

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

	)	
In re:	)	Chapter 11
	)	
EDISON MISSION ENERGY, <u>et al.</u> , <sup>1</sup>	)	Case No. 12-49219 (JPC)
	)	
Debtors.	)	(Jointly Administered)
	)	

**DECLARATION OF AARON MOSS IN SUPPORT OF EME REORGANIZATION TRUST’S TWENTY-THIRD OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM (AMENDED AND SUPERSEDED CLAIMS AND NO-LIABILITY CLAIMS)**

I, Aaron Moss, declare as follows:

1. I am Vice President of the EME Reorganization Trust (the “Reorganization Trust”), the successor in interest to Edison Mission Energy (“EME”), one of the above-captioned debtors (together with its debtor affiliates, the “Debtors”). I previously served as Vice President and Controller of EME. I submit this declaration (this “Declaration”) in support of *EME Reorganization Trust’s Twenty-Third Omnibus Objection to Certain Proofs of Claim (Amended and Superseded Claims and No-Liability Claims)* (the “Objection”).<sup>2</sup>

2. Except where specifically noted, the statements in this Declaration are based on my personal knowledge, information supplied or verified by employees or advisors of the Debtors and/or the Reorganization Trust that I supervise or former EME employees now

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Edison Mission Energy (1807); Camino Energy Company (2601); Chestnut Ridge Energy Company (6590); Edison Mission Energy Fuel Services, LLC (4630); Edison Mission Finance Co. (9202); Edison Mission Fuel Resources, Inc. (3014); Edison Mission Fuel Transportation, Inc. (3012); Edison Mission Holdings Co. (6940); Edison Mission Midwest Holdings Co. (6553); EME Homer City Generation L.P. (6938); Homer City Property Holdings, Inc. (1685); Midwest Finance Corp. (9350); Midwest Generation EME, LLC (1760); Midwest Generation, LLC (8558); Midwest Generation Procurement Services, LLC (2634); Midwest Peaker Holdings, Inc. (5282); Mission Energy Westside, Inc. (0657); San Joaquin Energy Company (1346); Southern Sierra Energy Company (6754); and Western Sierra Energy Company (1447). The location of the Reorganization Trust’s service address is: 3 MacArthur Place, Suite 100, Santa Ana, California 92707.

<sup>2</sup> All capitalized terms used but otherwise not defined in this Declaration have the meaning set forth in the Objection.

employed by NRG Energy, Inc., my review of relevant documents, or my opinion based upon my experience and knowledge of the Debtors' and Reorganization Trust's operations and financial condition. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am authorized to submit this Declaration on behalf of the Reorganization Trust.

### **Background**

3. In my current position as Vice President and Controller of the Reorganization Trust and my previous position as Vice President and Controller of EME, I am generally familiar with the Debtors' and Reorganization Trust's day-to-day operations, financing arrangements, business affairs, and books and records that reflect, among other things, the Debtors' liabilities and the amounts owed to creditors as of the Petition Date.

4. The Reorganization Trust and its advisors are continuing to review the proofs of claim (collectively, the "Claims"), including supporting documentation, if any, filed together with any proof of claim, and reconciling the proofs of claims with the Debtors' books and records to determine the validity of the proofs of claim. In connection with preparation of the Objection, I: (a) oversaw the review of (i) the claims register maintained by the Reorganization Trust's notice and claims agent, during which time individuals under my supervision identified Claims that should be disallowed and expunged and (ii) the books and records with respect to the Claims described in the Objection; (b) approved the inclusion of the Claims in the Objection; (c) reviewed the Objection and the proposed form of order attached thereto as **Exhibit A**; and (d) reviewed and approved the information contained on **Schedules 1-4** to **Exhibit A** attached to the Objection and the justifications set forth therein. Accordingly, I am familiar with the information contained in the Objection.

## **The Disputed Claims**

### **I. Amended and Superseded Claim**

5. To the best of my knowledge, information, and belief, I have determined that the Amended and Superseded Claim identified on **Schedule 1** to **Exhibit A** to the Objection was amended and replaced by the “Surviving Claim” identified on **Schedule 1** to **Exhibit A** to the Objection. To allow both the Amended and Superseded Claim and the Surviving Claim to remain on the claims register would be duplicative and could potentially lead to multiple recoveries on a single Claim. Accordingly, I believe that the Court should enter an order expunging and disallowing the Amended and Superseded Claim identified on **Schedule 1** to **Exhibit A** to the Objection in its entirety.

### **II. Pension, Tax, and Deferred Compensation and Retirement Benefits Claims Assumed by EIX**

#### **A. The EIX Settlement**

6. I am familiar with the settlement entered into between EME and its ultimate equity owner, Edison International (“**EIX**”).

7. Following commencement of the Chapter 11 cases, the Debtors and the Committee conducted an extensive investigation on behalf of the Debtors’ estates into causes of action and claims that the estates and their creditors potentially could assert against EIX, among others. As a result of this investigation, the parties negotiated and effectuated a settlement of these potential claims.

8. On February 18, 2014, EIX, EME, and certain EME noteholders entered into a settlement agreement [Docket No. 2071] (the “**EIX Settlement**”). Under the EIX Settlement, subject to the terms of the EIX Settlement and the Plan as described below, EIX agreed to

assume and pay when due or required certain federal and state income taxes, pension, and deferred compensation obligations of EME and its Debtor and non-Debtor subsidiaries.

9. Specifically, under section 2(d) of the EIX Settlement, EIX shall, effective as of the effective date of the Plan, “irrevocably assume and shall faithfully pay, perform, discharge, and fulfill, and if applicable, comply with, in each case when due or required, all of the Assumed Liabilities.” Section 1(o) of the EIX Settlement defines the “Assumed Liabilities” as:

collectively, any liability, whether or not contingent, on account of any of the following: (i) any United States federal or any state income taxes of the Consolidated Group [defined as EIX and the affiliated group of corporations which duly elects to file a Consolidated Return], the Company [EME], or any Company Subsidiary [EME Subsidiary], including any interest or penalties and any taxes or charges on account of any audit related to Edison Mission Energy Taupo Ltd.; and (ii) any and all obligations or liabilities of the Company [EME] or the Company Subsidiaries [EME Subsidiaries] (or any affiliate for purposes of the Employee Retirement Income Security Act of 1974) in respect of current and/or former employees of the Company [EME] or the Company Subsidiaries [EME Subsidiaries] (and their respective beneficiaries) or otherwise (including with respect to any operational or documentary defects, prohibited transactions, or fiduciary breaches), whether direct to participants or to any plan, trust (including any multi-employer fund), the Pension Benefit Guaranty Corporation [(the “PBG”)], or otherwise, under or in respect of any qualified pension plan, any non-qualified executive pension plan, other executive retirement plan, or deferred compensation plan administered, sponsored, or maintained, or required to be contributed to by EIX or Southern California Edison (or their affiliates other than the Company [EME] and/or the Company [S]ubsidiaries [EME Subsidiaries]) for which the Company [EME] or the Company Subsidiaries [EME Subsidiaries] could have liability; provided that, for the avoidance of doubt, (1) such plans shall include those plans listed on Schedule 4 [of the EIX Settlement] and (2) the “Assumed Liabilities” shall not include the Retained Liabilities specified in clauses (i)-(iii) of Section 1.yyy [of the EIX Settlement].

10. Schedule 4 to the EIX Settlement sets forth the following pension, retirement, and deferred compensation plans: the Edison International Retirement Plan for Bargaining Unit Employees of Midwest Generation, LLC, the Edison International Retirement Plan for Bargaining Unit Employees of EME Homer City Generation LP, the Southern California Edison Company Retirement Plan, the Southern California Edison Company Executive Retirement Plan,

the Edison International 2008 Executive Retirement Plan, the Edison International Executive Deferred Compensation Plan, the Edison International 2008 Executive Deferred Compensation Plan, the Edison International Affiliate Option Deferred Compensation Plan, the Southern California Edison Company 1985 Deferred Compensation Plan, the Southern California Edison Company Executive Supplemental Benefit Program, the Edison International 2008 Executive Survivor Benefit Plan, the Edison International 2008 Executive Disability Plan (only with respect to current executives), the Edison International 2007 Performance Incentive Plan, the Edison International Equity Compensation Plan, and the Edison International 2000 Equity Plan.

**B. No Liability Claims**

**1. PBGC Pension Claims**

11. I have reviewed the Debtors' books and records and, to the best of my knowledge, information, and belief, I have determined that each PBGC Pension Claim identified on **Schedule 2** to **Exhibit A** to the Objection constitutes a pension-related claim that EIX has agreed to assume pursuant and subject to the EIX Settlement and the Plan. Specifically, the PBGC Pension Claims assert liability under or in respect of the Southern California Edison Company Retirement Plan, the Edison International Retirement Plan for Bargaining Unit Employees of Midwest Generation, LLC, and the Edison International Retirement Plan for Bargaining Unit Employees of EME Homer City Generation LP. Failure to expunge and disallow each PBGC Pension Claim could result in the applicable claimant receiving an unwarranted recovery against the Reorganization Trust, to the detriment of other similarly situated creditors. Accordingly, I believe that the Court should enter an order expunging and disallowing each PBGC Pension Claim identified on **Schedule 2** to **Exhibit A** to the Objection in its entirety.

**2. Deferred Executive Compensation and Retirement Benefits Claim**


12. I have reviewed the Debtors' books and records and, to the best of my knowledge, information, and belief, I have determined that each Deferred Executive Compensation and Retirement Benefits Claim identified on **Schedule 3** to **Exhibit A** to the Objection constitutes a deferred compensation, retirement, or pension related claim that EIX has agreed to assume pursuant and subject to the EIX Settlement and the Plan. Specifically, the Deferred Executive Compensation and Retirement Benefits Claims assert liability under or in respect of some or all of the plans listed on Schedule 4 to the EIX Settlement. Failure to expunge and disallow each Deferred Executive Compensation and Retirement Benefits Claim could result in the applicable claimant receiving an unwarranted recovery against the Reorganization Trust, to the detriment of other similarly situated creditors. Accordingly, I believe that the Court should enter an order expunging and disallowing each Deferred Executive Compensation and Retirement Benefits Claim identified on **Schedule 3** to **Exhibit A** to the Objection in its entirety.

**3. Tax Claims**

13. I have reviewed the Debtors' books and records and, to the best of my knowledge, information, and belief, I have determined that each Tax Claim identified on **Schedule 4** to **Exhibit A** to the Objection constitutes a tax-related claim that EIX has agreed to assume pursuant and subject to the EIX Settlement and the Plan. Specifically, the Tax Claims assert liability on account of the Consolidated Group's California state income taxes. Failure to expunge and disallow each Tax Claim could result in the applicable claimant receiving an unwarranted recovery against the Reorganization Trust, to the detriment of other similarly situated creditors. Accordingly, I believe that the Court should enter an order expunging and disallowing each Tax Claim identified on **Schedule 4** to **Exhibit A** to the Objection in its entirety.

*Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.*

*Dated: April 21, 2014*



*Aaron Möss  
Vice President  
EME Reorganization Trust*