

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

----- X Index No.:

TRANSCANADA CORPORATION and  
TC RAVENSWOOD LLC,

**Summons**

Plaintiffs,

VS

SIEMENS ENERGY, INC., SIEMENS POWER  
GENERATION, INC., and SIEMENS  
WESTINGHOUSE POWER CORPORATION,

Plaintiffs designate New York County as  
the place of trial.

Defendants.

The basis of venue is Plaintiffs'  
designation, CPLR §§ 503(a), (c).

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To the above named Defendant(s):

SIEMENS ENERGY, INC.  
The Quadrangle  
4400 Alafaya Trail  
Orlando, FL 32826

SIEMENS POWER GENERATION, INC.  
4400 Alafaya Trail  
Orlando, FL 32826


SIEMENS WESTINGHOUSE POWER  
CORPORATION  
4400 Alafaya Trail  
Orlando, FL 32826

***YOU ARE HEREBY SUMMONED*** to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York).

***YOU ARE HEREBY NOTIFIED THAT*** in case of your failure to appear or Answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York  
June 12, 2018

CLAUSEN MILLER P.C.

By: 

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New York, NY 10005  
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*Attorneys for Plaintiffs*

Defendants' Addresses:

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New York, NY 10011

SIEMENS POWER GENERATION, INC.  
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Orlando, FL 32826

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4400 Alafaya Trail  
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----- X Index No.:

TRANSCANADA CORPORATION and  
TC RAVENSWOOD LLC,

**COMPLAINT**

Plaintiffs,

vs

SIEMENS ENERGY, INC., SIEMENS POWER  
GENERATION, INC., and SIEMENS  
WESTINGHOUSE POWER CORPORATION,

Defendants.

----- X

Plaintiffs TRANSCANADA CORPORATION and TC RAVENSWOOD LLC, by and  
through their attorneys, Clausen Miller P.C., upon information and belief, hereby allege the  
following:

**I. PARTIES & JURISDICTION**

1. At all relevant times, Plaintiff, TRANSCANADA CORPORATION (hereinafter "TC"), was and is a foreign corporation, organized and existing under the laws of the province of Alberta, Canada, with a principal executive office located in the City of Calgary.
2. At all relevant times, TC conducted business in the United States of America, and owned and/or operated certain business locations and/or had business interests located in Long Island City, New York.
3. At all relevant times, Plaintiff, TC RAVENSWOOD LLC (hereinafter "TCR"), was and is a foreign limited liability corporation, with a principal business location in Long Island City, NY and was at all relevant times, operated as a subsidiary of TC.

4. At all relevant times, TC and/or TCR owned and/or operated a natural gas and oil-fired power generating facility located in Long Island City, NY.
5. At all relevant times, TC and TCR (hereinafter collectively "TC Entities"), were engaged in business in North America as energy companies, including developing and operating energy infrastructure, including, but not limited to, electricity generation facilities in North America, including in Long Island City, NY.
6. At all relevant times, upon information and belief, Defendant SIEMENS ENERGY, INC. (hereinafter "SE"), was and is a foreign corporation, organized and existing under the laws of the State of Delaware, and at all relevant times maintained a principle executive office located at 4400 Alafaya Trail, Orlando, FL.
7. At all relevant times, upon information and belief, Defendant SIEMENS POWER GENERATION, INC. (hereinafter "SPG"), was a foreign corporation, organized and existing under the laws of the State of Delaware, and at all relevant times maintained a principle executive office located at 4400 Alafaya Trail, Orlando, FL.
8. At all relevant times, upon information and belief, Defendant SIEMENS WESTINGHOUSE POWER CORPORATION (hereinafter "SWP"), was a foreign corporation, organized and existing under the laws of the State of Delaware, and at all relevant times maintained a principle executive office located at 4400 Alafaya Trail, Orlando, FL.
9. Upon information and belief, at various times between 1998 and 2008, SWP and SPG amended their corporate names such that at the time of this filing, SE is the current corporate name designation of SWP and/or SPG.
10. At all relevant times, Defendants SE, SPG and SWP (hereinafter collectively "SIEMENS"), were and are energy companies, engaged, in, amongst other businesses, the

development, building, manufacture, repair and/or service of gas and steam turbines and generators for power transmission and generation systems.

11. At all relevant times, upon information and belief, SIEMENS maintained and operated a corporate office located at 527 Madison Avenue, 8<sup>th</sup> Floor, New York, NY.

## **II. FACTUAL ALLEGATIONS**

12. At all relevant times, the TC Entities owned, operated and/or managed a power generation facility known as the Ravenswood Generating Station which is a natural gas fired power plant with a total power generation capacity of 2,480 megawatts, located at 38-54 Vernon Boulevard, Long Island City, NY 11101 (hereinafter "Premises").

13. At all relevant times, the Premises contained, amongst other electricity generating infrastructure, four natural gas-fired electric power generators identified at various times as "Units 10, 20, 30 and 40" respectively and/or as "Ravenswood No. 1, No. 2, No. 3 and No. 4," respectively.

14. Upon information and belief, the Unit 30 generator at the Premises was built by the Allis-Chalmers Corporation in or around 1965 and was recognized as the world's first million kilowatt generator and became popularly known as "Big Allis." Unit 30 has remained in operation at the Premises, excepting periods of maintenance, to the present day.

15. Upon information and belief, prior to September 12, 2008, SIEMENS entered into an agreement providing the Sale of Equipment, Shop Repair and Modernization and Technical Services for Power Generation with KeySpan Energy, the then-owner, manager and/or operator of the Premises and Unit 30, which agreement provided, amongst other things, for

maintenance and/or repair of infrastructure at the Premises, including, Unit 30, by SIEMENS.

16. Upon information and belief, the TC Entities acquired the Premises from KeySpan and/or NationalGrid on or about August 26, 2008.

17. Upon information and belief, on or about September 16, 2008, after acquiring the Premises from KeySpan and/or NationalGrid, Unit 30 was discovered to have a crack that formed in the rotor shaft around one of the radial boreholes (radial lead hole)(hereinafter referred to as "First Incident").

18. Upon information and belief, on or about September 24, 2008, Unit 30's rotor was removed and shipped to SIEMENS, the original equipment manufacturer, for analysis.

19. Upon information and belief, as a result of the First Incident, the TC Entities contracted with SIEMENS pursuant to a Purchase Order for SIEMENS to perform, amongst other services, disassembly of the generator to include winding removal, rotor shaft repair, reassembly, installation and final commission of the repaired generator, on-site.

20. Upon information and belief, the Purchase Order as issued by the TC Entities contained TransCanada Corporation's Terms and Conditions of Purchase Order and Terms and Conditions of P.O. Consulting Services.

21. Upon information and belief, in or around December, 2008, SIEMENS issued an Order Confirmation in which it agreed to provide the equipment and/or services identified in the TC Entities' Purchase Order relative to the work necessary to repair the generator damage suffered as a result of the First Incident.

22. Upon information and belief, SIEMENS performed certain work to repair the crack in the rotor shaft which included, among other activities, welding of a shaft extension in

place of the cracked portion of the rotor shaft, and reassembly of the generator including installation of the repaired rotor and final commissioning on-site.

23. After SIEMENS repaired the damage to Unit 30 from the First Incident, Unit 30 was returned to regular operation at the Premises.

24. After repair from the First Incident, Unit 30 remained in nearly-continuous operation at the Premises as a load balancing unit with its output determined by electricity demand until September 28, 2014.

25. On or about September 28, 2014, Unit 30 tripped while making an operation change on one of the boiler feedwater circulation pumps, and Unit 30 ultimately shut-down.

26. On or about September 29, 2014, the TC Entities restarted Unit 30 and noted high vibrations on bearings 5 and 6 during restart, forcing Unit 30 to again shut-down (hereinafter referred to as the "Second Incident").

27. Subsequent efforts to restart Unit 30 on September 29, 2014, also resulted in detection of high vibrations and Unit 30 was at that time shut-down entirely for mechanical inspection.

28. On or about September 29, 2014, a visual borescope inspection of the rotor revealed that the cause of the Second Incident was a crack in the rotor shaft of Unit 30.

29. Upon information and belief, the rotor crack of the Second Incident was located within nine (9) inches of the rotor crack that caused the First Incident and which SIEMENS repaired.

30. Upon information and belief, the rotor shaft crack involved in the Second Incident occurred in the rotor stub affixed to the rotor during the repairs performed by SIEMENS following the First Incident.

31. Upon information and belief, the crack involved in the Second Incident was not associated with or near the stub weld performed by SIEMENS during the repair following the First Incident.
32. The crack that resulted in the Second Incident was the result of the actions and/or omissions of Defendant SIEMENS in its performance of the repairs following the First Incident, including, but not limited to: 1. SIEMENS mis-machined the threads in the bore of the radial lead in performing the repairs, and 2. SIEMENS made changes in the radial stud bore hole size and upper nut threads in performing the repairs.
33. Due to SIEMENS's conduct, lack of reasonable conduct, negligent acts and/or omissions and/or reckless and/or careless acts and/or omissions, the Second Incident occurred and the TC Entities suffered real and/or business personal property damage as well as business interruption in the form of lost generation capacity in the amount of FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), exclusive of interest and costs of this action.

### **III. CLAIMS FOR RELIEF**

#### **AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS SIEMENS - NEGLIGENCE**

34. Plaintiffs repeat each and every allegation contained in those paragraphs of the Complaint numbered "1" through "33", inclusive, with the same force and effect as though fully and at length set forth herein.
35. Defendants SIEMENS had a duty to exercise reasonable care in performing their services relative to the First Incident repairs to ensure their services did not pose an unreasonable risk of damage to persons and property, including Plaintiffs.



36. Defendants SIEMENS had a duty to exercise reasonable care in performing their services relative to the First Incident Repairs to ensure that any and all work SIEMENS performed on Unit 30, including work to repair the shaft crack and replacement of part of the shaft with a stub shaft or shaft extension, was performed pursuant to all applicable industry practices and standards.

37. Defendants SIEMENS breached the aforementioned duties of care.

38. Defendants SIEMENS breached the aforementioned duties of care and/or failed to use and exercise ordinary care, and were negligent, reckless, and careless in many of their actions in connection with their service and/or repair of Unit 30, including, without limitation, in the following ways:

- a. Improper rotor rewinding of Unit 30 in 2004-2005;
- b. Improper enlarging of the #1 radial stud bore hole during the rotor rewind in Spring 2009;
- c. Improper changes to the #1 radial stud bore hole upper nut threads;
- d. Improper reuse of copper from a 1985 generator rewind in Spring 2009;
- e. Arcing damage caused by the Spring 2009 rewind;
- f. Severe machining defects and miscutting of the upper threads supporting the retaining nut of the #1 Pole radial bore hole during the 2008 repairs;
- g. Improper shot peening of the upper threads of the #1 Pole radial bore hole;
- h. Design changes made in 2005 including changes to rotor blocking;
- i. Design changes made in 2007 including redesign of the J-Strap;
- j. Failing to hire, train and/or retain competent employees to perform service and repairs to Unit 30; and/or

k. In other ways as yet unknown and to be learned in the course of discovery.

39. The aforementioned Second Incident and the cracking of Unit 30's rotor were the direct and proximate result of the aforementioned breaches of duties of care by Defendants SIEMENS, and were the direct and proximate result of negligence *per se*, carelessness, recklessness and/or negligent acts and/or omissions of Defendants SIEMENS, their employees, agents, servants and/or representatives.

40. Plaintiffs will rely upon the doctrine of *res ipsa loquitur*.

41. The damages suffered by Plaintiffs do not ordinarily occur in the absence of someone's negligence.

42. The damages suffered by Plaintiffs were not due to any voluntary action and/or contribution on the part of Plaintiffs.

43. As a direct and proximate result of the aforesaid acts of negligence, negligence *per se*, carelessness, recklessness and/or negligent acts and/or omissions of Defendants SIEMENS, their employees, agents, servants and/or representatives, the Second Incident and cracking of Unit 30's rotor occurred and the TC Entities suffered real and/or business personal property damage as well as business interruption in the form of lost generation capacity in the amount of FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), exclusive of interest and costs of this action.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, for the total amount of Plaintiffs' damages, FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS

(\$57,974,101.50), together with interest, legal fees, costs and such other relief as the Court deems proper.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**AGAINST DEFENDANTS SIEMENS - BREACH OF CONTRACT**

44. Plaintiffs repeat each and every allegation contained in those paragraphs of the Complaint numbered "1" through "43", inclusive, with the same force and effect as though fully and at length set forth herein.

45. Upon information and belief, Plaintiffs and Defendants SIEMENS entered into a written agreement, whereby Defendants SIEMENS agreed to perform certain service, inspection and/or repair work on the Unit 30 rotor following the First Incident (hereinafter "Contract"), so as to repair Unit 30 and return it to functional operation at the Premises.

46. Upon information and belief, expressed and/or implied in the Contract were provisions that Defendants would perform all work in a reasonable, safe, prudent and workmanlike manner, in compliance with all applicable industry standards and practices, and further would use properly trained personnel and would otherwise exercise due care in performance of the Contract.

47. Upon information and belief, Defendants breached their contractual duties and/or breached the implied duties in the Contract by failing to perform all work in a reasonable, safe, prudent and workmanlike manner, in compliance with all industry standards and practices, and further failing to use properly trained personnel and further otherwise failing to exercise due care in performance of the Contract.

48. Defendants' breaches of the Contract include, but are not limited to, breach of the agreement to remain liable for all losses caused by the negligent acts or omissions of

Defendants' employees, and breach of the agreement to provide work, materials and equipment free from defects.

49. As a direct and foreseeable result of Defendants breach of the Contract and/or breach of the implied terms and conditions of the Contract, Plaintiffs sustained damages in the amount of FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), exclusive of interest and costs of this action.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, for the total amount of Plaintiffs' damages, FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), together with interest, legal fees, costs and such other relief as the Court deems proper.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**AGAINST DEFENDANTS SIEMENS - BREACH OF EXPRESS AND IMPLIED WARRANTIES**

50. Plaintiffs repeat each and every allegation contained in those paragraphs of the Complaint numbered "1" through "49", inclusive, with the same force and effect as though fully and at length set forth herein.

51. At all times herein relevant, Defendants made express and/or implied warranties concerning the work Defendants performed to repair Unit 30's rotor following the First Incident.

52. The express and/or implied warranties extended by Defendants include, but are not limited to: 1. The warranty that work performed by SIEMENS including any materials and/or equipment supplied by SIEMENS would be free of defects in workmanship and materials; 2. The warranty that upon notification of a defect SIEMENS would repair or

replace the defective portion of the work or if impractical, refund the compensation received by SIEMENS for the work; 3. That all the Work supplied would be of the kind and quantity specified, free from fault of design, workmanship and material would be new and of merchantable quality and would perform in accordance with the specifications and drawings specified; 4. That if any work failed to conform to the specifications, or was otherwise defective the TC Entities would be entitled to a refund in full, or at the TC Entities' option SIEMENS would promptly repair, correct or replace work at SIEMENS' sole expense; 5. That the services would be performed in an efficient, prompt, economical, skillful and careful manner, in accordance with the methods, standards, and practice then prevailing among leading vendors in the field that the services relate to; 6. The Uniform Commercial Code § 2-314, Implied Warranty of Merchantability; and 7. The Uniform Commercial Code § 2-315, Implied Warranty of Fitness for a Particular Purpose.

53. Defendants' actions and/or omissions as identified hereinabove were in breach of the express and/or implied warranties extended for the repair work relative to the First Incident.

54. Defendants breached their implied warranty of merchantability as the repaired rotor was not merchantable or fit for ordinary purposes; rather, the repaired rotor was defectively designed, manufactured, tested, inspected, distributed, repaired, installed and/or sold.

55. Defendants knew or should have known the particular purpose for which the generator rotor would be used.

56. Defendants had reason to know that their skill and judgment would be relied upon by the TC Entities when contracting for repair of the damaged rotor.

57. As a foreseeable result of the breach of the foregoing expressed and/or implied warranties by Defendants SIEMENS, Unit 30 suffered the Second Incident and second rotor crack and Plaintiffs were damaged in the amount of FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), exclusive of interest and costs of this action.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, for the total amount of Plaintiffs damages, FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), together with interest, legal fees, costs and such other relief as the Court deems proper.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**AGAINST DEFENDANTS SIEMENS – STRICT PRODUCTS LIABILITY**

58. Plaintiffs repeat each and every allegation contained in those paragraphs of the Complaint numbered "1" through "57", inclusive, with the same force and effect as though fully and at length set forth herein.

59. The repaired rotor was defective and unreasonably dangerous when manufactured, assembled, designed, sold, inspected, repaired, tested and/or installed by Defendants.

60. The repaired rotor was defective and unreasonably dangerous when it left Defendants' possession and control.

61. By placing the repaired rotor into service at the Premises, knowing or having reason to know that it was defective and/or dangerous to users, Defendants are strictly liable in tort to the TC Entities.

62. The defective condition of the repaired rotor was the direct and proximate cause of the damages suffered by the TC Entities and Defendants are strictly liable in tort pursuant to §402(a) of the Restatement (Second) of Torts by reason of:

(a.) Designing, manufacturing, assembling, supplying, distributing, installing, repairing, testing and/or selling the repaired rotor that Defendants knew or reasonably should have known subjected Plaintiffs to an unreasonable risk of harm;

(b.) Selling and/or otherwise distributing the repaired rotor with a dangerously defective condition that Defendants knew or reasonably should have known subjected Plaintiffs business to an unreasonable risk of harm;

(c.) Designing, manufacturing, assembling, supplying, distributing, installing, repairing, testing, inspecting and/or selling the repaired rotor with inadequate or defective component parts which Defendants knew or should have known subjected Plaintiffs to an unreasonable risk of harm;

(d.) Failing to design, manufacture, assemble, supply, distribute, install, repair, inspect, test and/or sell the repaired rotor in a condition that was safe for its reasonably foreseeable use;

(e.) Failing to exercise reasonable care and skill in the design, manufacture, assembly, supply, distribution, installation, repair, inspection, testing and/or sale of the repaired rotor's component parts; and/or

(f.) Designing, manufacturing, assembling, supplying, distributing, installing, repairing, testing, inspecting, introducing and/or selling into the stream of commerce a repaired rotor that was unsafe and unsuitable for ordinary purposes for which it was intended.

63. As a foreseeable result of the negligent acts and/or omissions of Defendants SIEMENS, Unit 30 suffered the Second Incident and second rotor crack and Plaintiffs were damaged in the amount of FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), exclusive of interest and costs of this action.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, for the total amount of Plaintiffs' damages, FIFTY-SEVEN MILLION, NINE HUNDRED SEVENTY-FOUR THOUSAND, ONE HUNDRED ONE DOLLARS and FIFTY CENTS (\$57,974,101.50), together with interest, legal fees, costs and such other relief as the Court deems proper.

Dated: New York, New York  
June 12, 2018

CLAUSEN MILLER P.C.



By: \_\_\_\_\_

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