

## **AMENDMENT AGREEMENT**



## AMENDMENT AGREEMENT

This agreement to amend (the "Amendment") the Agreement respecting the temporary suspension of electricity production at the Bécancour generating station of TransCanada Energy Ltd., dated June 29, 2009 (the "Agreement") is entered into by the Supplier and the Distributor this 20<sup>th</sup> day of December 2013.

### WHEREAS:

- A. Unless otherwise defined in this Amendment, all capitalized or italicized terms used in this Amendment have the meaning ascribed to them in the Agreement;
- B. The Supplier and the Distributor entered into the Agreement providing for the suspension of the *power plant* during calendar year 2010, with an option to extend such suspension each year thereafter;
- C. Pursuant to the Agreement, electricity production at the *power plant* has been suspended for calendar years 2010, 2011, 2012 and 2013 inclusively, and has been approved by the Régie de l'énergie (the "Régie") to be suspended for calendar year 2014;
- D. The Supplier has entered into a transmission contract with TransCanada PipeLines Limited ("TCPL") regarding firm transportation on the TCPL system from Dawn to GMI EDA, dated 10 March 2006, in regards to the *power plant*, the steam production at the *power plant's* auxiliary boilers and the heating of the *power plant* (the "TCPL Contract"), which TCPL Contract expires on 31 December 2018;
- E. The Distributor has requested from the Supplier, subject to the terms and conditions set forth in this Amendment and its approval by the Régie, certain amendments to the terms of the Agreement to reduce the annual compensation the Distributor pays to the Supplier under the Agreement relating to the unutilized [REDACTED] of firm transportation that is held by the Supplier under the TCPL Contract in respect of the *power plant* (the "TCPL Transport"); and,
- F. The Supplier wishes to accommodate the Distributor's request for the above stated purpose, subject to the terms and conditions of this Amendment and its approval by the Régie.

**NOW, THEREFORE**, the Parties hereto agree as follows:

- A. **The Parties hereby agree to amend sections 10 and 11 of the Agreement by deleting the existing provisions and replacing them with the following provisions, to be effective as of 1 January 2014:**
  - 10. Subject to sections 11 and 12, the Suspension shall commence on 1 January 2010 and expire on 31 December 2017 (the "Suspension Period").
  - 11. The Suspension Period may be extended on an annual basis for successive terms of one (1) year each (each an "Extension Year"), if deemed necessary

by the Distributor, provided that a request from the Distributor to that effect is received by the Supplier no later than 10:00 a.m. (EDT) on 2 July of the third (3rd) year preceding the last calendar year of the Suspension Period and/or the relevant Extension Year, as applicable. For clarity, the first applicable Extension Year under this Agreement shall be the calendar year 2018, for which the Distributor must issue a request to extend the Suspension Period for such Extension Year to the Supplier no later than 10:00 a.m. (EDT) on 2 July 2014.

In such case, the Parties shall, subject to the approval of the Régie, extend the Suspension Period for the relevant Extension Year. If the Suspension Period is so extended, then, subject to section 12, the term "Suspension Period", as used in this Agreement, shall cumulatively include each Extension Year. It is understood that, if the Suspension Period is not so extended by the Parties for a given Extension Year, the Suspension Period shall end on 31 December of the final year of the Suspension Period and may not be resumed in subsequent years, absent express written agreement of the Parties and the approval of the Régie to that effect.

**B. The Parties hereby agree to amend section 24 of the Agreement by deleting the existing provision and replacing it with the following provision, to be effective as of 1 January 2014:**

24. Commencing on 1 January in the 2014 calendar year and throughout the Suspension Period, but subject to the provisions of Article II of Schedule 4 herein, the Supplier shall grant a credit in favour of the Distributor equal to [REDACTED] of the [REDACTED] generated each month by the Supplier in respect of the unutilized Transportation.

For purposes of this section 24, the term "Transportation" includes (i) the [REDACTED] of firm transportation that is held by the Supplier in respect of the *power plant* (the "TCPL Transport"), and (ii) the remaining [REDACTED] of firm transportation that is required for the production of steam at the *power plant's* auxiliary boilers and heating of the *power plant* during the Suspension Period (the "Steam Transport"); where both the TCPL Transport and the Steam Transport are held by the Supplier under a transmission contract with TransCanada PipeLines Limited dated 10 March 2006 (the "TCPL Contract").

The Supplier shall be responsible to optimize, in its sole discretion, the [REDACTED] in respect of the unutilized Transportation.

The Parties acknowledge that, from time to time, the Supplier may use all or a part of the unutilized Transportation to facilitate gas deliveries [REDACTED]. In these circumstances, the Supplier shall grant a credit in favour of the Distributor [REDACTED] of the costs of the unutilized Transportation under the TCPL Contract applied [REDACTED].

For the purposes of this Agreement, [REDACTED] means:

- (i) [REDACTED]
- (ii) [REDACTED]
- (iii) [REDACTED]

- C. The Parties agree to amend the Agreement by incorporating and attaching a new “*SCHEDULE 4*” to the Agreement, which *SCHEDULE 4* shall contain the following provisions:

**SCHEDULE 4**

**Article I: Supplier’s Option for TCPL Transport**

1. During the Suspension Period, the Supplier shall have the right and option (the “**Supplier’s Option**”) [REDACTED]

The right of the Supplier to exercise the Supplier’s Option shall be permanently extinguished at 4:30 p.m. (EDT) on [REDACTED] (the “**Supplier’s Option Deadline**”), unless the Parties agree, in writing, to extend such deadline. If the Supplier elects to exercise the Supplier’s Option, it shall send the Distributor a written notice of such election on or before the Supplier’s Option Deadline.

2. The Distributor acknowledges and agrees that upon the exercise of the Supplier’s Option, the effective date of the release of the Supplier’s obligation under the ESC to hold or use such TCPL Transport or firm gas transportation for the benefit of the *power plant* shall be [REDACTED], or, if the Supplier’s Option Deadline has been extended as per Section 1 above, the day following such extended deadline (the “**Supplier Option Effective Date**”).

**Article II: TCPL Transport Payment Relief**

1. The "Payment Relief Date" shall be the earlier of the following dates:
  - a) the Supplier Option Effective date, if the Supplier has exercised the Supplier's Option; or
  - b) [REDACTED]
2. The Parties agree that commencing on the Payment Relief Date and thereafter throughout the Suspension Period and Re-commissioning Period:
  - a) the Distributor shall be fully relieved, and be fully released and discharged by the Supplier, of its obligation to pay for the TCPL Transport under section 23 of the Agreement;
  - b) for clarity, the Distributor is not relieved of its obligations to pay under section 23 of the Agreement or otherwise under the Amendment Agreement entered into by the Supplier and the Distributor on 20 December 2013 (the "Amendment") for the Steam Transport which, for clarity, is equal to [REDACTED] of firm transportation services under the TCPL Contract, and any extensions or renewals thereof;
  - c) The Supplier shall be fully relieved, and be fully released and discharged by the Distributor, of its obligation under the ESC to hold any of the TCPL Transport or any other transmission contract;
  - d) SCHEDULE 1 and SCHEDULE 2 to the Agreement shall be amended by deleting:

26.3 Natural gas supply contracts  
Suspended with respect to natural gas supply contracts only.

and replacing it with the following provision:

26.3 Natural gas supply contracts  
Suspended with respect to natural gas supply and transmission contracts only in regards to the *power plant*.
  - e) The Supplier shall be fully relieved, and be fully released and discharged by the Distributor, of all of its obligations under section 24 of the Agreement, as modified by the Amendment.

**Article III: Renewal of TCPL Transport and Resumption of the *Power Plant***

1. Notwithstanding any provision of the ESC or the Agreement, the Distributor and the Supplier agree that during the Suspension Period the Supplier shall be relieved of its obligation to extend or renew the TCPL Contract for the TCPL Transport and/or enter into a new transmission contract for the TCPL Transport pursuant to the provisions of the

ESC.

2. For clarity, the Distributor confirms and agrees that the Supplier shall be entitled to extend or renew the TCPL Contract for the Steam Transport or procure any new contracts with respect to the Steam Transport and, if so extended, renewed or procured by the Supplier, the Distributor shall be responsible [REDACTED] obligations associated with such term extensions, renewals or new contracts in accordance with the Agreement and the Amendment.
3. At all times, the Supplier shall have the right to use, modify, renew, extend and replace the TCPL Transport at its sole discretion. After the Payment Relief Date, the Distributor shall not have any right or entitlement to reclaim the TCPL Transport for the *power plant* and the Supplier shall have the right to dispose of the TCPL Transport at its sole discretion.
4. If a request is not sent in a given year to extend the Suspension Period in accordance with section 11 of the Agreement, as modified by the Amendment, the Supplier shall, at its sole discretion, either (i) use the TCPL Transport for purposes of the ESC, to the extent such transmission is available, or (ii) put in place a new transmission agreement or services and/or any other gas supply arrangements required to be entered into by the Supplier in order for the Supplier to meet its obligations under the ESC (collectively, the "New Transmission Arrangements"). In such event, the Distributor acknowledges and agrees that it shall [REDACTED]  
[REDACTED] associated with any New Transmission Arrangements. Notwithstanding anything in the Suspension Agreement or the Amendment, the Parties can mutually agree, in writing, to shorten the Suspension Period if New Transmission Arrangements are available or obtainable in a timely manner for the re-commissioning of the *power plant*.

#### **Article IV: General**

1. In addition to sections VIII ("Assignment") and IX ("General") of the Agreement, the Parties agree that they shall execute and deliver all documents and shall take all reasonable steps, as may be required, for the purpose of fully consummating the covenants and agreements set forth in this SCHEDULE 4, resulting from the exercise of the Supplier's Option.

#### **D. Approval of this Amendment by the Régie**

1. The entry into force of this Amendment shall be conditional upon its approval by the Régie. The Distributor shall apply to the Régie for approval of this Amendment as soon as practicable following its execution and shall act diligently to facilitate the approval process. The Distributor shall pay the legal fees and expenses associated with such application. The Parties acknowledge that should the Supplier be required to intervene in these regulatory proceedings, the Distributor shall pay the Supplier's reasonable legal fees and expenses in connection therewith.

2. If the Régie fails to approve this Amendment in its entirety on or before 1 May 2014 (the “Approval Deadline”), or approves this Amendment on terms not satisfactory to either Party, this Amendment shall be null and void and of no further force or effect. The Parties may agree, in writing, to extend the Approval Deadline.

**E. Miscellaneous**

1. This Amendment, together with the Agreement, constitute the entire agreement between the Parties and supersede any and all prior discussions, agreements or understandings between the Parties on the matters expressly referenced herein.
2. Whenever possible, each provision of this Amendment shall be interpreted to be effective and valid under applicable law. If any provision of this Amendment is held to be prohibited by or invalid under applicable law, the provision shall be ineffective only to the extent of the prohibition or invalidity, without invalidating the remainder of the provision or the remaining provisions of this Amendment.
3. Save and except as expressly amended by the terms of this Amendment, the Agreement shall remain unamended and in full force and effect.
4. In the event of any inconsistency between the terms of this Amendment and the terms of the Agreement, the terms of this Amendment shall prevail to the extent of such inconsistency.
5. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original hereof and shall have the same effect as if all Parties simultaneously executed a single document. Delivery of an executed counterpart of this Amendment by facsimile or electronic mail shall be equally as effective as delivery of an original executed counterpart of this Amendment.

*[Signatures on the next page]*



ACCEPTED AND AGREED TO AS OF THE DATE FIRST ABOVE WRITTEN:

TRANSCANADA ENERGY LTD.

HYDRO-QUÉBEC DISTRIBUTION

Per: (s) William C. Taylor

Per: (s) Daniel Richard

Name: William C. Taylor

Name: Daniel Richard

Title: Senior Vice President, Power

Title: President HQD

Per: (s) Jasmin Bertovic

Per: (s) Hani Zayat

Name: Jasmin Bertovic

Name: Hani Zayat

Title: Vice President, East Power

Title: Director, Energy Supply