CapEx Projects" in Schedule D of the Mystic and Everett templates in the row designated as being updated based on the 2021 Informational Filing. All questions about other aspects of the Methodology are thus outside of the scope of this information exchange process.[[19]]

NESCOE disagrees and believes that the information requests to which Mystic has objected on the basis that they are "outside of the scope of this information exchange process" are, in fact, properly within the scope of the information exchange process.

The Protocols state that for the 2021 Informational Posting:

> Owner shall file on or before April 1, 2021, in accordance with the Informational Exchange and Challenge Procedures detailed below, appropriate support for the capital expenditures ***and costs*** that will be collected as an expense during the Term in calendar year 2022 (June 1, 2022 to December 31, 2022) as detailed below. ***The Annual Fixed Revenue Requirement, the Maximum Monthly Fixed Cost Payment, and the Fixed O & M/Return on Investment component of the Monthly Fuel Cost Charge for the relevant period of the Term in Schedule 3 will be updated in accordance***

[19] *E.g.*, Mystic objection to NES-MYS-1-08.

> ***with the Methodology*** and shall exclude true-up of investment and expense items disallowed by the Commission, if any.[20]

The Protocols further state that:

> If the Filing provides for an update of projected costs or a true-up it shall:
>
> 1. Include a workable data-populated template and underlying workpapers in native format with all formulas and links intact;
>
> 2. Provide the template rate calculations and all inputs thereto, as well as supporting documentation and workpapers for data that are used in the formula rate that are not otherwise available in the methodology provided below in the Methodology;
>
> 3. Provide sufficient information to enable Interested Parties to replicate the calculation of the formula results from the methodology provided below in the Methodology;
>
> 4. Identify any changes in the formula references (page and line numbers) to the methodology provided below in the Methodology;
>
> 5. Include the information that is reasonably necessary to determine that Owner has applied the methodology provided below in the Methodology, the extent of any accounting or other changes that affect the inputs into that methodology, and any corrections or adjustments made in the calculation.[21]

Mystic's position that the populated version of the Methodology it provided with the 2021 Informational Posting is shielded from review and challenge because it was provided "for informational purposes only" is not supported by the cited Protocol provisions. The requirement that Mystic update its capital expenditures for the June 1-December 31, 2022 period in the 2021

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[20] Protocols, Section I.B.1.i (emphasis supplied).

[21] Protocols, Section II.2.A.

Informational Posting does not relieve Mystic from the obligation to support the non-CapEx costs it seeks to recover under the Agreement.

Because Mystic did not provide responses to many of the questions that NESCOE had regarding the 2021 Informational Posting, there is no way to determine that Mystic has demonstrated that the charges proposed therein are consistent with FERC's orders approving the Agreement and the FERC-approved methodology, are prudent and otherwise just and reasonable. Accordingly, NESCOE submits this Informal Challenge on the unexplained costs about which NESCOE requested information and that are the subject of Mystic's objections.

B. Specific Challenges

In addition to the general challenge above, NESCOE challenges the following items in Attachment C, which have been modified from either the original 2018 filing or from Mystic's various compliance filings. Because Mystic has provided no information in response to requests, it is difficult to unwind and understand what Mystic has done in Attachment C.

As one example, it appears that Schedules A, D and E include the same adjustments as were made in Mystic's September 2020 compliance filing; however, Schedule I—which affects Schedule E—was not updated in the September 2020 compliance filing, as far as NESCOE can tell. In short, Mystic has not provided any information to allow NESCOE to understand how the inputs were derived (regardless of Mystic's claim that the entirety of Attachment C was provided "for informational purposes only").

Because Mystic has not provided responses to NESCOE's information and document requests, there is no way to determine whether these changes are correct, in accordance with

FERC's orders (both addressing the underlying Agreement and Mystic's compliance filings) and otherwise in accordance with the Agreement and just and reasonable.

1. Schedule A and Schedule D

Mystic has provided no information so that NESCOE can verify the net book values for Mystic 8&9 plant in service at 12/31/2017 and the associated depreciation expense.[22] It has also not provided any of the requested labor and labor related expense information in order to determine the reasonableness of the capitalized portion of these expenditures that have or will become components of the total CapEx projects.

2. Schedule A and Schedule E

The adjusted net book values for Mystic 8&9 on Exhibit D in the 2021 filing carry over to the computation of accumulated deferred income taxes ("ADIT")/excess deferred income taxes ("EDIT"), resulting in a significant change to the ADIT and EDIT calculations compared to Mystic's original filing.[23]

3. Schedule I

Schedule I was not adjusted in Attachment C based on new plant amounts. This is inconsistent with the adjustments to Schedule A, D and E. The Mystic 8&9 gross plant detail amounts used to develop plant allocators have not been adjusted to reflect the adjusted gross plant costs on Schedule D in this filing.[24]

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[22] *See* NES-MYS-1-11; NES-MYS-1-12; and NES-MYS-1-13.

[23] *See* NES-MYS-1-14 and NES-MYS-1-15.

[24] *See* NES-MYS-1-16 and NES-MYS-1-17.

Attachment C-3

Responses to Informal Challenges of NESCOE

<u>Constellation Mystic Power, LLC</u>

<u>Responses to the Informal Challenges of the New England States Committee on Electricity</u>

<u>August 27, 2021</u>

On April 1, 2021, Constellation Mystic Power, LLC ("Mystic") had posted on the ISO New England Inc. ("ISO-NE") webpage (https://www.iso-ne.com/committees/key-projects/forward-capacity-market--retain-resources-for-fuel/) its original 2021 Informational Posting. Mystic had an errata posted on April 27, 2021. Mystic subsequently received and responded to Information and Document Requests by Interested Parties. On August 2, 2021, Mystic received Informal Challenges from the New England States Committee on Electricity ("NESCOE"). Mystic's responses to those Informal Challenges are provided herein.

<u>NESCOE Introduction (Attachment A)</u>

Informal Challenge:

The 2021 Informational Posting is when Mystic needs to support its proposed 2022 CapEx projects (*i.e.*, capital expenditures to be incurred June 1, 2022 – December 31, 2022): "Capital expenditures that will be incurred during the term *will be supported prior to their incurrence* and are subject to a true-up adjustment to the actual costs in accordance with the protocols . . . ." Indeed, the Protocols make clear that Interested Parties may *not* wait until the true-up process to challenge projected capital expenditures: "For capital expenditures previously identified as being necessary to meet the reliability need, this [2023] filing will only true-up the amount for each capital expenditure to actuals, not whether a capital expenditure should have been designated as necessary to meet the reliability need."

The Protocols describe what Mystic needs to do to support CapEx projects:

> If the Filing will support the capital expenditures that will be incurred during the Term it shall:
>
> 1. Provide an explanation of need that explains why the capital expenditure is necessary in order to meet the obligations of the Agreement;
> 2. Demonstrate that the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement; and
> 3. Include a description of the project(s), the need for the project(s), the alternatives considered with respect to the least-cost alternatives, the expected start and completion date(s), and the project costs.
> 4. Identify whether either of the following occurred for projects that it is proposing to expense over the term of the Agreement, and if so explain why: (a) the project was scheduled for before the Term but delayed into the Term, or (b) the project was scheduled for during the Term but should have been completed prior to the Term.

As discussed below, Mystic has not supported a number of the 2022 CapEx projects. The Affidavit states that "because the Mystic Agreement requires an updated projection of costs in

April of 2022 and a true-up to actual costs in 2023, interested parties will have ample opportunity to review the actual, final costs when they are known." However, as noted above, the Protocols specify that the time to challenge projected CapEx projects on the basis that they are not needed for reliability or other reasons related to Mystic's fulfilling its obligations under the Agreement, is now—at the time of the relevant Informational Posting, not in the future.

Accordingly, NESCOE includes below Informal Challenges related to CapEx projects that Mystic has failed to adequately support (emphases in original) (citations omitted).

Response:

Mystic has made every effort to support the proposed 2022 capital expenditures as required by Schedule 3A, Section II.2.A. In most instances, Mystic has provided full and adequate support for each project. For some of the projects, however, certain supporting documentation was not provided because it does not yet exist. For example, certain 2022 capital projects have not yet received all the requisite internal approvals. This is the product of time lag resulting from having to provide information on anticipated capital expenditures up to a year in advance of Exelon's capital approval process. *See* April 1, 2021 Informational Filing, Attachment B at PP 8-10.

In addition, during the period of time since the 2021 Informational Posting, internal approval for certain of the CapEx Projects has been obtained. Mystic has included the supporting documentation associated with those projects as Attachments to these Responses. Notably, those projects include the following, which are second phases of projects that are already underway:

- Hot Air Bypass project – Phase II (Attachment NES_MYS_IC.II_053C2200XX - ELF HPE HAB Piping Replacement Train 1 EPCAC Meeting 082621_CUI-PRIV-HC.pdf) [Bates Nos. 000001563 - 000001576];
- Piping Replacement project – Phase II (Attachment NES_MYS_IC.II_053C220XX - ELF Heated Vent Hot Water Piping Phase 2 T1 Riser EPCAC 082621_CUI-PRIV-HC.pdf) [Bates Nos. 000001551 - 000001562].

Mystic is committed to working with NESCOE and other Interested Parties to ensure that the informational exchange process described in the Protocols is followed and that Interested Parties have the opportunity to verify that Mystic has made the requisite showing for each capital project. Therefore, for projects where documentation or supporting materials are not yet available but will become available in the future, Mystic will make that information available to the Interested Parties in subsequent Informational Postings. For such projects, Mystic agrees that NESCOE's rights to challenge these capital expenditures will be preserved until such time as Mystic has provided such supporting documentation and NESCOE has had the opportunity to seek information and respond consistent with the Protocols. However, Mystic does not waive its right to otherwise defend against such challenges.

<u>NESCOE A-01</u>

Informal Challenge:

As shown in Attachment A, there are a number of CapEx projects that are included in the Mystic 8&9 Template where Mystic has provided no supporting information:

- MYD8 BOP Capital (Row 6) (see also A.3, below)
- MYD8 GT 81/82 Exp Jts 01 (Row 8)
- MYD8 Capital Valves (Row 9)
- MYD8 ST 85 Valves (even) (Row 10)
- MYD8 Steam Attemperators (Row 11)
- MYD8 LCB II Replacement (Row 16)
- MYD8 Compressors (Row 20)
- MYD9 Capital Motors (Row 26)
- MYD9 Capital Valves (Row 27)
- MYD9 Steam Attemperators (Row 28); and
- MYD9 LCB II Replacement (Row 32).

Rather, Mystic has simply stated with respect to each of these CapEx projects: "Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with this informational posting. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained."

Because Mystic has provided no supporting information about these capital expenditures in the 2021 Informational Posting, there is no way for NESCOE to verify if Mystic has made the requisite demonstrations regarding its right to recover these costs under the Agreement. As such, these projects are unsupported and the costs cannot be incurred until they have been supported in accordance with the Protocols.

Response:

See Response to Introduction, which Mystic incorporates by reference. With respect to NESCOE's statement that "costs cannot be incurred until they have been supported in accordance with the Protocols," Mystic notes that cost incurrence is not an issue here, only cost recovery.

<u>NESCOE A-02</u>

Informal Challenge:

Mystic provided information discussing the need for comprehensive rotor inspections ("CRIs") of its four gas turbines. However, Mystic has not demonstrated that these costly CRIs need to be performed before or during the Term in order to keep the Mystic units running for the additional two years of the Term under the Agreement. Rather, these capital expenditures appear **[BEGIN CUI-PRIV//HC]** [redacted] **[END CUI-**

PRIV//HC] Nor has Mystic demonstrated that the CRI expenditures are the least-cost commercially reasonable option consistent with Good Utility Practice.

Response:

Mystic has provided ample material demonstrating that the CRI expenditures are necessary to meet the reliability need and are the least-cost commercially reasonable option consistent with Good Utility Practice. *See* Responses to NES-MYS-3-02; NES-MYS-3-03, NES-MYS-1-02, and ENC-MYS-1-06. These responses show that Exelon Generation's supply organization negotiated the best possible value using the supply process. Given the proprietary technology at issue, it was commercially reasonable to only consider Mitsubishi Power Systems Americas, Inc., the OEM, to perform the CRIs, because the OEM is the only company with the capability and qualifications to perform the work. *See* April 1, 2021 Informational Posting, Attachment B at P 13 ("Mystic does not have any alternatives to complete the project and it cannot competitively bid out the project. The work must be done by the manufacturer"). Further, Mystic has demonstrated that the CRI projects needed to be completed in order to ensure the reliable operation of Mystic 8&9 during the Term of the Mystic Agreement, based among other things, on a review and application of prudent industry practices such as review of past failures, consideration of OEM recommendations, third party independent opinion, and the experience and judgement of Mystic personnel gained through the operation of Mystic 8&9 over a period of 19 years, and also gained through significant other experience operating electric generating plants.

The decision to perform the CRIs was made in the context that the Mystic Agreement simultaneously exposes Mystic to substantial penalties if it does not meet its performance obligations while limiting Mystic's flexibility to actually meet those same obligations through means normally available to it, such as through purchase of replacement capacity. *See* April 1, 2021 Informational Posting, Attachment B at P 17 (citing Mystic Agreement Sections 3.3 and 3.7). The penalty risks are unprecedented because it was and is intended that Mystic should not take chances when it came to making sure that the Mystic units were available. In this context, Mystic reasonably determined there was a need for the CRI projects based on OEM recommendations, the third-party independent opinion that it received from Black & Veatch, and recent pre-CRI inspection results in its fleet, *see* Response to NES-MYS-3-02, the results of which demonstrated that the CRI projects were needed to ensure the reliable operation of Mystic 8&9 during the Term of the Agreement. This determination, based on these considerations, is prudent and consistent with Good Utility Practice. In the experience of Mystic personnel, this is the best way to assess whether there is a failure of the equipment. Other studies such as finite element analysis ("FEA"), are not appropriate and do not provide meaningful information in this context.

With regard to consideration of pre-CRI inspection results, at the time Mystic was evaluating whether to proceed with the CRIs, the GT93 rotor was scheduled to undergo a Major inspection under a Long-Term Maintenance Service Agreement with the OEM, which would allow access to the rotor for a pre-CRI inspection. Mystic therefore combined the pre-CRI inspection with the

LTSA Major inspection for the GT93 rotor. The results of this inspection identified corrosion, pitting and radial disc creep. These are all sources of failure initiation that indicate, among other things, the risk of liberated blades, which could cause injury to on-site personnel, collateral damage to the Mystic facility, and a forced outage that could last months. Given these unacceptable risks, and particularly when placed in the context of the Mystic's penalty-based incentive to ensure unit availability described above, Mystic agreed with the OEM recommendation to further evaluate the rotor in detail during a CRI. Further, given that all four rotors at Mystic have very similar operating hours and service duty, prudence and Good Utility Practice indicates that if GT93 needed a CRI then all four rotors needed CRI. Mystic is, however, only seeking to recover the costs for three CRIs as 2022 capital expenditures under the Mystic Agreement; the need to incur the cost for the fourth CRI as a 2022 capital project has been obviated through the use of a spare rotor.

The fact that the CRI expenditures will provide continued service certification for a period beyond the Term of the Agreement is irrelevant; Mystic made the decision to do the CRI projects so that Mystic can reliably operate for the Term of Agreement. If Mystic continues to operate past the Term, the Commission has said the clawback will apply to all costs, less depreciation, for repairs and capital expenditures that were needed to continue operation of Mystic 8&9 during the Term of the Agreement. *See Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 208 (2018).

NESCOE's argument that these projects may have benefits to the gas turbines beyond the Term of the Mystic Agreement is a collateral attack on the Commission's orders in Docket No. ER18-1639-000, which authorize Mystic to expense capital expenditures that are "reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the reliability need." *See Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 at PP 15, 20 (2018), *order on reh'g*, 172 FERC ¶ 61,043 at P 25 (2020); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 63 (2018); ISO-NE Tariff, Market Rule 1 at Section III.13.2.5.2.5.2(b).

<u>NESCOE A-03</u>

Informal Challenge:

Mystic has set aside a certain amount capital of expenditures for "emergent material conditions." Mystic has indicated that it maintains this contingency in case it is needed. However, as noted above, Mystic is required to support any capital expenditures prior to their being incurred. Because there is no supporting information on these contingency capital expenditures, there is no way to determine whether they are or will be related to the reliability need under the Agreement or if they will be the least-cost commercially reasonable option consistent with Good Utility Practice.

Response:

As described in the Affidavit submitted with the 2021 Informational Posting, many of the CapEx projects identified in the 2021 Informational Posting are still in the long-range planning phase and have not yet gone through the internal approval process applicable to all capital expenditures across the Exelon Power generation fleet. This includes CapEx projects that may be required to address emergent material conditions. Please see the last paragraph of the Response to the NESCOE Introduction, which Mystic incorporates by reference.

<u>NESCOE B – EMT Template</u>

As is the case with the unsupported CapEx projects in the Mystic 8&9 Template, Mystic includes many items in the EMT Template that are likewise unsupported. The EMT CapEx projects that NESCOE identifies below suffer from two additional problems. First, Mystic has not demonstrated that the costs are related to extending Mystic's operations by the two-year period covering the Agreement. Rather, these EMT CapEx projects are routine in nature and appear related to extending Everett's operations beyond the Term of the Agreement. Mystic's position appears to be that any repair that will take place prior to the Term of the Agreement is necessary for the sole purpose of meeting its reliability obligations under the Agreement, including where a repair would have been needed prior to the Term and where a repair could be postponed until after the Term. Second, even if Mystic can demonstrate that the capital expenditures are related to the reliability need under the Agreement (which NESCOE believes it has not), in light of the lack of a clawback provision, Mystic has not explained why these capital expenditures should be treated as expense to be recovered during the two-year period instead of being capitalized, added to rate base, and recovered over an extended period beyond the Term. (footnote omitted).

<u>Response</u>

Please see the Response to NESCOE A-03 and the last paragraph of the Response to the NESCOE Introduction, which Mystic incorporates by reference.

NESCOE's argument that certain projects may have benefits beyond the Term of the Mystic Agreement is a collateral attack on the Commission's orders in Docket No. ER18-1639-000, which authorize Mystic to expense capital expenditures that are "reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the reliability need." *See Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 at PP 15, 20 (2018), order on reh'g, 172 FERC ¶ 61,043 at P 25 (2020); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at PP 96-98, 149 (2018); ISO-NE Tariff, Market Rule 1 at Section III.13.2.5.2.5.2(b).

<u>NESCOE B-01</u>

Informal Challenge:

As is the case with the Mystic CapEx projects discussed above (see Section A.1, above), there are a number of Everett CapEx projects shown in Attachment A that are included in the EMT Template where Mystic has provided no supporting information. (For the items with an asterisk, Mystic provided some information in response to NESCOE's information and documents requests, and these items are discussed in more detail below.)

- *Recoat LNG Storage Tanks (incl Outer Shell Welds) (Row 6) (see B.2, below)

- Liquid Level Guage Replacement (Row 13)
- *Cryo Insulation (Row 14) (see B.8, below)
- BOP Maintenance Capital (Row 15)
- Cryogenic Valve Replacement (Row 17)
- BOP Capital Valves (Row 18)
- BOP Capital Motors (Row 19)
- BOP Capital Pumps (Row 20)
- MV Electrical System Replacemt (Row 22)
- Firewater Main Repl/Upgrade (Row 23)
- *Forward Bollard (Row 25) (see B.4, below)
- *Secondary Feed (Row 26) (see B.5, below)
- Structural Suppt Upgr-Conduit (Row 27)
- *Mooring Hooks (Row 28) (see B.4, below)
- *Tank Base Heater Replacment (Row 30) (see B.7, below)

Here, again, the EMT Template just notes: "Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with this informational posting. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained."

Because Mystic has not provided sufficient supporting information about these capital expenditures in the 2021 Informational Posting, there is no way for NESCOE to verify if Mystic has made the requisite demonstrations regarding its right to recover these costs under the Agreement. For the same reasons as discussed above with respect to unsupported Mystic CapEx projects (see Section A), NESCOE includes these CapEx projects in this Informal Challenge (citations omitted).

Response:

Please see the Response to NESCOE A-03 and the last paragraph of the Response to the NESCOE Introduction, which Mystic incorporates by reference.

<u>**NESCOE B-02**</u>

Informal Challenge:

NESCOE understands that Mystic is treating the recoating of the EMT LNG storage tanks as an O&M expense, rather than as a capital expenditure, and that Mystic is intending to expense approximately **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** Mystic states that the project was reclassified as O&M. Specifically, the approximately **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]**, were not treated as O&M, but rather as capital costs.

This means that there is **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** in EMT's rate base on which Mystic will collect a return. If Mystic is going to treat this recoating project as an O&M expense, then the amounts expended previously by EMT on it should likewise be treated as O&M expense and should be removed from EMT's rate base. Otherwise, Mystic benefits from this change in accounting by recovering a portion of the costs of the project as an expense during the two-year Term of the Agreement, in addition to recovering a return on the other portion of the costs of the project that was completed prior to the Term of the Agreement.

Response:

The costs of recoating the EMT LNG storage tanks are *not* in rate base because (a) no EMT costs dating to the period before ExGen's acquisition of EMT are in rate base; and (b) all such costs have been classified as O&M costs since the acquisition. *See* Response to NES-MYS-1-01 at l ("Work is ongoing and expected to continue into the term. Costs prior to term will not be charged under the Mystic Agreement. Costs incurred during the term will be expensed as O&M").

The recoating of the EMT LNG storage tanks was originally classified as a capital expense because that was how it was treated by EMT's prior owners. After ExGen completed its acquisition of the facility in October 2018, it reclassified the project as O&M consistent with its own accounting standards and GAAP. The amounts expended for storage tank recoating that occurred after ExGen's acquisition of the facility have been treated as O&M expenses. Contrary to NESCOE's assertion, amounts expended for work occurring after October 1, 2018 have not been treated as capital costs and are not included in EMT's rate base.

With respect to periods before ExGen closed on the EMT purchase, the prior treatment of expenditures by EMT's prior owners is irrelevant for purposes of Mystic's recovery under the Mystic Agreement. The Commission has held that the plant-in-service value for EMT in the rate base calculation will solely be comprised of capital expenditures (net of depreciation) paid for by ExGen since its acquisition of EMT.[1] *See Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at PP 148-49 (2018). As reflected in Everett Schedule D, page 98 of Attachment A to Mystic's September 15, 2020 Compliance Filing in Docket No. ER18-1639-000, the starting net book value for EMT as of 11/1/2018 was zero. Accordingly, there are no EMT LNG storage tank recoating expenses included in the rate base, and Mystic is not benefiting from the change in accounting for these expenses as suggested by NESCOE.

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[1] This order remains subject to appellate review, and nothing in this document waives any rights that Mystic may have to raise any arguments on appeal.

NESCOE B-03

Informal Challenge:

[BEGIN CUI//PRIV-HC] [redacted] **[END CUI//PRIV-HC]**

Additionally, Mystic has not demonstrated that the costs of this project are associated with EMT providing fuel service to Mystic only during the Term of the Agreement. Rather, these are general repair costs that predate the Agreement and are unrelated to Mystic's obligations under the Agreement.

Response:

In the first instance, Mystic disputes the assertion that **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** *See* HAB Phase I Presentation, Bates No. 000001269-000001284. **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** *See* HAB Phase I Presentation at Slide 1, Bates No. 000001270. Although this portion of the project will be included in the EMT rate base, Mystic is not seeking recovery of Phase I as a CapEx project during the Term of the Mystic Agreement. Phase II of the HAB project, which is the portion of the project included in the 2021 Informational Posting for the June 2022 through December 2022 time period, received internal approval on August 26, 2021. *See* Attachment NES_MYS_IC.II_053C2200XX - ELF HPE HAB Piping Replacement Train 1 EPCAC Meeting 082621_CUI-PRIV-HC.pdf [Bates Nos. 000001563 - 000001576] to these Responses, August 26, 2021 EPCAC Presentation ("HAB Phase II Presentation").

As described in both the HAB Phase I Presentation and the HAB Phase II Presentation, **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** HAB Phase I Presentation at Slide 4, Bates No. 000001273; HAB Phase II Presentation at Slide 4, Bates No. 000001567.

Accordingly, NESCOE's suggestion that the HAB project is being undertaken during the Term of the Mystic Agreement to allow Mystic to recover the costs of repairs as CapEx is unsupported. Rather, the information provided by Mystic demonstrates that ExGen began pursuing necessary repairs in the ordinary course once failures were discovered and the extent of those failures was assessed, and in fact will begin the first phase of those repairs, representing half of the project expenditures, before the Term of the Mystic Agreement. Further, Mystic has demonstrated the Phase II HAB Project's relationship to the Mystic Agreement because it is necessary for the reliable and safe operation of EMT, which in turn is necessary for the reliability of Mystic 8&9.

NESCOE B-04

Informal Challenge:

Based on the information provided by Mystic in response to NESCOE information requests, Mystic has not demonstrated that replacing the forward bollard or the mooring hooks are projects needed during the Term of the Agreement for Mystic to meet its reliability obligations under the Agreement.

Indeed, Everett has been in continuous operations, even since the failure identified on January 24, 2020, and yet to this date, these capital expenditures have "not yet been presented to management for funding authorization." In light of this, Mystic has not demonstrated why these projects could not wait until after the end of the Term. And Mystic has likewise not demonstrated that these capital expenditures are related to Mystic's meeting the reliability need under the Agreement. From the information provided, these appear to be routine repairs that may or may not need to be completed during the Term, and that will last for decades beyond the Term. Additionally, Mystic had not demonstrated that these expenditures are reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice.

Accordingly, to the extent that Mystic does demonstrate a need for the forward bollard or mooring hooks to be replaced now, there is no justification to expense these capital costs during the Term of the Agreement. These are long-term projects that will last for decades, and these types of capital investments should be treated as a capital expense with costs recovered over time, not just during the Term of the Agreement.

Response:

Please see the last paragraph of the Response to the NESCOE Introduction and the Responses to NES-MYS-1-04, NES-MYS-3-08, and NES-MYS-3-10, which Mystic incorporates by reference.

NESCOE's argument that these projects may have benefits beyond the Term of the Mystic Agreement is a collateral attack on the Commission's orders in Docket No. ER18-1639-000, which authorize Mystic to expense capital expenditures that are "reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the reliability need." *See Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 at PP 15, 20 (2018), *order on reh'g*, 172 FERC ¶ 61,043 at P 25 (2020); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 63 (2018); ISO-NE Tariff, Market Rule 1 at Section III.13.2.5.2.5.2(b).

Mystic also disagrees with the characterization that these projects will be "routine repairs." To the contrary, the projects will be new assets.

<u>**NESCOE B-05**</u>

Informal Challenge:

This capital project relates to **[BEGIN CUI//PRIV-HC]** [redacted]

[redacted] **[END CUI//PRIV-HC]** Mystic has not supported ratepayers bearing these capital expenses as they go well beyond what Mystic would need to meet the reliability need under the Agreement.

Response:

Based on ExGen's current understanding that, once completed, the line will not be owned by EMT but rather by National Grid, ExGen's accounting team has concluded that the project costs will be treated as O&M rather than as a capital expense. Accordingly, consideration of the Secondary Feed project costs is currently outside the scope of this proceeding, which involves only capital expenditures. That portion of the Secondary Feed project costs incurred during the term of the Mystic Agreement will be expensed and justified in accordance with the O&M

recovery process based on the schedule of costs assessed by National Grid, unless National Grid determines a different ownership structure is warranted and that structure triggers a change in accounting treatment.

NESCOE's argument that these projects may have benefits beyond the Term of the Mystic Agreement is a collateral attack on the Commission's orders in Docket No. ER18-1639-000, which authorize Mystic to expense capital expenditures that are "reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the reliability need." *See Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 at PP 15, 20 (2018), *order on reh'g*, 172 FERC ¶ 61,043 at P 25 (2020); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 63 (2018); ISO-NE Tariff, Market Rule 1 at Section III.13.2.5.2.5.2(b).

<u>NESCOE B-06</u>

Informal Challenge:

NESCOE understands that this CapEx project relates to replacement of hot water piping between heaters and LNG Storage tank heated vents. Mystic has indicated that the damage to the piping has already been repaired. There appears to be no basis, therefore, for Mystic to recover these capital costs as expenses during the Term of the Agreement, rather than including them in EMT's rate base and recovering them over the life of the project.

As with the case of the forward bollard and mooring hooks, as far as NESCOE can tell based on the information provided, these repairs appear related to extending Everett's operations and will clearly benefit Everett long past the Term of the Agreement.

Response:

See Response to ENC-MYS-1-11, ENC-MYS-1-11_053C21007 - ELF Heated Vent Hot Water Piping EPCAC 032421_CUI-PRIV.pdf [Bates Nos. 000001285 – 000001297] ("Piping Replacement Phase I Presentation") at Slide 2 [Bates No. 000001287]. **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]**
Phase I, which was described in the Piping Replacement Phase I Presentation, was approved in March 2021 and will take place before the beginning of the Term of the Mystic Agreement. Although this portion of the project will be included in the EMT rate base, Mystic is not seeking recovery of Phase I as a CapEx project during the term of the Mystic Agreement.

Phase II of the Piping Replacement Project, which is the portion of the project included in the 2021 Informational Filing for the June 2022 through December 2022 time period, received internal approval on August 26, 2021. *See* Attachment NES_MYS_IC.II_053C220XX - ELF Heated Vent Hot Water Piping Phase 2 T1 Riser EPCAC 082621_CUI-PRIV-HC.pdf) [Bates

Nos. 000001551 - 000001562] to these Responses, August 26, 2021 EPCAC Presentation ("Piping Replacement Phase II Presentation").

In addition to being a safety concern due to the potential for unwarmed venting of natural gas, continued piping failure represents a risk to reliability of EMT, which in turn represents a risk to the reliability of Mystic 8&9. *See* Piping Replacement Phase II Presentation at Slide 5, Bates No. 000001556.

NESCOE's argument that these projects may have benefits beyond the Term of the Mystic Agreement is a collateral attack on the Commission's orders in Docket No. ER18-1639-000, which authorize Mystic to expense capital expenditures that are "reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the reliability need." *See Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 at PP 15, 20 (2018), *order on reh'g*, 172 FERC ¶ 61,043 at P 25 (2020); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 63 (2018); ISO-NE Tariff, Market Rule 1 at Section III.13.2.5.2.5.2(b).

<u>NESCOE B-07</u>

Informal Challenge:

NESCOE's understanding of the tank base heater replacement project is that **[BEGIN CUI//PRIV-HC]** [redacted]

[redacted] **[END CUI//PRIV-HC]** Additionally, Mystic has not demonstrated that this expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice.

Response:

As noted in Section 2.1 of the CB&I Report provided in Response to NES-MYS-1-04h (Bates No. 000000858-000000865), **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** Although intermediary fixes have allowed the system to continue to operate, as explained in Response to NES-MYS-3-13, failure of a single conduit has wide system impacts, and continued failures could affect the reliability of EMT and accordingly Mystic. No work performed in 2020 on this project is being treated as 2022 capital expenditures.

NESCOE's argument that these projects may have benefits beyond the Term of the Mystic Agreement is a collateral attack on the Commission's orders in Docket No. ER18-1639-000, which authorize Mystic to expense capital expenditures that are "reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the reliability need." *See Constellation Mystic Power, LLC*, 164 FERC ¶ 61,022 at PP 15, 20 (2018), *order on reh'g*, 172 FERC ¶ 61,043 at P 25 (2020); *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 63 (2018); ISO-NE Tariff, Market Rule 1 at Section III.13.2.5.2.5.2(b).

<u>NESCOE B-08</u>

Informal Challenge:

To date, Mystic has not provided any supporting data for this project. Mystic has said that documentation of the Cryogenic Insulation Project is expected to be available in the first quarter of 2022.

Given the lack of data, it is impossible to know whether the costs are justified and in compliance with the cost recovery provisions of the Agreement and the Commission's orders.

Response:

Please see the Response to NESCOE A-03 and the last paragraph of the Response to the NESCOE Introduction, which Mystic incorporates by reference.

<u>NESCOE C-A</u>

Informal Challenge:

NESCOE submitted a number of information requests and document requests to Mystic regarding Attachment C. *See* NES-MYS-1-08 through NES-MYS-1-28; NES-MYS-2-01; and NES-MYS-3-16.

With the exception of NES-MYS-1-10 and NES-MYS-3-16, Mystic did not provide responses to any of these questions. For most of the information requests, Mystic provided the following objection:

> Mystic objects to this question as beyond the scope of this proceeding, which is established by Schedule 3A, Section II.3.A of the Mystic Agreement and states that information and document requests "shall be limited to what is necessary to determine:
>
> a. Whether the capital expenditure is necessary in order to meet the obligations of the Agreement;
> b. Whether the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement; and
> c. Whether either of the following occurred: (i) the project was scheduled for before the Term but delayed into the Term, or (ii) the project is scheduled for during the Term but should have been completed prior to the Term."

> As noted in Mystic's cover letter to its April 1, 2021 Informational Filing, the populated version of the Mystic Methodology was provided for "informational purposes only" as the protocols do "not require full updated projected costs or a true-up." Accordingly, the populated version of the template "only reflects the addition of the costs of the 2022 CapEx Projects" in Schedule D of the Mystic and Everett templates in the row designated as being updated based on the 2021 Informational Filing. All questions about other aspects of the Methodology are thus outside of the scope of this information exchange process (citation omitted).

NESCOE disagrees and believes that the information requests to which Mystic has objected on the basis that they are "outside of the scope of this information exchange process" are, in fact, properly within the scope of the information exchange process.

The Protocols state that for the 2021 Informational Posting:

> Owner shall file on or before April 1, 2021, in accordance with the Informational Exchange and Challenge Procedures detailed below, appropriate support for the capital expenditures ***and costs*** that will be collected as an expense during the Term in calendar year 2022 (June 1, 2022 to December 31, 2022) as detailed below. ***The Annual Fixed Revenue Requirement, the Maximum Monthly Fixed Cost Payment, and the Fixed O & M/Return on Investment component of the Monthly Fuel Cost Charge for the relevant period of the Term in Schedule 3 will be updated in accordance with the Methodology*** and shall exclude true-up of investment and expense items disallowed by the Commission, if any (emphasis in original) (citation omitted).

The Protocols further state that:

> If the Filing provides for an update of projected costs or a true-up it shall:
>
> 1. Include a workable data-populated template and underlying workpapers in native format with all formulas and links intact;
> 2. Provide the template rate calculations and all inputs thereto, as well as supporting documentation and workpapers for data that are used in the formula rate that are not otherwise available in the methodology provided below in the Methodology;
> 3. Provide sufficient information to enable Interested Parties to replicate the calculation of the formula results from the methodology provided below in the Methodology;
> 4. Identify any changes in the formula references (page and line numbers) to the methodology provided below in the Methodology;
> 5. Include the information that is reasonably necessary to determine that Owner has applied the methodology provided below in the Methodology, the extent of any accounting or other changes that affect the inputs into that methodology, and any corrections or adjustments made in the calculation (citation omitted).

Mystic's position that the populated version of the Methodology it provided with the 2021 Informational Posting is shielded from review and challenge because it was provided "for informational purposes only" is not supported by the cited Protocol provisions. The requirement that Mystic update its capital expenditures for the June 1-December 31, 2022 period in the 2021 Informational Posting does not relieve Mystic from the obligation to support the non-CapEx costs it seeks to recover under the Agreement.

Because Mystic did not provide responses to many of the questions that NESCOE had regarding the 2021 Informational Posting, there is no way to determine that Mystic has demonstrated that the charges proposed therein are consistent with FERC's orders approving the Agreement and the FERC-approved methodology, are prudent and otherwise just and reasonable. Accordingly, NESCOE submits this Informal Challenge on the unexplained costs about which NESCOE requested information and that are the subject of Mystic's objections.

Response:

Attachment C was submitted for informational purposes only and was not a required part of the 2021 Informational Posting. Section I.B.1.i of the Protocols requires the 2021 Informational Posting to provide "appropriate support for the capital expenditures and costs that will be collected as an expense during the Term in calendar year 2022 (June 1, 2022 and December 31, 2022)." Attachment A (CapEx Spreadsheet) and Attachment B (Affidavit) provide that supporting information.

Exhibit No. MYS-0023, which was submitted by Mystic during the hearing in Docket No. ER18-1639-000 and was not contested by any party, provides a summary overview of the actions required in each filing under the protocols in chart form. The substance of that exhibit is copied here:

Summary of Actions to Be Performed in Each Filing

ACTIONS	2021 Filing	2022 Filing	2023 Filing	2024 Filing	2025 Filing
Substantiation of CapEx for next calendar year	X	X	X		
Update Net Plant for CapEx incurred between 1/1/2018 – 12/31/2021		X			
Update Projected Costs for CapEx, O&M, A&G, and TOTIT for entire Term		X			
Update Net Plant by truing-up all CapEx prior to term, i.e., incurred between 1/1/2018 – 5/31/2022			X		
True-Up to Actual Costs incurred during prior calendar year for CapEx, O&M, A&G, and TOTIT			X	X	X

This exhibit clearly shows that the sole purpose of the 2021 filing is the substantiation of capital expenditures for the next calendar year, i.e., 2022. Further, it shows that next year's filing, in 2022, will update net plant for capital expenditures incurred between 1/1/2018 – 12/31/2021 and update projected costs for capital expenditures, O&M, A&G, and TOTIT.

In other words, Mystic is not seeking to "shield" relevant information from NESCOE's review. Mystic is simply following the process set out in the Protocols and review non-capital expenditure costs at the appropriate time. Mystic will not object, on the basis that information and document requests or challenges should have been made in response to the 2021 Informational Posting, to information and document requests or challenges related to the updates to components of the Annual Fixed Revenue Requirement, other than the 2022 Capital Expenditures. Mystic does not otherwise limit or waive any objections.

Because of the confusion that the informational inclusion of Attachment C has appeared to cause in this process, Mystic will not be filing Attachment C in its Informational Filing with the Commission. *See* Mystic Agreement, Section II.6.

NESCOE C-B

Informal Challenge:

In addition to the general challenge above, NESCOE challenges the following items in Attachment C, which have been modified from either the original 2018 filing or from Mystic's various compliance filings. Because Mystic has provided no information in response to requests, it is difficult to unwind and understand what Mystic has done in Attachment C.

As one example, it appears that Schedules A, D and E include the same adjustments as were made in Mystic's September 2020 compliance filing; however, Schedule I—which affects Schedule E—was not updated in the September 2020 compliance filing, as far as NESCOE can tell. In short, Mystic has not provided any information to allow NESCOE to understand how the inputs were derived (regardless of Mystic's claim that the entirety of Attachment C was provided "for informational purposes only").

Because Mystic has not provided responses to NESCOE's information and document requests, there is no way to determine whether these changes are correct, in accordance with FERC's orders (both addressing the underlying Agreement and Mystic's compliance filings) and otherwise in accordance with the Agreement and just and reasonable.

Schedule A and Schedule D: Mystic has provided no information so that NESCOE can verify the net book values for Mystic 8&9 plant in service at 12/31/2017 and the associated depreciation expense. It has also not provided any of the requested labor and labor related expense information in order to determine the reasonableness of the capitalized portion of these expenditures that have or will become components of the total CapEx projects.

Schedule A and Schedule E: The adjusted net book values for Mystic 8&9 on Exhibit D in the 2021 filing carry over to the computation of accumulated deferred income taxes ("ADIT")/excess deferred income taxes ("EDIT"), resulting in a significant change to the ADIT and EDIT calculations compared to Mystic's original filing.

Schedule I: Schedule I was not adjusted in Attachment C based on new plant amounts. This is inconsistent with the adjustments to Schedule A, D and E. The Mystic 8&9 gross plant detail amounts used to develop plant allocators have not been adjusted to reflect the adjusted gross plant costs on Schedule D in this filing (citations omitted).

Response:

See Responses to NESCOE A-01 and C-A, which Mystic incorporates by reference.

Attachment C-4

Responses to Informal Challenges of ENECOS

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Constellation Mystic Power, LLC
Responses to the Informal Challenges
of the Eastern New England Consumer-Owned Systems
August 31, 2021

On April 1, 2021, Constellation Mystic Power, LLC ("Mystic") had posted on the ISO New England Inc. ("ISO-NE") webpage (https://www.iso-ne.com/committees/key-projects/forward-capacity-market--retain-resources-for-fuel/) its original 2021 Informational Posting. Mystic had an errata posted on April 27, 2021. Mystic subsequently received and responded to Information and Document Requests by Interested Parties. On August 2, 2021, Mystic received Informal Challenges from the Eastern New England Consumer-Owned Systems ("ENECOS"). Mystic's responses to ENECOS' Informal Challenges are provided herein.

ENECOS Informal Challenge No. 2021-1

Informal Challenge:

The claimed "rate base capex" asserted in Attachment C (Mystic 8&9), Schedule D, page 1, Column C, lines 5-21 appears to reflect a misapplication of Electric Plant Instruction No. 10 of the Uniform System of Accounts, and mischaracterizes historical costs of turbine inspections as capital expenditures that would instead have been treated as operations and maintenance ("O&M") expenses under the Uniform System of Accounts. Under the principles explained by the Commission in its prior orders in this proceeding, accounting inconsistent with the requirements of the Uniform System of Accounts during periods when a generation facility is operating under market-based rates must be conformed to the requirements of the Uniform System of Accounts when the facility changes to cost-of-service rates. Mystic's failure to do so with what appear to be historical operation and maintenance costs attributable to generator inspections over the operating history of Mystic 8 and 9 overstates the rate base on which Mystic claims depreciation and return on equity (plus income tax allowance) for the period July 1, 2004 through December 31, 2020 in the amounts shown in the following table.

Disputed Mystic Claimed "Rate Base Capex" from April 1, 2021, Informational Posting Attachment C, Schedule D, page 1		
Line	**Period**	**Amount**
5	7/1/2004-6/30/2005	$14,425,792
6	7/1/2005-6/30/2006	$93,466
7	7/1/2006-6/30/2007	$15,612,344
8	7/1/2007-6/30/2008	$7,263,741
9	7/1/2008-6/30/2009	$1,275,933
10	7/1/2009-6/30/2010	$9,542,480
11	7/1/2010-6/30/2011	$28,136,869

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12	7/1/2011-6/30/2012	$4,269,211
13	7/1/2012-6/30/2013	$11,334,186
14	7/1/2013-6/30/2014	$21,049,177
15	7/1/2014-6/30/2015	$29,772,177
16	7/1/2015-6/30/2016	$16,036,590
17	7/1/2016-12/31/2016	$9,666,594
18	1/1/2017-12/31/2017	$18,576,222
19	1/1/2018-12/31/2018	$10,023,000
20	1/1/2019-12/31/2019	$21,009,000
21	1/1/2020-12/31/2020	$9,050,000
	Total Contested	$227,136,782

Mystic uniformly declined to respond to information requests concerning the basis for the above-listed asserted capital expenditures, stating in response to each of ENECOS Information Request Nos. ENC-MYS-1-17 through ENC-MYS-1-51:

> Mystic objects to this question as beyond the scope of this proceeding, which is established by Schedule 3A, Section II.3.A of the Mystic Agreement and states that information and document requests "shall be limited to what is necessary to determine:
>
> a. Whether the capital expenditure is necessary in order to meet the obligations of the Agreement;
> b. Whether the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement; and
> c. Whether either of the following occurred: (i) the project was scheduled for before the Term but delayed into the Term, or (ii) the project is scheduled for during the Term but should have been completed prior to the Term."
>
> As noted in Mystic's cover letter to its April 1, 2021 Informational Filing, the populated version of the Mystic Methodology was provided for "informational purposes only" as the protocols do "not require full updated projected costs or a true-up." Accordingly, the populated version of the template "only reflects the addition of the costs of the 2022 CapEx Projects" in Schedule D of the Mystic and Everett templates in the row designated as being updated based on the 2021 Informational Filing. All questions about other aspects of the Methodology are thus outside of the scope of this information exchange process.

Mystic also asserted that these issues have previously been litigated in the proceedings leading up to the Commission's December 20, 2018 Order in this proceeding. That assertion is without merit. The Commission observed in its July 17, 2020, Order on Mystic's March 2019 Compliance filing (*Constellation Mystic Power, LLC*, 172 FERC ¶ 61,045 at P 47) (footnotes omitted, emphasis in original):

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> In the December 2018 Order, the Commission stated that Mystic's corrected original cost study would form the basis of its gross plant-in-service and accumulated depreciation values, *subject to true-up*. At the time of the true-up, Mystic must adequately support its claimed gross plant-in-service and accumulated depreciation values. Specifically, the inputs to formula rates must be transparent, and costs recovered under a formula rate must be reasonable and prudently incurred. We find, however, that the cost inputs underlying Mystic's gross plant-in-service values (and, by extension, its accumulated depreciation values) are appropriately addressed in the true-up process. Accordingly, we decline to make findings on them here.

Mystic's "Rate Base Capex" claims are properly subject to challenge here in light of "[t]he Commission's long-standing precedent . . . that, under formula rates, parties have the right to challenge the inputs to or the implementation of the formula at whatever time they discover errors in the inputs to or implementation of the formula." As Mystic has failed to support its assertion that it is entitled to include these claimed expenditures in rate base, these amounts should be rejected and removed from Mystic's claimed rate base (citations omitted).

Response:

Attachment C was submitted for informational purposes only and was not a required part of the 2021 Informational Posting. Section I.B.1.i of the Protocols requires the 2021 Informational Posting to provide "appropriate support for the capital expenditures and costs that will be collected as an expense during the Term in calendar year 2022 (June 1, 2022 and December 31, 2022)." Attachment A (CapEx Spreadsheet) and Attachment B (Affidavit) provide that supporting information.

Exhibit No. MYS-0023, which was submitted by Mystic during the hearing in Docket No. ER18-1639-000 and was not contested by any party, provides a summary overview of the actions required in each filing under the Protocols in chart form. The substance of that exhibit is copied here:

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Summary of Actions to Be Performed in Each Filing

ACTIONS	2021 Filing	2022 Filing	2023 Filing	2024 Filing	2025 Filing
Substantiation of CapEx for next calendar year	X	X	X		
Update Net Plant for CapEx incurred between 1/1/2018 – 12/31/2021		X			
Update Projected Costs for CapEx, O&M, A&G, and TOTIT for entire Term		X			
Update Net Plant by truing-up all CapEx prior to term, i.e., incurred between 1/1/2018 – 5/31/2022			X		
True-Up to Actual Costs incurred during prior calendar year for CapEx, O&M, A&G, and TOTIT			X	X	X

This exhibit clearly shows what Mystic has communicated to ENECOS repeatedly throughout this process - that the sole purpose of the 2021 Informational Posting is the substantiation of capital expenditures for the next calendar year, i.e., 2022. Further, it shows that next year's filing, in 2022, will update net plant for capital expenditures incurred between 1/1/2018 – 12/31/2021 and update projected costs for capital expenditures, O&M, A&G, and TOTIT. ENECOS' attempt to challenge historical capital expenditures incurred from 2004 to 2020 is therefore well outside the scope of this limited proceeding on 2022 capital projects.

The language of the Protocols further demonstrates this point. Section II.3 of the Protocols provides for different disclosure requirements for different types of filings. Certain information disclosure requirements are to be made for informational filings, such as this one, where "the Filing will substantiate the capital expenditures that will be incurred during the Term." For such filings, the information disclosure is expressly "limited to what is necessary to determine" three things.[1] Additional information is only required for informational filings that "provide[] for an

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[1] Specifically, Section II.3.A provides:

> If the Filing will substantiate the capital expenditures that will be incurred during the Term such information and document requests shall be limited to what is necessary to determine:
>
> a. Whether the capital expenditure is necessary in order to meet the obligations of the Agreement;

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update of projected costs or a true-up such information and document requests," in which case the information provided "shall be limited to what is necessary."[2] In other words, the information requirements for each type of filing are different, and mutually exclusive. Review of Section I of the Protocols further shows, from simple review of the headings establishing each filing requirement, that there are three types of filings: "Support for Capital Expenditures necessary to meet the reliability need . . . ," "Update to components of the Annual Fixed Revenue Requirement," and "True-Up to Actual Costs for Capital Expenditures incurred prior to the Term included in Rate Base, Capital Expenditures expensed during the Term, and actual components of the Annual Fixed Revenue Requirement incurred during calendar year . . . ."

The first category of filings – "Support for Capital Expenditures necessary to meet the reliability need" – matches the information required to be disclosed in Section II.3.A, which includes "Whether the capital expenditure is necessary in order to meet the obligations of the Agreement." By contrast, the second and third types of filings – the update and true-up filings – are the types of filings expressly referenced as being subject to the information disclosure requirements of Section II.3.B. The list in Section II.3.B makes far more sense for those filings than it does for the capital expenditure support filings. Even if the lists of information required to be provided with respect to each type of filing were not mutually exclusive, and both applied to capital expenditure support filings such as the 2021 Informational Posting, the scope of the current process is specifically limited, by Section I.B.1.i, to a specific topic for a narrow time period: "Support for Capital Expenditures necessary to meet the reliability need between June 1, 2022 and December 31, 2022." This does not give ENECOS carte blanche to explore other time periods or other topics, as ENECOS seeks to do here.

> b. Whether the expenditure is reasonably determined to be the least-cost commercially reasonable option consistent with Good Utility Practice to meet the obligations of the Agreement; and
> c. Whether either of the following occurred: (i) the project was scheduled for before the Term but delayed into the Term, or (ii) the project is scheduled for during the Term but should have been completed prior to the Term.

[2] Specifically, Section II.3.B provides:

> If the Filing provides for an update of projected costs or a true-up such information and document requests shall be limited to what is necessary to determine:
> (1) the extent or effect of an accounting change;
> (2) whether the Filing fails to include data properly recorded in accordance with these protocols;
> (3) the proper application of the Methodology provided below and procedures in these protocols;
> (4) the accuracy of data and consistency with the Methodology of the charges shown in the Filing;
> (5) the prudence of actual costs and expenditures;
> (6) the actual amount of any capital expenditure; and
> (7) any other information that may reasonably have substantive effect on the calculation of the charge pursuant to the Methodology.

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In addition to being beyond the scope, ENECOS' challenge is an inappropriate attempt to relitigate Mystic's historical rate base, an issue that was already fully litigated in Docket No. ER18-1639-000. The informational posting and true-up processes do not provide an opportunity to challenge rate base elements that have been the subject of a litigated hearing and numerous compliance filings and are no longer either "projected" or "subject to true-up." Mystic does not agree with ENECOS' assertion that the Commission's orders in the ER18-1639 docket say differently. Moreover, even if ENECOS' interpretation of *Constellation Mystic Power, LLC*, 172 FERC ¶ 61,045 at P 47 (2020) was correct, the language quoted by ENECOS reiterates that ENECOS' challenge does not belong in this informational proceeding, in which there is no true-up process. *See* Id. ("In the December 2018 Order, the Commission stated that Mystic's corrected original cost study would form the basis of its gross plant-in-service and accumulated depreciation values, *subject to true-up*. **At the time of the true-up**, Mystic must adequately support its claimed gross plant-in-service and accumulated depreciation values. Specifically, the inputs to formula rates must be transparent, and costs recovered under a formula rate must be reasonable and prudently incurred. We find, however, that the cost inputs underlying Mystic's gross plant-in-service values (and, by extension, its accumulated depreciation values) are **appropriately addressed in the true-up process**.") (bold added).

Mystic further disagrees with ENECOS' assertion that "accounting inconsistent with the requirements of the Uniform System of Accounts ("USofA") during periods when a generation facility is operating under market-based rates must be conformed to the requirements of the Uniform System of Accounts when the facility changes to cost-of-service rates." (ENECOS citing *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 65 (2018) ("In other words, we are calculating how the assets would be valued now if USofA accounting had been required throughout the assets' life"), *reh'g denied*, 172 FERC ¶ 61,044 at PP 105-11 (2020), *order on compliance filing*, 172 FERC ¶ 61,045 at PP 45-47 (2020)). The USofA have never and do not now apply to Mystic because the Commission has granted Mystic express waiver of the requirement to follow that accounting system. *See, e.g.*, *Sithe Fore River Dev. LLC*, Docket Nos. ER01-41-000, (Nov. 29, 2000) (letter order) (granting waiver of USofA); *Constellation Mystic Power, LLC*, Docket Nos. ER10-2281-000, *et al.* (Oct. 27, 2010) (letter order) (same); *Exelon Corp.*, 138 FERC ¶ 61,167 at P 132 (2012) (finding that Mystic did not need to record acquisition of Mystic 8 & 9 under USofA); *Mystic Dev., LLC*, 114 FERC ¶ 61,200 at P 61 (2006) (denying request to revoke USofA waivers during prior RMR period). The Commission's statements on USofA accounting from which ENECOS selectively excerpts are limited to the Commission's application of the original cost test. *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 65 (2018) ("We acknowledge that the Mystic 8 and 9 units have not been subject to USofA bookkeeping throughout their histories, but we do not find this fact to be particularly relevant **with respect to conducting the original cost test**.") (emphasis added). In fact, the Commission explicitly stated that it was only "create[ing] a benchmark for ratemaking purposes, **not to recreate accounting records** for Mystic 8 and 9 according to the USofA rules and standards." *Constellation Mystic Power, LLC*, 172 FERC ¶ 61,044 at P 106 (2020) (emphasis added). ENECOS' citation to the *Pacificorp* case is similarly limited to application of the original cost test.

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ENECOS Informal Challenge No. 2021-2

Informal Challenge:

Mystic's April 1 Posting provided dollar amounts of further claimed capital expenditures attributed to (1) Mystic 8 and 9 rate base during the period January 1, 2021, through December 31, 2022 and (2) Everett "rate base" during the period November 1, 2018, through December 31, 2022. For Mystic 8 & 9, these claimed capital expenditures total $38,253,000 (Mystic 8 & 9 Schedule D, sum of lines 22-23). For the Everett Marine Terminal these claimed capital expenditures total $33,075,000 through December 31, 2021 (EMT Schedule D, sum of lines 2-6).

Mystic refused to provide information requested by ENECOS during the Information Exchange process described in COSA Schedule 3A, Part II, Section 3, as to the projects making up this additional rate base, based on the same *pro forma* objection it asserted to ENECOS' requests for information concerning the claimed 2004-2020 "Rate Base Capex" included as rate base for Mystic 8 and 9. The information that Mystic provided on its forecasted capital expenditures for 2022 indicates that these costs are more appropriately treated as operation and maintenance expenses that should have been expensed in the period incurred (which is prior to the June 1, 2022 Effective Date of the COSA) as required by the Uniform System of Accounts (and particularly Electric Plant Instruction No. 10), rather than capitalized and added to rate base. Any costs incurred prior to the Effective Date established by Section 2.1 of the COSA that should have been accounted for under the Uniform System of Accounts as operation and maintenance expenses ("pre-COSA O&M") should be removed from the rate base incorporated in the calculation of the AFRR or SCP for Mystic 8 and 9 and Everett.

At a minimum, the expenditures identified in Mystic's response to NES-MYS-1-01.b. through k. as having been capitalized (response attached) should instead have been treated as pre-COSA O&M in the year incurred. These expenditures should therefore be removed from Mystic 8 and 9 ratebase (citations omitted).

Response:

See Response to ENECOS Informal Challenge No. 2021-1, which Mystic incorporates by reference.

Further, ENECOS' statement that [5M8C22002] MYD8 GT81 & GT82 Exp Joints 00 (Row 7) (NES-MYS-1-01.b) should be "treated as pre-COSA O&M in the year incurred" makes no sense given that the project has not yet begun, and is in fact anticipated to begin in Q2 of 2022 and be completed in Q4 of 2022.

ENECOS Informal Challenge No. 2021-3

Informal Challenge:

According to Paragraph 12 of the Affidavit of Michael Brown and Abegail Piollo-Alam (Attachment B to Mystic's April 1 Posting):

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In addition, the 2022 CapEx Projects include two projects that will be completed prior to the Term of the Mystic Agreement and that Mystic would not have otherwise undertaken but for the Mystic Agreement. Accordingly, Mystic is seeking to expense those projects. Specifically, the 2022 CapEx Projects include: 1) four comprehensive rotor inspections ("CRI Projects") for the turbines at the two Mystic units, and 2) a project to segregate auxiliary boiler services, including electrical power, water, air supply, and industrial waste-water processes from the Mystic 7 facility so that they can be supplied from Mystic 8 & 9 for the term of the Mystic Agreement (referred to as the "Campus Segregation Project"). Mystic is undertaking these projects directly as a result of Mystic Agreement and the heightened performance obligations contained therein.

The full cost of the CRIs is anticipated to equal $34,077,959, as shown in Attachment A (Public) to the April 1 Posting at lines 18 (CRI GT81 at $8,031,000), 19 (CRI GT 82 at $9,969,000), 23 (CRI GT 93 at $8,322,953) and 35 (CRI GT 94 at $7,755,006). Two inspections have been completed, and the other two are expected to be finished by November 30, 2021. Mystic asserts that its decision to perform the CRIs is driven by "heightened performance obligations" it associates with the COSA, and relies on that assertion as justification for characterizing the full $34 million cost of the CRIs as capital expenditures to be recovered from ISO-NE customers during the last seven months of 2022. This is over 78 percent of Mystic's projected 2022 CapEx for Mystic 8 & 9.

A. The entire $34,077,959 in actual and projected CRI costs are pre-COSA O&M. These costs are therefore not recoverable under the COSA and should be removed from the Mystic 8 and 9 rate base.

B. Mystic's reliance on **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** is unusual and inadequate engineering justification for the comprehensive rotor inspections ("CRI") for these four Mystic combustion turbines. This is particularly true given (i) the relatively short period of projected continued operation (retirement anticipated as of May 31, 2024), (ii) the magnitude of costs involved, and **[BEGIN CUI//PRIV-HC]** [redacted] **[END CUI//PRIV-HC]** The record provided contains no specific technical analysis of the Mystic turbines, at best limited pre-CRI inspection on only one of the four rotors. The limited information concerning industry practices of manufacturers (*e.g.*, General Electric, Siemens, and Mitsubishi) for comprehensive rotor inspections does not furnish appropriate technical support for the

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incurrence of costs of this magnitude to support rotor certification substantially in excess of what is required for the June 1, 2022, through May 31, 2024, term of the COSA.

Accepted industry practice would have deployed finite element analysis ("FEA") – a computer simulation that creates a comprehensive three-dimensional model of the rotor, which is then used to examine the risk to operating limits, stresses, and start-up conditions. FEA, coupled with the data input of specific rotor information, is highly accurate and can be a more accurate tool in some cases than empirical testing through non-destructive examination and testing (NDT). Mystic's decisional process for implementation of the CRIs should have been supported by a comprehensive pre-CRI inspection and by appropriate and detailed analysis consistent with industry practices considering the limited remaining operating hours for the turbines.

C. Mystic's "Campus Segregation Project" consists of re-routing steam piping and other interconnection facilities to enable the use of an existing boiler associated with the Mystic Unit 7 steam turbine generating unit (expected to be decommissioned in May 2022) to provide start-up steam used for cooling the turbine blades in the Mitsubishi 501G combustion turbines that are the prime movers for the Mystic 8 and 9 units. The work described in the ultimate work plan (provided in response to NES-MYS-1-06b), describing the $6,250,000 in work involved in reconfiguring the interconnection arrangements for the Mystic 7 boiler is pre-COSA O&M and is not appropriately characterized as rate base capital expenditures. The $6.25 million in costs for "[r]eplacement of retired support utilities; *i.e.,* power, water, communications, with utilities provided by Mystic 8&9" shown in line 41 of Attachment A (Public) to the April 1 Posting should be removed in their entirety from Mystic 8 and 9 rate base and are not entitled to recovery under the COSA (citations omitted).

Response:

A.

The fact that the CRI costs are and/or will be incurred prior to the Term of the Mystic Agreement does not bar Mystic from recovering those costs as 2022 capital expenditures. *See Constellation Mystic Power*, 172 FERC ¶ 61,044 at P 87 (2020) ("[W]e agree with Mystic's request for rehearing and clarify the additional language in the true-up protocols specifying the requirement that Mystic demonstrate the timing of capital expenditure projects. First, we clarify that the Commission's requirement is informational; **it would not necessarily preclude Mystic from recovering capital expenditures incurred prior to the term of the Mystic Agreement**. Second, we agree with Mystic that, to meet this requirement, Mystic could '[i]nclude a description of the project(s), the need for the project(s), the alternatives considered with respect to the least-cost alternatives, the expected start and completion date(s), and the project costs,' but should also include documentation of when the project was initially scheduled and justification for the proposed start and completion date(s).") (emphasis added).

ENECOS have provided no explanation for why they believe the CRI costs are O&M costs, which makes it impossible for Mystic to respond to this unsupported conclusory statement. The

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Protocols state that "A party submitting an Informal Challenge must specify the inputs, supporting explanations, allocations, calculations, or other information to which it objects, and **provide an appropriate explanation and documents, as applicable, to support its challenge**." (emphasis added). ENECOS have not met this threshold here.

B.

Mystic has provided ample material demonstrating that the CRI expenditures are necessary to meet the reliability need and are the least-cost commercially reasonable option consistent with Good Utility Practice. *See* Responses to NES-MYS-3-02; NES-MYS-3-03, NES-MYS-1-02, and ENC-MYS-1-06. These responses show that Exelon Generation's supply organization negotiated the best possible value using the supply process. Given the proprietary technology at issue, it was commercially reasonable to only consider Mitsubishi Power Systems Americas, Inc., the OEM, to perform the CRIs, because the OEM is the only company with the capability and qualifications to perform the work. *See* April 1, 2021 Informational Posting, Attachment B at P 13 ("Mystic does not have any alternatives to complete the project and it cannot competitively bid out the project. The work must be done by the manufacturer"). Further, Mystic has demonstrated that the CRI projects needed to be completed in order to ensure the reliable operation of Mystic 8&9 during the Term of the Mystic Agreement, based, among other things, on a review and application of prudent industry practices such as review of past failures, consideration of OEM recommendations, third party independent opinion, and the experience and judgement of Mystic personnel gained through the operation of Mystic 8&9 over a period of 19 years, and also gained through significant other experience operating electric generating plants.

The decision to perform the CRIs was made in the context that the Mystic Agreement simultaneously exposes Mystic to substantial penalties if it does not meet its performance obligations while limiting Mystic's flexibility to actually meet those same obligations through means normally available to it, such as through purchase of replacement capacity. *See* April 1, 2021 Informational Posting, Attachment B at P 17 (citing Mystic Agreement Sections 3.3 and 3.7). The penalty risks are unprecedented because it was and is intended that Mystic should not take chances when it came to making sure that the Mystic units were available. In this context, Mystic reasonably determined there was a need for the CRI projects based on OEM recommendations, the third-party independent opinion that it received from Black & Veatch, and recent pre-CRI inspection results in its fleet, *see* Response to MYS-NES 3-02, the results of which demonstrated that the CRI projects were needed to ensure the reliable operation of Mystic 8&9 during the Term of the Agreement. This determination, based on these considerations, is prudent and consistent with Good Utility Practice. In the experience of Mystic personnel, this is the best way to assess whether there is a failure of the equipment. Other studies, such as finite element analysis ("FEA"), are not appropriate and do not provide meaningful information in this context.

[BEGIN CUI//PRIV-HC] [redacted]

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[redacted] **[END CUI//PRIV-HC]**

The fact that the CRI expenditures will provide continued service certification for a period beyond the Term of the Agreement is irrelevant; Mystic made the decision to do the CRI projects so that Mystic can reliably operate for the Term of the Mystic Agreement. If Mystic continues to operate past the Term, the Commission has said the clawback will apply to all costs, less depreciation, for repairs and capital expenditures that were needed to continue operation of Mystic 8&9 during the Term of the Agreement. *See Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at P 208 (2018). Further, Mystic disagrees that a FEA is an "accepted industry practice" in determining the continued serviceability or reliable performance of a Gas Turbine Rotor. Mystic is unaware of a FEA analysis ever having been used to predict failures or out of specification conditions for gas turbine rotors like Mystic's. Such an analysis has at best limited value in this context, because the equipment being analyzed is too complex and operational historical data too difficult to expect reliable results. ENECOS have provided nothing but conclusory statements to the contrary.

C.

The fact that the campus segregation project was performed prior to the Term does not mean that the costs are not recoverable as 2022 capital expenditures. *See* Response to Part A. Mystic has demonstrated that it was necessary to perform this work prior to the Term so that Mystic 8&9 can reliably operate during the Term. *See* April 1, 2021 Informational Posting, Attachment B (Affidavit) at PP 14-16; Responses to NES-MYS-1-06. Mystic has also demonstrated that it chose the least-cost option for this project. *See id.*; NES-MYS-1-06b Aux Boiler-FP Segregation for EPCAC PRESO Jan 26_CUI-PRIV.pdf [Bates Number 000001055 - 000001081]. ENECOS have provided no explanation for why they believe this project should be classified as O&M, which makes it impossible for Mystic to respond to this unsupported conclusory statement. Mystic classifies the property as capital because the scope of work can be capitalized under the Exelon capital process, which is consistent with GAAP. The Protocols state that "A party submitting an Informal Challenge must specify the inputs, supporting explanations, allocations, calculations, or other information to which it objects, and **provide an appropriate explanation and documents, as applicable, to support its challenge**." (emphasis added). ENECOS have not met this threshold.

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ENECOS Informal Challenge No. 2021-4

Informal Challenge:

A. Mystic's "rate base" for the Everett Marine Terminal was set to zero by the Commission's Order Accepting Agreement, Subject to Condition, and Directing Briefs in *Constellation Mystic Power, LLC*, 165 FERC ¶ 61,267 at PP 148-151 (2018), *reh'g denied*, 172 FERC ¶ 61,044 at PP 117-120 (2020), *appeal pending sub nom. Constellation Mystic Power, LLC v. FERC*, No. 20-1343 (D.C. Cir. filed Sept. 8, 2020). The rate base claimed by Mystic at line 5 of page 69 of 74 of Attachment C to the April 1 Posting (Everett Schedule D page 1) implies that Mystic has added $33,075,000 in rate base to the Everett Marine Terminal over the period from acquisition of the Everett Marine Terminal effective November 1, 2018, through December 31, 2021. During the Information Exchange period following the April 1 Posting, Mystic declined to respond to any information requests concerning the basis for its assertion at Everett Schedule D page 1 that it is entitled to a return of and on the $33,075,000 in EMT-related expenditures through December 31, 2021. In the absence of any supporting data, and given Mystic's practices elsewhere in attempting to characterize pre-COSA O&M as capital expenditures entitled to inclusion in rate base, the $33,075,000 in claimed "rate base" in the Everett Marine Terminal appear to be pre-COSA O&M expenditures that are not entitled to recovery under the COSA. ENECOS also note that the Commission-approved allocation of 91 percent of the costs of the Everett Marine Terminal to ISO-NE customers (172 FERC ¶ 61,044 at P 64) is pending review before the United States Court of Appeals for the District of Columbia Circuit in No. 20-1343, and reserve their rights with respect to that appeal.

Mystic claims a further $9,525,000 in "RMR CapEx" expenditures related to the Everett Marine Terminal during 2022 (Attachment A (Public) at lines 13-31. Of that $9,525,000, a total of $5,625,000 appears to be ineligible for recovery under the COSA.

B.

The following expenditures are, in whole or in part, pre-COSA O&M costs not entitled to recovery under the COSA:

Line	Description	Amount
13	Liquid Level Gauge Replacement initiated Q1 2022	$ 400,000
14	Cryo Insulation initiated Q1 2022	$ 475,000
15	Balance of Plant Maintenance Capital	$ 500,000
17	Cryogenic Valve Replacement initiated Q1 2022	$ 100,000
18	Balance of Plant Capital Valves initiated Q1 2022	$ 100,000
19	Balance of Plant Capital Motors	$ 100,000
20	Balance of Plant Capital Pumps	$ 100,000
22	MV Electrical System Replacement (completed Q22022)	$ 200,000
23	Firewater Main Replacement/Upgrade	$ 100,000

PUBLIC

24	Hot Air Bypass for SCR (initiated Q4 2020)	$2,050,000
Total Disputed as Ineligible for COSA Recovery		$4,125,000

The following expenditures are unrelated to the provision of fuel to Mystic 8 and 9 and therefore not recoverable under the COSA:

Line	Description	Amount
25	Forward Bollard	$1,100,000
28	Mooring Hooks	$ 400,000
Total Disputed as Unrelated to Fuel Supply to Mystic 8 & 9		$1,500,000

Response

A.

This informal challenge goes beyond the scope of this proceeding. *See* Response to ENECOS Informal Challenge No. 2021-1, which Mystic incorporates by reference. It is does not meet the requirements of an Informal Challenge under the Protocols, which state that "A party submitting an Informal Challenge must specify the inputs, supporting explanations, allocations, calculations, or other information to which it objects, and **provide an appropriate explanation and documents, as applicable, to support its challenge**." (emphasis added). ENECOS' conclusory statements regarding Everett's rate base do not meet this threshold.

B.

This challenge fails to meet the standard described in the Protocols, which state that "[a] party submitting an Informal Challenge must specify the inputs, supporting explanations, allocations, calculations, or other information to which it objects, and **provide an appropriate explanation and documents, as applicable, to support its challenge**." (emphasis added). ENECOS have not met this threshold here.

Here, ENECOS arbitrarily attempts to classify some projects as "pre-COSA O&M" and others as "unrelated to the provision of fuel to Mystic 8 and 9 and therefore not recoverable under the COSA." In neither instance does ENECOS provide any explanation or support for their assertions. Nor do ENECOS provide a basis or explanation for their incorrect position that Everett projects must be directly related to the provision of fuel to Mystic in order to be recoverable. However, even if that standard were applicable (which it is not), the Mooring Hooks and Forward Bollard would meet it as they enable the vessels carrying the fuel for Mystic to safely and securely dock at the Terminal.

PUBLIC

ENECOS Informal Challenge No. 2021-5

Informal Challenge:

Mystic's proposed recovery through Fuel Supply Agreement charges of formula-allocated affiliate-related administrative and general costs is excessive, unjust, and unreasonable. Attachment C (Public) to the April 1 Posting at page 65 of 74 (Everett Schedule A page 1) at line 14 shows an expense of $9,301,457 for "Corporate A&G." It is unclear to what extent, if any, the $2,464,277 in 2022 "Administrative" O&M charges shown in Attachment C (Public) to the April 1 Posting at page 66 of 74 (Everett Schedule B page 1) at line 4 are derived using a formula allocation of affiliate overheads, and ENECOS therefore dispute the appropriateness of the recovery of both the "Corporate A&G" and the "Administrative" O&M charges identified above. ENECOS understand that Exelon uses a "Massachusetts" or a "modified Massachusetts" formula for allocating affiliated A&G overheads. However, because these charges are fundamentally unrelated to the provision of fuel supply to Mystic 8 and 9 and because the Commission has stated that its jurisdiction in this case is limited to the justness and reasonableness of the fuel supply charges imposed by Mystic and does not extend to regulating the cost of service of the Everett Marine Terminal (172 FERC ¶ 61,044 at PP 64-66; 172 FERC ¶ 61,261 at PP 27-28), the recovery of allocated affiliate overheads through Fuel Supply charges is not just and reasonable. Approximately 90 percent of this amount should be eliminated from costs recoverable under the COSA. There has been no finding, and certainly no showing, that the allocation of corporate administrative and general expenses to the Everett Marine Terminal is just and reasonable (citations omitted).

Response:

This Informal Challenge goes beyond the scope of this proceeding. *See* Response to ENECOS Informal Challenge No. 2021-1, which Mystic incorporates by reference. It also appears to be an impermissible collateral attack on the Commission orders authorizing Mystic to recover its expenditures under the FSA.

ENECOS Informal Challenge No. 2021-6

Informal Challenge:

The Commission concluded that it would "no longer require that the Mystic Agreement include the sliding scale mechanism or any other revenue crediting mechanism" against Mystic's recovery of allocated Everett Marine Terminal fixed costs as fuel supply charges (172 FERC ¶ 61,044 at P 66). In the absence of a revenue crediting mechanism under which the proceeds of third-party sales of vaporized LNG will reduce the cost exposure of ISO-NE customers, it is unjust and unreasonable to continue to include the $17,598,473 in 2022 annual fixed pipeline transportation charges shown as an Everett Marine Terminal O&M cost at page 66 of 74 of Attachment C to the April 1 Posting (Everett Schedule B page 1) at line 7, as costs chargeable under the COSA. These pipeline transportation charges should be eliminated from the Everett costs chargeable under the COSA because, in the absence of revenue crediting, third-party sales do not benefit ISO-NE customers.

PUBLIC

Response:

This Informal Challenge goes beyond the scope of this proceeding. *See* Response to ENECOS Informal Challenge No. 2021-1, which Mystic incorporates by reference. It also appears to be an impermissible collateral attack on the Commission orders authorizing Mystic to recover its expenditures under the FSA.

ENECOS Informal Challenge No. 2021-7

Informal Challenge:

ENECOS adopt and join, as though fully set forth herein, in all Informal Challenges submitted by other Interested Parties as to Mystic's April 1 Posting and the charges proposed to be levied on ISO-NE customers as a result of ISO-NE's agreement to the COSA.

Response:

This is not a valid Informal Challenge under the Protocols, which state that "[a] party submitting an Informal Challenge must specify the inputs, supporting explanations, allocations, calculations, or other information to which it objects, and provide an appropriate explanation and documents, as applicable, to support its challenge." ENECOS Informal Challenge 2021-7 does not meet these requirements. Mystic does not consent to ENECOS' invalid request to join Informal Challenges made by other Interested Parties.

Attachment D

Proposed Protective Agreement

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Constellation Mystic Power, LLC) **Docket No. ER21-___-000**

PROTECTIVE AGREEMENT

1. This Protective Agreement is entered into this _____ day of __________________by and between Constellation Mystic Power, LLC (Applicant), and ________________________ _______(Intervenor), and shall govern the use of all documents or materials that are deemed to contain Privileged Material and/or Critical Energy/Electric Infrastructure Information (CEII), as those terms are herein defined, and produced by the Applicant to Intervenor, or vice versa, in connection with the proceeding before the Federal Energy Regulatory Commission (Commission) in Docket No. ER21-___-000. The Applicant and Intervenor are sometimes referred to herein individually as a "Party" or jointly as the "Parties."

2. The Commission's regulations and its policy governing the labeling of controlled unclassified information (CUI) (*see Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff*, 82 Fed. Reg. 18,632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017) establish and distinguish the respective designations of Privileged Material and CEII. As to these designations, this Protective Agreement provides that a Participant:

   A. *May* designate as Privileged Material any material which customarily is treated by that Participant as commercially sensitive or proprietary or material subject to a legal privilege, which is not otherwise available to the public, and which, if disclosed, would subject that Participant or its customers to risk of competitive disadvantage or other business injuries; and

   B. *Must* designate as CEII, any material that meets the definition of that term as provided by 18 C.F.R. §§ 388.113(a),(c).

3. For the purposes of this Protective Agreement, the listed terms are defined as follows:

   A. Participant: As defined at 18 C.F.R. § 385.102(b).

B. Privileged Material:

i. Material (including depositions) provided by a Participant in response to discovery requests or filed with the Commission, and that is designated as Privileged Material by such Participant;

ii. Material that is privileged under federal, state, or foreign law, such as work-product privilege, attorney-client privilege, or governmental privilege, and that is designated as Privileged Material by such Participant;

iii. Any information contained in or obtained from such designated material;

iv. Any other material which is made subject to this Protective Agreement by the Commission, any court, or other body having appropriate authority, or by agreement of the Parties;

v. Notes of Privileged Material (memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses Privileged Material); or

vi. Copies of Privileged Material.

vii. Privileged Material does not include:

a. Any information or document that has been filed with and accepted into the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be privileged by such agency or court;

b. Information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Agreement; or

c. Any information or document labeled as "Non-Internet Public" by a Participant, in accordance with Paragraph 30 of FERC Order No. 630.

viii. Additional Subcategory of Privileged Material:

a. Highly Confidential Privileged Material: A Party may use this designation for those materials that are of such a commercially sensitive nature among the Parties or of such a private, personal nature that the producing Party is able to justify a heightened level of confidential protection with respect to those materials. Highly Confidential Privileged Materials shall include Privileged Materials that present a higher risk of competitive injury if disclosed to Competitive Duty Personnel as determined in good faith by the producing Party, and includes materials such as: (1) information regarding contract negotiations for gas transportation, sales or marketing services; and (2) strategic business or financial plans. Except, for the more limited list of persons who qualify as Reviewing Representatives for purposes of reviewing Highly Confidential Privileged Materials (i.e., Reviewing Representatives that are not Competitive Duty Personnel), such materials are subject to the same provisions in the Confidentiality Agreement as other Privileged Materials.

C. Critical Energy/Electric Infrastructure Information (CEII): As defined at 18 C.F.R. §§ 388.113(a), (c).

D. Non-Disclosure Certificate: The certificate attached to this Protective Agreement, by which Participants granted access to Privileged Material and/or CEII must certify their understanding that such access to such material is provided pursuant to the terms and restrictions of this Protective Agreement, and that such Participants have read the Protective Agreement and agree to be bound by it. Each Party shall provide a copy of the Non-Disclosure Certificate(s) executed by its Reviewing Representative(s) to the other Party prior to such Reviewing Representative(s) receiving access to any Privileged Material and/or CEII.

E. Reviewing Representative: A person who has signed a Non-Disclosure Certificate and who is:

i. an attorney retained by a Party for purposes of this proceeding;

ii. Attorneys, paralegals, and other employees associated for purposes of this proceeding with an attorney described in Paragraph 3.E.i;

iii. An expert or an employee of an expert retained by a Party for the purpose of advising, preparing for, submitting evidence or testifying in this proceeding;

iv. A person designated as a Reviewing Representative by order of the Commission; or

v. Employees or other representatives of a Party with significant responsibility for matters involving this proceeding.

4. Privileged Material and/or CEII shall be made available under the terms of this Protective Agreement only to Parties to this Protective Agreement and only through their Reviewing Representatives as provided in Paragraphs 5–10 of this Protective Agreement. The contents of Privileged Material, CEII, or any other form of information that copies or discloses such materials shall not be disclosed to anyone other than in accordance with this Protective Agreement and shall be used only in connection with this specific proceeding.

5. All Privileged Material and/or CEII must be maintained in a secure place. Access to those materials must be limited to Reviewing Representatives specifically authorized pursuant to Paragraphs 6–9 of this Protective Agreement.

6. Privileged Material and/or CEII must be handled by each Party and by each Reviewing Representative in accordance with the Non-Disclosure Certificate executed pursuant to Paragraph 9 of this Protective Agreement. Privileged Material and/or CEII shall not be used except as necessary for the conduct of this proceeding, nor shall they (or the substance of their contents) be disclosed in any manner to any person except a Reviewing Representative who is engaged in this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Privileged Material and/or CEII, but such copies automatically become Privileged Material and/or CEII. Reviewing Representatives may make notes of Privileged Material, which shall be treated as Notes of Privileged Material if they reflect the contents of Privileged Material.

7. If a Reviewing Representative's scope of employment includes any of the activities listed under this Paragraph 7, such Reviewing Representative may not use information contained in any Privileged Material and/or CEII obtained in this proceeding for a commercial purpose (e.g., to give a Participant or competitor of any Participant a commercial advantage):

A. Energy marketing;

B. Direct supervision of any employee or employees whose duties include energy marketing; or

C. The provision of consulting services to any person whose duties include energy marketing.

8. In the event that a Party wishes to designate a person not described in Paragraph 3.E above as a Reviewing Representative, the Party must seek agreement from the Party providing the Privileged Material and/or CEII. If an agreement is reached, the designee shall be a Reviewing Representative pursuant to Paragraph 3.D of this Protective Agreement with respect to those materials. If no agreement is reached, the Party shall submit the disputed designation to the Commission for resolution.

9. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Privileged Material and/or CEII pursuant to this Protective Agreement unless that Reviewing Representative first has executed and provided the Non-Disclosure Certificate to the Participant disclosing Privileged Material and/or CEII. However, if an attorney qualified as a Reviewing Representative has executed a Non-Disclosure Certificate, any participating paralegal, secretarial, and clerical personnel under the attorney's instruction, supervision, or control need not do so. Attorneys designated Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Agreement, and must take all reasonable precautions to ensure that Privileged Material and/or CEII are not disclosed to unauthorized persons.

10. Any Reviewing Representative may disclose Privileged Material and/or CEII to any other Reviewing Representative as long as both Reviewing Representatives have executed a Non-Disclosure Certificate. In the event any Reviewing Representative to whom Privileged Material and/or CEII are disclosed ceases to participate in this proceeding, or becomes employed or retained for a position that renders him or her ineligible to be a Reviewing Representative under Paragraph 3.D of this Protective Agreement, access to such materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Agreement and the Non-Disclosure Certificate for as long as the Protective Agreement is in effect.

11. All Privileged Material and/or CEII in this proceeding filed with the Commission, or submitted to any Commission personnel, must comply with the Commission's *Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff,* 82 Fed. Reg. 18632 (Apr. 20, 2017) (issued by Commission Apr. 14, 2017). Consistent with those requirements:

A. Documents that contain Privileged Material must include a top center header on each page of the document with the following text: CUI//PRIV. Any corresponding electronic files must also include this text in the file name.

B. Documents that contain High Confidential Privileged Material must include a top center header on each page of the documents with the following text: CUI//PRIV-HC. Any corresponding electronic files must also include this text in the file name.

C. Documents that contain CEII must include a top center header on each page of the document with the following text: CUI//CEII. Any corresponding electronic files must also include this text in the file name.

D. Documents that contain both Privileged Material and CEII must include a top center header on each page of the document with the following text: CUI//CEII/PRIV. Any corresponding electronic files must also include this text in the file name.

E. The specific content on each page of the document that constitutes Privileged Material and/or CEII must also be clearly identified. For example, lines or individual words or numbers that include both Privileged Material and CEII shall be prefaced and end with "BEGIN CUI//CEII/PRIV" and "END CUI//CEII/PRIV".

12. [Reserved for future use]

13. If any Party desires to include, utilize, or refer to Privileged Material or information derived from Privileged Material in pleadings, testimony, or other exhibits to these proceedings in a manner that might require disclosure of such materials to persons other than Reviewing Representatives, that Party first must notify both counsels for the disclosing Party and the Commission, and identify all such Privileged Material. Thereafter, use of such Privileged Material will be governed by procedures determined by the Commission.

14. Nothing in this Protective Agreement shall be construed as precluding any Participant from objecting to the production or use of Privileged Material and/or CEII on any appropriate ground.

15. Nothing in this Protective Agreement shall preclude any Party to this Protective Agreement from requesting the Commission, or any other body having appropriate authority, to find this Protective Agreement should not apply to all or any materials previously designated Privileged Material pursuant to this Protective Agreement. The Commission may alter or amend this Protective Agreement as circumstances warrant at any time during the course of this proceeding.

16. The Parties may amend this Protective Agreement only by mutual consent and in writing; provided, however, that a Party has the right to seek changes to this Protective Agreement from the Commission.

17. Subject to Paragraph 18, the Commission shall resolve any disputes arising under this Protective Agreement pertaining to Privileged Material according to the following procedures. Prior to presenting any such dispute to the Commission, the Participants to the dispute shall employ good faith best efforts to resolve it.

    A. Any Party that contests the designation of material as Privileged Material shall notify the Party that provided the Privileged Material by specifying in writing the material for which the designation is contested.

    B. In any challenge to the designation of material as Privileged Material, the burden of proof shall be on the Party seeking protection. If the Commission finds that the material at issue is not entitled to the designation, the procedures of Paragraph 18 shall apply.

    C. The procedures described above shall not apply to material designated by a Party as CEII. Material so designated shall remain subject to the provisions of this Protective Agreement, unless a Party requests and obtains a determination from the Commission's CEII Coordinator that such material need not retain that designation.

18. The designator will have five (5) days in which to respond to any pleading requesting disclosure of Privileged Material. Should the Commission determine that the information should be made public, the Commission will provide notice to the designator no less than five (5) days prior to the date on which the material will become public. This Protective Agreement shall automatically cease to apply to such material on the sixth (6th) calendar day after the notification is made unless the designator files a motion with the Commission with supporting affidavits, demonstrating why the material should continue to be privileged. Should such a motion be filed, the material will remain confidential until such time as the interlocutory appeal or certified question has been addressed by the Motions Commissioner or Commission, as provided in the Commission's regulations, 18 C.F.R. §§ 385.714, .715. No Party waives its rights to seek additional administrative or judicial remedies after regarding Privileged Material. The provisions of 18 C.F.R. §§ 388.112 and 388.113 shall apply to any requests under the Freedom of Information Act (5 U.S.C. § 552) for Privileged Material and/or CEII in the files of the Commission.

19. Privileged Material and/or CEII shall remain available to Parties until the later of 1) the date an order terminating this proceeding no longer is subject to judicial review, or 2) the date any other Commission proceeding relating to the Privileged Material and/or CEII is concluded and no longer subject to judicial review. After this time, the Party that

produced the Privileged Material and/or CEII may request (in writing) that all other Parties return or destroy the Privileged Material and/or CEII. This request must be satisfied with within fifteen (15) days of the date the request is made. However, copies of filings, official transcripts and exhibits in this proceeding containing Privileged Material, or Notes of Privileged Material, may be retained if they are maintained in accordance with Paragraph 5 of this Protective Agreement. If requested, each Party also must submit to the Party making the request an affidavit stating that to the best of its knowledge it has satisfied the request to return or destroy the Privileged Material and/or CEII. To the extent Privileged Material and/or CEII are not returned or destroyed, they shall remain subject to this Protective Agreement.

20. Regardless of any order terminating this proceeding, this Protective Agreement shall remain in effect until specifically modified or terminated by the Parties. All CEII designations shall be subject to the "[d]uration of the CEII designation" provisions of 18 C.F.R. § 388.113(e).

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties each have caused this Protective Agreement to be signed by their respective, duly authorized representatives as of the first date set forth above.

By: ____

Printed Name: ____

Title: ____

Date: ____

Representing the Applicant

By: ____

Printed Name: ____

Title: ____

Date: ____

Representing Intervenor

UNITED STATES OF AMERICA BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Constellation Mystic Power, LLC) Docket No. ER21-____-000

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Privileged Material and/or Critical Energy/Electric Infrastructure Information (CEII) is provided to me pursuant to the terms and restrictions of the Protective Agreement, that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of Privileged Material and/or CEII, any notes or other memoranda, or any other form of information that copies or discloses such materials, shall not be disclosed to anyone other than in accordance with the Protective Agreement.

By: ____

Printed Name: ________________________________

Title: ______________________________________

Representing: _______________________________

Date: ______________________________________

UNITED STATES OF AMERICA BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Constellation Mystic Power, LLC) Docket No. ER21-____-000

NON-DISCLOSURE CERTIFICATE FOR
COMPETITIVE DUTY PERSONNEL

I hereby certify my understanding that access to Privileged Materials in the above-captioned case is provided to me pursuant to the terms and restrictions of the Protective Agreement in this proceeding, that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of the Privileged Materials, any notes or other memoranda, or any other form of information that copies or discloses Privileged Materials shall not be disclosed to anyone other than in accordance with that Protective Agreement and shall be used only in connection with this proceeding. I acknowledge that my duties and responsibilities include "Competitive Duties" as described in the Protective Agreement and, as such, I understand that I shall neither have access to, nor disclose, the contents of the Privileged Materials that are marked "CUI//PRIV-HC," any notes or other memoranda, or any other form of information that copies or discloses Privileged Materials that are marked as "CUI//PRIV-HC." I acknowledge that a violation of this certificate constitutes a violation of an order of the Federal Energy Regulatory Commission.

By: ____

Printed Name: ______________________________

Title: ______________________________________

Representing: ______________________________

Date: ______________________________________

Mystic 8&9

Atachment A - List of 2022 CapEx Projects

2022 COS Capex (Sept 2021)

Project Name	Project Cost ($s)	Description of Project	Explanation of Need	Expected Start Date	Expected In-Service Date	Least cost commercially reasonable consistent with Good Utility Practice? Alternatives Considered	Project was scheduled for before the Term but delayed into the Term?	Project was scheduled for during the Term but should have been completed
[5M8C21008] MYD8 BOP Capital	500,000	Capex to address emergent material condtions	Based on expected balance of plant capital requirements, derived from historical observations of annual spend	Q2 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M8C19009] MYD8 GT 81/82 Exp Jts 01	200,000	Gas Turbine Exhaust Duct Expansion Joint Replacement. Per Gas Turbine at the 01 joint	Based on annual equipment inspections and known service-duty wear	Q2 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M8C21007] MYD8 Capital Valves	250,000	Replacement of whole valve or capital component of a qualifying valve under the Exelon Capital Process	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M8C22006] MYD8 ST 85 Valves (even)	500,000	Inspection, refurbishment and replacement of capital component of Steam Turbine 85 even numbered stop and control valves under the Exelon Capital Process	Based on annual equipment inspections and known service-duty wear	Q3 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M8C22008] MYD8 Steam Attemperators	100,000	Replacement of Steam Attemperators	Based on annual equipment inspections and known service-duty wear	Q4 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO

[5M8C22013] MYD8 LCB II Replacement	250,000	Replacement of current differential protection relays with interface to Transmition Operator	Based on expectation that OEM will no longer support the equipment by this time	Q2 2022	Q2 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M8C21003] MYD8 CRI GT81	8,031,000	Comprehensive Rotor Inspection (CRI) of Gas Turbine 81 - Remove, transport, dissassemble, static and dynamic inspection,replace components as necessary	Based on annual equipment inspections and known service-duty wear. *See* Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	Q2 2021	Q4 2021	Yes. Manufacturer-recommended maintenance performed by OEM (Mitsubishi). Completion of the project during pre-scheduled Major Inspection outage saves ~$3MM relative to completing project standalone. See Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	NO	NO
[5M8C21004] MYD8 CRI GT82	3,600,000	Replace current rotor with rotor that has recently completed a CRI	Based on annual equipment inspections and known service-duty wear. See Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	Q3 2021	Q4 2021	Yes. Manufacturer-recommended maintenance performed by OEM (Mitsubishi). Completion of the project during pre-scheduled Major Inspection outage saves ~$3MM relative to completing project standalone. See Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	NO	NO
[5M8C21005] MYD8 Compressors	350,000	Replacement of one of three originally installed	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
Mystic 8 Subtotal	**13,781,000**							
[5M9C22001] MYD9 CRI GT93	8,322,953	Comprehensive Rotor Inspection (CRI) of Gas Turbine 93 - Remove, transport, dissassemble, static and dynamic inspection,replace components as necessary	Based on annual equipment inspections and known service-duty wear.See Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	Q4 2020	Q2 2021	Yes. Manufacturer-recommended maintenance performed by OEM (Mitsubishi). Completion of the project during pre-scheduled Major Inspection outage saves ~$3MM relative to completing project standalone. See Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	NO	NO
[5M9C21006] MYD9 Capital Motors	250,000	Replacement of whole motor or capital component of a qualifying motor under the Exelon Capital Process	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q3 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with this informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M9C21007] MYD9 Capital Valves	250,000	Replacement of whole valve or capital component of a qualifying valve under the Exelon Capital Process	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q3 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO

[5M9C22007] MYD9 Steam Attemperators	100,000	Replacement of Steam Attemperators	Based on annual equipment inspections and known service-duty wear	Q3 2022	Q3 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M9C22012] MYD9 LCB II Replacement	250,000	Replacement of current differential protection relays with interface to Transmition Operator	Based on expectation that OEM will no longer support the equipment by this time	Q3 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[5M9C21004] MYD9 CRI GT94	7,755,006	Comprehensive Rotor Inspection (CRI) of Gas Turbine 94 - Remove, transport, dissassemble, static and dynamic inspection,replace components as necessary	Based on annual equipment inspections and known service-duty wear.See Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	Q2 2020	Q1 2021	Yes. Manufacturer-recommended maintenance performed by OEM (Mitsubishi). Completion of the project during pre-scheduled Major Inspection outage saves ~$3MM relative to completing project standalone. See Responses to Informal Challenges NESCOE A-02 and ENECOS No. 2021-3, which Mystic hereby incorporates by reference.	NO	NO
Mystic 9 Subtotal	**16,927,959**							
Mystic 8&9 Subtotal	**30,708,959**							
[5M9C21005] MYD9 Mystic Campus Segregation (Estimated Cost To Complete as of 9/15/21)	8,250,000	Replacement of retired support utilities; i.e., power, water, communications, , with utiliies provided by Mystic 8&9	Mystic 7 will be retired in the COS term. Mystic 7 is the current host of the aux boiler and support utilities. With retirement of the support utilities, replacement needs to be sourced and provision through Mystic 8&9 is the least cost commercially reasonable option	Q2 2020	Q4 2021	YES. Evaluated three additional alternatives, ranging in price from $16.9M (lease of a replacement aux boiler) to $40M (modifying to air cooled gas turbines, electric boiler for steam turbine seal steam supply)	NO	NO
Total 2022 COS Capex	**38,958,959**							

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Atachment A - List of 2022

2022 COS Capex (Sept 2021)									
Project Name	**Project Costs**	**Description of Project**	**Explanation of Need**	**Expected Start Date**	**Expected In-Service Date**	**Least cost commercially reasonable consistent with Good Utility Practice? Alternatives Considered**	**Project was scheduled for before the Term but delayed into the Term?**	**Project was scheduled for during the Term but should have been completed prior to the Term?**
[053C22004] Liquid Level Gauge Replacement	400,000	Replace Level Indication in the two storage tanks	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[053C20011] Cryo Insulation	475,000	Address cryogenic insulation on LNG piping systems that have reached the end of their service life by reinsulating process lines with an insulation system that uses foamglass as the primary insulator.	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[053C19008] BOP Maintenance Capital	500,000	Capex to address emergent material conditions	Based on expected balance of plant capital requirements, derived from historical observations of annual spend	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO

[053C19009] Cryogenic Valve Replacement	100,000	Cryogenic Valve Replacement	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[053C21009] BOP Capital Valves	100,000	Replacement of whole valve or capital component of a qualifying valve under the Exelon Capital Process	Based on expected balance of plant capital requirements, derived from historical observations of annual spend	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent	NO	NO
[053C21010] BOP Capital Motors	100,000	Replacement of whole motor or capital component of a qualifying motor under the Exelon Capital Process	Based on expected balance of plant capital requirements, derived from historical observations of annual spend	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent	NO	NO
[053C21011] BOP Capital Pumps	100,000	Replacement of whole pump or capital component of a qualifying pump under the Exelon Capital Process	Based on expected balance of plant capital requirements, derived from historical observations of annual spend	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent	NO	NO
[053C21017] MV Electrical System Replace	550,000	Electrical Switchgear and breakers at Medium Voltage system	Based on annual equipment inspections and known service-duty wear	Q2 2021	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent	NO	NO
[053C19006] Firewater Main Repl/Upgrade	100,000	Underground firewater piping and above ground firewater pumps	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO

[053C19007] HA Bypass for SCR (HAB) Repl	2,000,000	Replacement of Hot Air Bypass (HAB) ducting required for emission control of LNG vaporizers exhaust	Based on annual equipment inspections and known service-duty wear	Q4 2020	Q4 2022	Yes. This project represents replacement of original design equipment. The use of alternative solutions (i.e. directed fired burner, internally insulated ducting, electric heaters, etc,) was reconsidered, however each was determined to be inferior, consistent with original conclusions. In summary, no solution with significant technical and/or financial advantages was identified	NO	NO
[053C21005] Forward Bollard	1,100,000	Installation of new Bollard for improved berthing of LNG vessels	Based upon improvement in capability or reliability	Q1 2022	Q3 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent	NO	NO
[053C22007] Structural Suppt Upgr-Conduit	500,000	Replacement of structural supports used for instrumentation and power conduit runs	Based on annual equipment inspections and known service-duty wear	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent	NO	NO
[053C22009] Mooring Hooks	400,000	Installation of new mooring hooks for improved berthing of LNG vessels	Based upon improvement in capability or reliability	Q1 2022	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
[053C220010] Heated Vent Hot Water Piping	700,000	Replacement of hot water piping between heaters and LNG Storage tank heated vents	Material condition of piping necessitates replacement of piping to retain heated vent capabilities	Q3 2021	Q4 2022	Yes. This project represents replacement of original design equipment. The use of alternative solutions (i.e. electric or steam heaters for the vents, increased boiloff compression, etc,) was reconsidered, however each was determined to be inferior, consistent with original conclusions. In summary, no solution with significant technical and/or financial advantages was identified	NO	NO

[053C21021] Tank Base Heater Replacement	1,260,000	Replacement of tank base heaters on Storage Tank T-1	Material condition of heating components necessitates replacement of system to retain foundation heating capabilities	Q3 2021	Q4 2022	Project need and cost estimates determined through long range planning process, as described in Affidavit submitted with informational posting and resubmitted here as Attachment A-1. Any supplemental information on final cost and alternatives studied will be provided in subsequent informational filings after project approval obtained	NO	NO
Everett Marine Terminal Subtotal	**8,385,000**							