

IN THE MATTER OF RC CAPE MAY HOLDINGS, L.L.C.

900 N. Shore Road  
Beesley's Point, NJ 08223

#### ADMINISTRATIVE CONSENT ORDER AMENDMENT

The following SUPPLEMENTAL FINDINGS are made and this ADMINISTRATIVE CONSENT ORDER AMENDMENT ("Amendment") to the January 24, 2006 Administrative Consent Order, the October 31, 2006 Administrative Consent Order Amendment, the January 13, 2010 Administrative Consent Order Amendment, the May 18, 2012 Administrative Consent Order Amendment, the July 17, 2014 Administrative Consent Order Amendment, and the August 9, 2016 Administrative Consent Order Amendment, *In the Matter of RC Cape May Holdings, L.L.C.*, is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection by N.J.S.A. 13:1D-1 *et seq.* and the Air Pollution Control Act of 1954, N.J.S.A. 26:2C-1 *et seq.*, and duly delegated pursuant to N.J.S.A. 13:1B-4 to the Assistant Commissioner for Compliance and Enforcement.

#### SUPPLEMENTAL FINDINGS

1. The New Jersey Department of Environmental Protection ("NJDEP" or "the Department") and Atlantic City Electric Company ("ACEC"), Conectiv Atlantic Generation, LLC, Conectiv, and Pepco Holdings, Inc. (collectively, "Conectiv") entered into an Administrative Consent Order ("ACO") dated January 24, 2006, resolving the Department's claims for, among other things: injunctive relief and civil penalties arising out of alleged

violations of the Prevention of Significant Deterioration ("PSD") requirements in Part C of Title I of the Clean Air Act, 42 U.S.C. §§ 7470-7492, and its implementing regulations, 40 C.F.R. 52.21, and the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 *et seq.*, and its implementing regulations, N.J.A.C. 7:27 *et seq.* at the B.L. England generating station ("B.L. England");

2. ACEC entered into a Purchase and Sale Agreement with RC Cape May Holdings, LLC ("RC Cape May") dated August 15, 2006, pursuant to which ACEC sold B.L. England to RC Cape May;

3. In light of the Purchase and Sale Agreement, the Department, ACEC, Conectiv, Pepco Holdings, Inc. and RC Cape May on October 31, 2006, entered into an Amendment to the January 24, 2006 ACO pursuant to which RC Cape May agreed, among other things, to either Repower or meet the Performance Standards of the January 24, 2006 ACO (Section XII, Stipulations and Preservation of Rights) by the deadlines set forth therein for each unit;

4. Pursuant to an ACO Amendment dated January 13, 2010, the Parties agreed to a revised timeline by which RC Cape May would either Repower or meet the Performance Standards of the January 24, 2006 ACO;

5. Pursuant to an ACO Amendment dated May 18, 2012 ("the 2012 ACO Amendment"), RC Cape May agreed to cease operations at B.L. England Unit 2 as of May 1, 2015 and B.L. England Unit 1 as of September 30, 2013 (which unit is now shut down), and to proceed with Repowering B.L. England Unit 2 by May 1, 2016 (or some later date if RC Cape May requires additional time to finish Repowering);

6. RC Cape May's ability to Repower B.L. England by May 1, 2016 was adversely impacted

by events outside of the company's control, including ongoing legal challenges associated with a proposed pipeline within the New Jersey Pinelands that would bring natural gas to B.L. England. In light of these circumstances, the Department and RC Cape May entered into an ACO Amendment dated July 17, 2014, pursuant to which RC Cape May agreed to shut down B.L. England Unit 2 as of May 1, 2017 until repowering of the unit is completed, except as provided in paragraph 30 of the ACO Amendment.

7. RC Cape May submitted a deactivation notice for B.L. England Units 2 and 3 to PJM Interconnection L.L.C. ("PJM"), the regional grid operator for the area that includes New Jersey, informing PJM of the intent to deactivate the units effective April 30, 2017, as dictated by the July 17, 2014 ACO Amendment.

8. Paragraph 30 of the July 17, 2014 ACO Amendment provides that notwithstanding any other provisions of the ACO Amendment, RC Cape May may continue to operate B.L. England Units 2 and 3 beyond May 1, 2017 if there is a Federal or PJM mandate to continue operating Unit 2 and/or Unit 3, including but not limited to a determination by the Federal Energy Regulatory Commission ("FERC") or PJM that Shut Down of B.L. England Units 2 and/or 3 would adversely affect the transmission of electric energy, or would cause or result in an electric emergency, or FERC's issuance of an order approving a reliability-must-run agreement under Section 205 of the Federal Power Act, 16 U.S.C. § 824d for B.L. England.

9. On January 17, 2017, PJM notified RC Cape May that, based on its preliminary analysis, the proposed deactivation of B.L. England Units 2 and/or 3 could adversely affect reliability of the PJM transmission system prior to the completion of planned upgrades to the transmission system. PJM requested that RC Cape May consider deferring deactivation of B.L. England Units

2 and 3 until such time as these necessary upgrades would be operational. PJM estimated that its period of need would be approximately two years, when the transmission upgrades are expected to be completed.

10. On February 15, 2017, PJM notified RC Cape May that it had completed its analysis and confirmed that deactivation of B.L. England Units 2 and 3 would adversely affect the reliability of the PJM transmission system absent upgrades to the transmission system. PJM accordingly notified RC Cape May that B.L. England Units 2 and 3 are needed to operate beyond their proposed April 30, 2017 deactivation date. The units would operate pursuant to a Reliability-Must-Run (RMR) rate schedule for a period that may extend for two years. A copy of PJM's letter is attached as Exhibit A hereto.

11. On February 24, 2017, RC Cape May replied to PJM that it was willing to continue to operate B.L. England Units 2 and 3 beyond the planned deactivation date of April 30, 2017, subject to the provisions of an RMR rate schedule.

12. An RMR unit is a unit that "must run" at certain times when called upon by PJM, the regional transmission organization ("RTO"), to maintain reliable operation of the interstate transmission system. The designation of an RMR unit is made by PJM, and an RMR rate schedule must be accepted and made effective by FERC.

13. On March 1, 2017, as amended on March 3, 2017, RC Cape May made a Federal Power Act Section 205 filing of an RMR rate schedule with FERC, FERC Docket No. ER17-1083-000. A copy of RC Cape May's filed RMR rate schedule is attached as Exhibit B (the "Filed Rate Schedule").

14. On April 26, 2017, FERC accepted RC Cape May's Filed Rate Schedule, effective May

1, 2017, subject to refund and established a hearing and settlement procedures which are anticipated to result in a final rate schedule. As of May 1, 2017, RC Cape May Units 2 and 3 will operate as RMR units as provided for in the Filed Rate Schedule.

15. The need for the baseline transmission upgrades referenced in PJM's February 15, 2017 letter is further discussed in an "at risk generation" analysis, dated April 20, 2014, prepared by the Transmission Expansion Advisory Commission ("TEAC") and PJM. The analysis determined that the potential deactivation of B.L. England Units 2 and 3 would require significant transmission upgrades, and most of the upgrades would not be expected to be in service until after May 1, 2015, the previous planned shutdown date of B.L. England (prior to the July 17, 2014 ACO Amendment). PJM's Board of Managers subsequently approved these upgrades pursuant to the Regional Transmission Expansion Plan ("RTEP") to mitigate these reliability concerns. PJM currently predicts that most of the necessary upgrades will be in service by June 1, 2019.

16. Paragraphs 20-21 of the July 17, 2014 ACO Amendment provide that B.L. England Unit 2 shall achieve and maintain specified NOx emission rates until May 1, 2017. These limits are incorporated into the Title V permit for B.L. England. Given PJM's determination that Unit 2 must continue to operate for system reliability, these emission rates should continue past May 1, 2017 and for the current term of the Filed Rate Schedule.

17. Paragraph 24 of the July 17, 2014 ACO Amendment provides that continuing to May 1, 2017, B.L. England Unit 3 shall achieve and maintain a specified NOx emission rate and minimize NOx emissions. These limits are incorporated into the Title V permit for B.L. England. Given PJM's determination that Unit 3 must continue to operate for system reliability,

Unit 3 may operate in accordance with the emission rate specified in paragraph 31 below past May 1, 2017 and for the current term of the Filed Rate Schedule or any final rate schedule when such rate schedule is approved by FERC, or for the term of any Extended Final Rate Schedule.

18. In light of these Supplemental Findings, the Department and RC Cape May (collectively, the "Parties") wish to enter into this Amendment, amending the July 17, 2014 ACO Amendment, as follows:

## **ORDER**

### **I. APPLICABILITY**

19. This Amendment addresses only certain parts of the July 17, 2014 ACO Amendment applicable to B.L. England. Nothing in this Amendment shall relieve RC Cape May of unfulfilled requirements imposed on it by the July 17, 2014 ACO Amendment, or any other ACO Amendments, except as explicitly set forth herein.

20. Obligations imposed by this Amendment are imposed pursuant to the police powers of the State of New Jersey for the enforcement of law and the protection of public health, safety, welfare and the environment. No obligations imposed by this Amendment are intended to constitute a debt, claim, penalty or other civil action that could be limited or discharged in a bankruptcy proceeding. Obligations imposed by this Amendment are not subject to the automatic stay of 11 U.S.C. § 362(a), but, instead, fall within the exemption from the automatic stay at 11 U.S.C. § 362(b)(4).

### **II. DEFINITIONS**

21. For purposes of Section III of this Amendment only, "Operating Day" for Unit 2 means

any calendar day on which the unit fires any amount of Fossil Fuel.

22. "B.L. England" means the electric generating station and associated equipment located at 900 North Shore Road, Beesley's Point, Upper Township, Cape May County, New Jersey 08223.

23. For purposes of this Amendment only, "Repower" means the replacement of an existing coal-fired boiler with a new natural gas heat source.

24. "Shut Down" means permanently cease operation of.

25. For purposes of Section III of this Amendment only, "Shut Down Day" means any calendar day during which there is a "Shut Down Period" as defined in the current Title V permit, BOP140002, Ref. # 4, U2 Unit 2 Steam Generator, OS5 Shutdown.

26. For purposes of Section III of this Amendment only, "Start-Up Day" means any calendar day during which there is a "Start Up Period" as defined in the current Title V permit, BOP140002, Ref. # 2, U2 Unit 2 Steam Generator, OS4 Start-Up using No. 2 fuel oil.

### **III. OPERATION AND PERFORMANCE STANDARDS-UNIT 2**

#### **A. Operation of B.L. England Unit 2**

27. Subject to paragraphs 28, 29 and 32 below, RC Cape May may continue to operate Unit 2 in accordance with all applicable permits, laws, rules and regulations until May 1, 2019, in accordance with the Filed Rate Schedule or in accordance with any final rate schedule when such rate schedule is approved by FERC.

28. RC Cape May is limited to operating Unit 2 no more than 4,300 hours per year (the 12-month period from May 1 to April 30) from the Effective Date of this Amendment until Shut Down of the unit. In addition, RC Cape May may operate Unit 2 only in accordance with the

Filed Rate Schedule or in accordance with any final rate schedule when such rate schedule is approved by FERC, and only in accordance with any dispatch instructions and directives from PJM or as required to meet environmental, safety or reliability obligations in accordance with applicable permits, laws, rules and regulations. Unit 2 also must meet the interim NOx emission rate specified in paragraph 29 below.

**B. Interim NOx Emission Rate – B.L. England Unit 2**

29. RC Cape May shall operate B.L. England Unit 2 to continue to achieve and maintain a NOx emission rate of 0.42 lb/mmBtu, 24-hour daily average, and shall utilize best efforts to attain a NOx emission rate less than 0.42 lb/mmBtu. The 0.42 lb/mmBtu limit shall not apply during a Start-up Day or a Shut Down Day, as defined herein, provided RC Cape May undertakes best efforts to minimize NOx emissions during any Start-Up and Shut-Down Periods.

**IV. OPERATION AND PERFORMANCE STANDARDS—UNIT 3**

**A. Operation of B.L. England Unit 3**

30. Subject to paragraphs 31 and 33 below, RC Cape May may continue to operate Unit 3 in accordance with all applicable permits, laws, rules and regulations until May 1, 2019, in accordance with: 1) the Filed Rate Schedule, or 2) any final rate schedule when such rate schedule is approved by FERC, or 3) an Extended Filed Rate Schedule, and only in accordance with any dispatch instructions and directives from PJM or as required to meet environmental, safety or reliability obligations in accordance with applicable permits, laws, rules and regulations. Unit 3 also must meet the NOx emission rate specified in paragraph 31 below.



**B. NOx Emission Rate – B.L. England Unit 3**

31. RC Cape May shall operate B.L. England Unit 3 to achieve and maintain a NOx emission rate of no greater than 2.50 lbs/MWnet-Hr, based on a calendar day average, while operating the unit above 40 MWnet, and shall utilize best efforts to attain a NOx emission rate equal to or less than 2.00 lb/MWnet-Hr. During commencement of operation, i.e., the initial firing of oil up to the time the unit produces 40 MWnet, not to exceed 16 hours per event, RC Cape May will minimize NOx emissions and will inject urea into the boiler furnace once main steam flow reaches 200,000 pounds per hour. During cessation of operation, i.e., end-firing of oil while operating below 40 MWnet, not to exceed 4 hours per event, RC Cape May will minimize NOx emissions and will inject urea into the boiler furnace until main steam flow drops below 200,000 pounds per hour.

**V. REPOWERING AND SHUT DOWN OF B.L. ENGLAND**

32. RC Cape May shall Shut Down B.L. England Unit 2 no later than April 30, 2019, and thereafter shall Repower Unit 2 as expeditiously as possible. RC Cape May shall notify the Department within 26 months after the Effective Date of this Amendment whether it intends to Repower Unit 2. If RC Cape May intends on Repowering Unit 2, it shall commence construction of the Repowering project within 36 months after the Effective Date of this Amendment. If RC Cape May does not notify the Department within 26 months that it intends on Repowering Unit 2, or if RC Cape May notifies the Department that it intends on Repowering Unit 2 but does not commence construction of the Repowering project within 36 months of the Effective Date of this Amendment, the Department retains its discretion to withdraw its approval of the operative Title V permit provisions governing Repowering of B.L. England pursuant to the provisions of

N.J.A.C. 7:27-22.3(kk). RC Cape May shall promptly notify NJDEP of the Shut Down of Unit 2 in order to Repower. Thereafter, RC Cape May may continue Repowering Unit 2 but may no longer operate the existing Unit 2.

33. RC Cape May may continue to operate B.L. England Unit 3 until the Filed Rate Schedule, which is set to terminate on April 30, 2019, or any final rate schedule approved by FERC, is terminated pursuant to its termination provisions. If the Filed Rate Schedule or any final rate schedule approved by FERC is extended by mutual agreement of RC Cape May and PJM beyond April 30, 2019 (the "Extended Filed Rate Schedule"), then RC Cape May may continue to operate Unit 3 until the Extended Filed Rate Schedule is terminated pursuant to its termination provisions. Notwithstanding the foregoing, prior to commencement of operation of the Repowered Unit 2, RC Cape May shall Shut Down Unit 3 as provided in the facility's operative Title V permit, BOP140002, U3, OS Summary Ref. #1, page 73 of 229. In the event that RC Cape May determines not to Repower Unit 2, then RC Cape May shall Shut Down Unit 3 no later than the termination of the Filed Rate Schedule, the final rate schedule approved by FERC, or any Extended Filed Rate Schedule. In any event, RC Cape May shall Shut Down Unit 3 no later than 36 months from the Effective Date of this Amendment.

## **VI. CIVIL PENALTY**

34. RC Cape May shall continue to pay a civil penalty of \$3,000 per day for each Operating Day that B.L. England Unit 2 operates after the Effective Date of this Amendment, without the requisite pollution control equipment necessary to ensure that Unit 2 meets the NOx emission rates set forth in Paragraph 17 of the January 13, 2010 ACO Amendment. Payment shall be

made quarterly in arrears by check or wire transfer payable to "Treasurer, State of New Jersey" and shall be submitted to:

New Jersey Department of Environmental Protection  
Director, Air Enforcement  
401 E. State Street  
Mail Code 401-04B  
P.O. Box 420  
Trenton, NJ 08625-0420

## **VII. STIPULATED PENALTIES AND DISPUTE RESOLUTION**

35. Within twenty-one (21) calendar days after receipt of a written demand from NJDEP, and subject to the provisions of this Section VII (Dispute Resolution), RC Cape May shall pay the following stipulated penalties to NJDEP by submitting a check or wire transfer payable to "Treasurer, State of New Jersey" to:

New Jersey Department of Environmental Protection  
Director, Air Enforcement  
Compliance & Enforcement  
401 E. State Street  
Mail Code 401-04B  
P.O. Box 420  
Trenton, NJ 08625-0420

- a. RC Cape May shall pay a stipulated penalty of \$3,000 per day for each day after the Effective Date of this Amendment that B.L. England Unit 2 exceeds the interim NOx emission rate set forth at Paragraph 29 herein.
- b. RC Cape May shall pay a stipulated penalty of \$3,000 per day for each day after the Effective Date of this Amendment that B.L. England Unit 3 exceeds the NOx emission rate set forth at Paragraph 31 herein.
- c. RC Cape May shall pay a stipulated penalty of \$3,000 per day for failure to timely

pay the civil penalties as specified in Section VI (Civil Penalty) of this Section.

36. If RC Cape May disputes its obligation to pay all or part of a demanded stipulated penalty under this Section or civil penalties under Section VI of this Amendment, it may avoid the imposition of a separate stipulated penalty for failure to pay the disputed penalty by depositing the disputed amount in a commercial escrow account pending resolution of the matter. If the dispute is thereafter resolved in RC Cape May's favor, the escrowed amount, plus accrued interest, shall be returned to RC Cape May. If the dispute is resolved in NJDEP's favor, NJDEP shall be entitled to the escrowed amount determined to be due by the Court, plus any accrued interest.

37. If RC Cape May fails to pay stipulated penalties under this Section or civil penalties pursuant to Section VI of this Amendment, NJDEP may institute civil proceedings to collect such penalties pursuant to N.J. Court Rules R. 4:70, assess civil administrative penalties for the violations of this Amendment, or take any other appropriate enforcement action authorized by law. RC Cape May reserves all rights to appeal or otherwise challenge any assessment of or demand for stipulated penalties under this Section or stipulated civil penalties under Section VI and any associated enforcement action under this Amendment.

38. The payment of stipulated penalties does not alter RC Cape May's responsibility to complete all requirements of this Amendment.

### **VIII. REPORTING**

39. Beginning with the first calendar quarter following the Effective Date of this Amendment and continuing every calendar quarter thereafter for the duration of this Amendment, RC Cape

May shall submit within thirty (30) days after the end of each quarter a report identifying the Operating Days, as defined herein, of B.L. England Unit 2 during the preceding quarter and providing to NJDEP the same electronic data (and in the same format) on hourly heat input that RC Cape May provided to the United States Environmental Protection Agency for the preceding quarter.

40. Beginning with the first calendar quarter following the Effective Date of this Amendment and continuing every calendar quarter thereafter for the duration of this Amendment, RC Cape May shall submit within thirty (30) days after the end of each quarter a report identifying the Operating Days, as defined herein, of B.L. England Unit 3 during the preceding quarter and any exceedances of the NOx emission rate set forth in paragraph 31.

#### **IX. FORCE MAJEURE**

41. For the purpose of this Amendment, a "Force Majeure Event" means (a) an event which causes a delay in performing any requirement of this Amendment; or b) a unit malfunction which causes RC Cape May to exceed any emission rates specified under this Amendment, which has or will be caused by circumstances beyond the control of RC Cape May, and which RC Cape May could not have prevented by the exercise of due diligence.

42. If a Force Majeure Event occurs, RC Cape May shall notify NJDEP in writing as soon as practicable, but in no even later than seven (7) business days following the date RC Cape May first knew, or within ten (10) business days following the date RC Cape May should have known by the exercise of due diligence- whatever comes earlier – that the Force Majeure Event caused or may cause such delay or exceedence. In this notice RC Cape May shall reference this

Paragraph and describe the anticipated length of time that the delay or exceedence may persist, the cause or causes of the delay or exceedence, the measures taken or to be taken by RC Cape May to prevent or minimize the delay or exceedence, and the schedule by which those measures will be implemented. RC Cape May shall adopt all reasonable measures to avoid or minimize such delays or exceedences. NJDEP shall notify RC Cape May in writing regarding its claim of Force Majeure within fifteen (15) business days of receipt of the Force Majeure notice provided under this section. If NJDEP determines that a) a delay or exceedence has been or will be caused by a Force Majeure Event, and b) RC Cape May has taken all necessary actions to prevent or minimize the delay or exceedence, the Parties shall stipulate to an extension of the required deadline(s) for all requirement(s) affected by the delay or exceedence for a period of time equivalent to the delay actually caused by such circumstances.

43. RC Cape May shall not be liable for stipulated penalties, or for any exceedence of the 24-Hour NOx emission rates set forth in paragraphs 29 and 31, for a period where the exceedence is caused by a Force Majeure Event under this Section IX.

44. If NJDEP denies RC Cape May's claim that a Force Majeure Event prevented it from meeting the deadlines or Performance Standards as amended herein, RC Cape May must pay the penalties as stipulated in Sections VI and/or VII of this Amendment. If NJDEP denies RC Cape May's claim that a Force Majeure Event prevented it from meeting other obligations under this Amendment, RC Cape May may be subject to the stipulated penalties under the Amendment. For any stipulated penalties that RC Cape May may be subject to because of NJDEP's denial of RC Cape May's claim of Force Majeure, RC Cape May may refuse NJDEP's demand for payment of such stipulated penalties and may raise whatever defenses it is otherwise entitled to

assert in any action brought by NJDEP to enforce any demand for payment.

45. RC Cape May shall bear the burden of proving that any delay in performing any requirement of this Amendment or any exceedence of the 24-Hour NOx emission rates, as set forth herein, after the deadlines specified in this Amendment was caused or will be caused by a Force Majeure Event. RC Cape May shall also bear the burden of proving the duration and extent of any delay or exceedence attributable to a Force Majeure Event. An extension of one compliance date based on a particular Force Majeure Event may, but will not necessarily, result in an extension of a subsequent compliance date.

46. Unanticipated or increased costs or expenses associated with RC Cape May's performance of its obligations under this Amendment shall not constitute a Force Majeure Event. A breach of any of RC Cape May's contracts may, but shall not automatically, constitute a Force Majeure Event.

47. The Parties agree that, depending upon the circumstances related to an event and RC Cape May's responses to such circumstances, the kinds of events listed below could also qualify as Force Majeure within the meaning of this Section: acts of God, acts of War, and acts of terrorism.

#### **X. GENERAL PROVISIONS**

48. Effective Date: This Amendment shall become effective as of May 1, 2017 upon the execution hereof by the Parties.

49. Applicable Law and Venue: This Amendment shall be governed by and construed in accordance with New Jersey law. Any legal action resulting from the implementation of this Agreement shall be brought and adjudicated in the State of New Jersey.

50. Meaning of Terms: Terms that are defined in this Amendment Section II ("Definitions") shall have the meaning given to that term herein. Except as provided in the preceding sentence, terms used in this Amendment that have a definition in applicable State or federal law shall have the same meaning ascribed to them in State or federal law.

51. Other Laws: Except as set forth in this Amendment, nothing shall relieve RC Cape May of its obligation to comply with all other applicable federal, state and local laws and regulations. Except as set forth in this Amendment, nothing shall be construed to prevent or limit the Department's rights to obtain penalties or injunctive relief under any other federal, state or local laws or regulations.

52. No Assignment: No Party may transfer or assign this Agreement or assign any of its rights or duties hereunder without the express prior written consent of the other Party. However, if the Parties do mutually agree to an assignment, all rights and obligations set forth herein shall inure to the benefit of the Parties and to their respective successors and assigns.

53. Complete Agreement: This ACO Amendment, and all extant terms and conditions of previous ACO Amendments, constitute the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in these documents. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this ACO amendment, and in previous ACO Amendments.

54. No Authorship Presumption: Each of the Parties has had an opportunity to negotiate the language of this Amendment in consultation with legal counsel prior to its execution. No presumption shall arise or adverse inference be drawn by virtue of authorship. Each Party hereby



waives the benefit of any rule of law that might otherwise be applicable in connection with the interpretation of this Amendment, including but not limited to any rule of law to the effect that any provision of this Amendment shall be interpreted or construed against the Party who (or whose counsel) drafted that provision. The rule of no authorship presumption set forth in this paragraph is equally applicable to any person that becomes a Party by reason of assignment and/or assumption of this Amendment and any successor to a signatory Party.

55. No Third Party Beneficiary: Nothing herein is intended and nothing herein may be deemed to create or confer any right, action, or benefit in, to, or on the part of any person not a party to this Amendment.

56. Notice: Any communication made by NJDEP to RC Cape May pursuant to this Amendment shall be sent to:

Eric Adolfsen, Plant Manager  
BL England Generating Station  
RC Cape May Holdings, LLC  
900 N. Shore Road  
Beesley's Point, NJ 08223

with a copy to:

John G. Valeri, Jr., Esq.  
Chiesa, Shahinian & Giantomasi PC  
One Boland Drive  
West Orange, NJ 07052

When this Amendment requires written notification to or written communication with NJDEP, such written notification or written communication shall be provided to:

Manager  
Air Compliance & Enforcement  
Southern Regional Office  
2 Riverside Drive, Suite 201  
Camden, New Jersey 08103


with a copy to:

Section Chief  
Environmental Enforcement  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 093  
Trenton, New Jersey 08625-0093

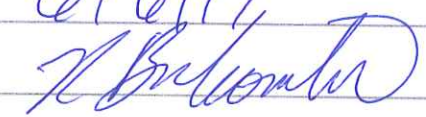
Each party reserves its right to change either the notice recipient or the address for providing notices to it by providing the other parties with a written notice setting forth such new notice recipient or address.

57. Authority and Counterparts: Each undersigned representative of RC Cape May certifies that he or she is fully authorized to enter into and to execute the terms and conditions of this Amendment and legally bind the entity for which he or she signs. Each undersigned representative of NJDEP represents that he or she is fully authorized to enter into the terms and conditions of this Amendment and legally bind NJDEP. This Amendment may be executed in multiple counterparts, each of which shall constitute an original instrument and all of which taken together shall constitute one and the same instrument.

FOR RC CAPE MAY HOLDINGS, LLC

DATED: June 6, 2017  
BY:   
NAME: ERIC ADOLFSEN  
TITLE: PLANT MANAGER

FOR NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

DATED: 6/6/17  
BY:   
NAME: Ray Bukowski  
TITLE: Assistant Commissioner,  
Compliance & Enforcement

