

Exhibit D

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Electricité de France

and

E. ON France

ASSIGNMENT AGREEMENT

Relating to Title II of Addendum N°3 to the Agreement for the Sale of Electricity entered
into on July 1, 1996 between SNET and EDF

30 September 2009

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<i>Agreed Termination Payment Agreement</i>	Paragraph (D)b of the Preamble Article 2.3
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<i>CdS</i>	Paragraph (D)b of the Preamble
<i>CDS Assignment</i>	Paragraph (F) of the Preamble
<i>Commitments</i>	Paragraph (A) of the Preamble
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<i>SNET</i>	Paragraph (D)a of the Preamble
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<i>Unconditional Date</i>	Article 7.1

**AGREEMENT FOR THE ASSIGNMENT OF TITLE II (CLAUSE DE
SAUVEGARDE) OF THE ADDENDUM N°3 TO THE
1996 AGREEMENT**

BY AND BETWEEN:

1. E.ON France SAS with its registered office at 3, rue du quatre septembre, 75002 Paris, and registered with the *Registre du Commerce et des Sociétés* of Paris under No. 501 706 360 (the *Assignee* or *E.ON France*);

AND:

2. Electricité de France SA with its registered office at 22-30, avenue de Wagram, 75008 Paris, France, and registered with the *Registre du Commerce et des Sociétés* of Paris under No. 552 081 317 (the *Assignor* or *EDF*);

(the Assignee and the Assignor hereinafter collectively referred to as the *Parties* or each of them as a *Party*).

PREAMBLE:

- (A) Without acknowledging the infringement of competition laws, E.ON AG, a company incorporated in Germany whose principal office is at 1, E.ON Platz, 40479 Düsseldorf (*E.ON AG*), has agreed with the European Commission in accordance with Art. 9 of Council Regulation No. 1/2003 on the divestment of its extra-high-voltage transmission system and of approx. 4,800 MW of its power generation capacity (the *Commitments*).
- (B) Sec. 13 lit. d of the Commitments provides that E.ON AG may agree with third parties on the acquisition of power plants outside Germany, or drawing rights in respect of power plants outside Germany, by E.ON AG in the same or a similar capacity range as that part of the power generation capacity that is sold to such third parties in order to fulfill the Commitments.
- (C) Within this context, E.ON AG, on its own behalf and on that of its affiliated companies, and EDF, have been party to a memorandum of understanding executed on 28 April 2009 (the *MOU*), which records the common understanding notably of E.ON AG and EDF with respect to certain assets swaps and other transactions between them (the *Transaction*).
- (D) As part of the Transaction, it is in particular contemplated that:
 - a. E.ON France will acquire 18.75% and 16.25% of the shares in Société Nationale d'Électricité et de Thermique, registered with the *Registre du Commerce et des Sociétés* of Nanterre under 399 361 468 (*SNET*) respectively held by EDF and by Charbonnages de France, registered with the *Registre du Commerce et des Sociétés* of Nanterre under 542 008 677 by means of a separate share sale and transfer agreement (the *SNET-SPA*);

- b. E.ON AG and EDF shall collaborate in order to ensure the termination of the currently existing agreement for the sale of electricity entered into on July 1, 1996 between SNET as seller and EDF as purchaser, as amended from time to time (the *1996 Agreement*) at the latest on December 31, 2009, especially as regards the *Clause de sauvegarde* set forth in the Title II of the Addendum n°3 of December 10, 2004 (the *CdS*), with a view to cancel any further financial commitment between SNET and EDF, being noted that the value of the termination of such contract has been assumed to be equal to EUR 105 million (VAT excluded) to be paid to EDF (the *Agreed Termination Payment*).
- (E) SNET is not a party to the MOU and neither its board of directors (*conseil d'administration*) nor its management has been involved in its negotiation. As a consequence, it is anticipated that SNET's board of directors will request time to assess the opportunity for SNET to terminate the 1996 Agreement and pay the Agreed Termination Payment. In addition, before making a decision as to a possible termination of the 1996 Agreement, SNET may decide to consult its works council.
- (F) Taking this into account, with a view to put EDF as soon as practicable in a situation as close as possible to the situation where the 1996 Agreement would be terminated as far as it is concerned, and without involving SNET, EDF and E.ON France (an affiliate of E.ON AG) have agreed to an assignment of the CdS (the *CdS Assignment*) as a result of which, without the CdS being terminated, EDF will receive an amount equivalent to the Agreed Termination Payment and any further financial relation between SNET and EDF under the CdS shall be transferred to E.ON France.
- (G) In addition, and in order to limit EDF's involvement in the execution of the CdS, and in particular in the implementation of Clause 4 of the CdS, the Parties have agreed that EDF would simultaneously grant to E.ON France a power of attorney to represent it in all negotiations with SNET relating to the CdS and the termination of the CdS when SNET will be in a position to make a decision with this regard (the *Power of Attorney*).
- (H) For avoidance of doubt, EDF transfers only the CdS and therefore, rights and obligations under Title I of Addendum N°3 to the 1996 Agreement (which expires on December 31, 2009, except articles 13 and 15 which will expire on December 31, 2019) shall continue between EDF and SNET.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1 - ASSIGNMENT

- 1.1 Subject to Article 11.1, EDF assigns to E.ON France, effective from the Effective Date, all the rights and obligations of EDF under the CdS (respectively the *Rights* and the *Obligations*).
- 1.2 Assignment of the Obligations

(a) Relations between EDF and SNET

As the consent of SNET, EDF's counter-party under the 1996 Agreement, has not been obtained and shall not be sought, the CdS Assignment does not produce any consequences between EDF and SNET as to the Obligations. It is in particular agreed and acknowledged by the Parties that EDF shall not be released of the Obligations *vis-à-vis* SNET.

(b) Relations between E.ON France and SNET

As a result of the CdS Assignment, an additional debtor (i.e. E.ON France), as regards the CdS only, is given to SNET, to which E.ON France is delegated by EDF in accordance with article 1275 of the French Civil Code (*délégation imparfaite*). E.ON France commits itself *vis-à-vis* SNET upon the same terms as the Obligations.

(c) Relations between EDF and E.ON France

In the relation between EDF and E.ON France, it is agreed that E.ON France shall release and hold harmless EDF of all the Obligations that it will have to perform despite the CdS Assignment and that E.ON France will benefit from the Rights.

1.3 Assignment of the Rights

The Rights are assigned by EDF to E.ON France in accordance with article 1689 *et seq.* of the French Civil Code (*cession de créance*).

1.4 Effective Date of the assignment of the Rights and the Obligations

The effective date of the CdS Assignment (the **Effective Date**) shall be January 1, 2010, 00:00. Should the condition precedent set out in Article 11.1 (the **Condition Precedent**) be fulfilled or waived on or after January 1, 2010, the Effective Date will nonetheless be deemed to be retroactively January 1, 2010.

Notwithstanding the foregoing, any termination payment that would be paid by SNET upon termination of the 1996 Agreement or of the CdS prior to the Effective Date would be owed to E.ON France and not to EDF provided the Condition Precedent is fulfilled or waived in accordance with Article 11. Such termination payment will be dealt with in accordance with Article 7.2.

ARTICLE 2 - POWER OF ATTORNEY

- 2.1 EDF grants the Power of Attorney to E.ON France to negotiate and agree with SNET all contractual issues relating to the CdS including (i) the implementation of the CdS and, should SNET consent to it, (ii) the termination of the CdS, effective from December 31, 2009, 24:00 or any subsequent date (but as soon as possible).
- 2.2 E.ON France commits itself to propose to SNET and negotiate the implementation of the CdS on behalf of EDF in compliance with the provisions of clause 4.1.1 or clause 4.1.3 of the CdS before December 31, 2009.
- 2.3 In the framework of clause 4.1.1, E.ON France may propose to SNET to consider a valuation based on forward power markets for one or more years.
- 2.4 For the avoidance of doubt, E.ON France shall not be liable should SNET refuse to agree on the proposals made by E.ON France in accordance with this Article 2.2.

- 2.5 The Power of Attorney shall become effective on the signature date of this agreement (*the Agreement*), i.e., the date hereof.
- 2.6 The Power of Attorney which is accepted by E.ON France is granted in the common interest of the Parties. As a consequence, EDF may not unilaterally early terminate the Power of Attorney and shall refrain from exercising directly the rights included in the scope of the Power of Attorney. E.ON France commits itself to propose to SNET, as soon as reasonably possible, to enter, as soon as possible, into negotiation with a view to terminate the CdS from December 31, 2009. As Title I of Addendum N° 3 to the 1996 Agreement expires on December 31, 2009, any termination of the CdS from December 31, 2009, 24:00, will lead to a termination of the 1996 Agreement (including, for the avoidance of doubt, articles 13 and 15 of Title 1 of Addendum N° 3 of the 1996 Agreement).
- 2.7 E.ON France will inform regularly EDF about the progress of the negotiation with SNET in connection with the Power of Attorney and will submit to EDF, for its prior approval, any proposal of agreement with SNET as long as the Condition Precedent is not satisfied or waived. EDF will have to duly justify any opposition to the proposals submitted to it by E.ON France and shall not be entitled to oppose to an agreement for the termination of the CdS against a lump sum equal or higher than EUR 105,000,000 plus any applicable French VAT.

ARTICLE 3 - CONSIDERATION

- 3.1 In consideration for the CdS Assignment and other transaction provided for in this Agreement, E.ON France shall pay to EDF a lump sum of EUR 105,000,000, plus any applicable French VAT (*the Consideration*).
- 3.2 The Consideration shall be paid to the bank account whose details are stated in Annex 1 on the later of the (i) 4 January 2010 and (ii) the last day of the month during which the Condition Precedent is fulfilled or waived, provided, however, that in the event that the Condition Precedent is fulfilled less than 3 business days before the end of the relevant month, the Consideration shall be paid the last day of the following month and provided further, in each case, that if such last day is not a business day, the Consideration shall be paid on the business day immediately preceding, but with value date on such last day (either (i) or (ii), the *Payment Date*).
- 3.3 Upon satisfaction or waiver of the Condition Precedent, EDF will deliver to E.ON France a valid invoice with respect to the Consideration (mentioning any applicable French VAT and payable on the Payment Date).

ARTICLE 4 - NOTICE TO SNET

- 4.1 As soon as possible after the date hereof, EDF and E.ON France shall jointly notify (recorded delivery) to SNET that E.ON France has been granted by EDF a power of attorney to negotiate and agree with SNET all contractual issues relating to (i) the CdS including the implementation of the CdS and, should SNET consent to it, (ii) the termination of the CdS.
- 4.2 As soon as possible after the Payment Date, EDF and E.ON France shall jointly require a bailiff (*huissier de justice*) to notify the assignment of the Rights to SNET, in accordance with article 1690 of the French Civil Code (*the Notice*).

- 4.3 The Notice shall also state that:
- (a) EDF agrees that it is not released of the Obligations *vis-à-vis* SNET and E.ON France commits itself *vis-à-vis* SNET upon the same terms as the Obligations, resulting in the possibility for SNET to request performance of the Obligations either from E.ON France or EDF;
 - (b) SNET is invited to require performance of the Obligations first from E.ON France, it being specified that should it behave accordingly, this would not be construed as a release of EDF;
 - (c) SNET may not refuse performance of the Obligations by E.ON France and that each such performance will release EDF of the Obligations solely to the extent of such performance, in accordance with article 1236 of the French Civil Code.

ARTICLE 5 - INFORMATION

- 5.1 EDF undertakes to provide E.ON France with all information and copies of all documents relating to the 1996 Agreement that it may reasonably request. Attached as Annex 2 is a list prepared by EDF of all addendums and of all letters affecting the obligations of EDF or SNET which are pertaining to the CdS and are in effect on the date hereof.
- 5.2 In addition, EDF undertakes from the date of the signature of this Agreement, promptly to (i) transfer to E.ON France all documents and (ii) report to E.ON France all information, in both cases pertaining to, or relevant to the CdS.
- 5.3 E.ON France undertakes from the date of the signature of this Agreement, promptly to report to EDF all information, pertaining to, or relevant to the CdS Assignment.

ARTICLE 6 - IMPLEMENTATION

- 6.1 E.ON France shall perform the Obligations under the CdS (including payment obligations) after the Effective Date, as if it were EDF, being specified that Obligations to be performed between the Effective Date and the date of fulfillment or waiver of the Condition Precedent (the **Unconditional Date**) shall be dealt with in accordance with Article 7.1.
- 6.2 As from the later of the Effective Date and the Unconditional Date, EDF undertakes not to perform any of the Obligations under the CdS without first consulting E.ON France, with a view to allow E.ON France to perform the Obligation concerned.

ARTICLE 7 - REIMBURSEMENT OBLIGATIONS

- 7.1 E.ON France undertakes to reimburse without delay all payments made by EDF to SNET pursuant to the Obligations (if any), being specified that payments made by EDF to SNET between the Effective Date and the Unconditional Date shall be reimbursed on the Payment Date.
- 7.2 EDF undertakes to transfer to E.ON France without delay all sums received from SNET pursuant to the Rights (if any), being specified that payments received from SNET between the Effective Date and the Unconditional Date shall be transferred on the Payment Date.

ARTICLE 8 - SNET CLAIMS

- 8.1 E.ON France undertakes in accordance with article 1120 of the French Civil Code (*promesse de porte fort*) that SNET will not make any claim (*action judiciaire*) against EDF in relation to the CdS Assignment or the Power of Attorney.
- 8.2 Should SNET not satisfy this undertaking and decide nonetheless to make a claim against EDF in relation to the CdS Assignment or the Power of Attorney, E.ON France shall hold EDF harmless of such claim. In case of claim of SNET against EDF, E.ON France will support itself all the costs which could result from it.

ARTICLE 9 - NO SET-OFF

The Parties agree that there shall be no set-off between EDF and E.ON France other than in relation to sums due by the other Party in relation to the Rights and Obligations, the CdS Assignment and the Power of Attorney (and other than possible sums in relation to Article 8 above).

ARTICLE 10 - TERMINATION

This Agreement shall terminate one day after the later of (i) the termination of the 1996 Agreement or of the CdS and (ii) the Payment Date. For the avoidance of doubt, any termination payment that would be paid by SNET upon termination of the 1996 Agreement or of the CdS should be owed to E.ON France and not to EDF.

ARTICLE 11 - CONDITION PRECEDENT / ABSENCE OF CLAIM

- 11.1 This Agreement (with the exception of the Power of Attorney and of the transactions that shall be concluded in application thereof) is conditional upon satisfaction or waiver of the conditions precedent set out in Articles 3.1.1 and 3.1.2 of the SNET-SPA (save for the condition precedent set out in its Articles 3.1.2 lit. d of the SNET-SPA that the Condition Precedent of this Agreement shall have been satisfied or waived). To the extent permitted by law, the Parties may at any time jointly waive the Condition Precedent by written agreement.
- 11.2 Notwithstanding the foregoing, this Agreement may be terminated by either Party by sending a written notice to the other Party if the Condition Precedent has not been fulfilled on February 28, 2010, 24:00. If the Condition Precedent is satisfied or waived in accordance with Article 11.1 prior to the effectiveness of such notice (as determined in accordance with Article 15) the notice of termination shall have no effect. If this Agreement is terminated pursuant to this Article 11.2: (i) for the avoidance of doubts, this will not affect the transactions that shall have been concluded in application of the Power of Attorney and (ii) except in case of gross negligence (*faute lourde*) or willful misconduct (*faute intentionnelle*) or manifest bad faith (*mauvaise foi*) which prevents the satisfactory fulfillment of the Condition Precedent, neither Party shall have any claim (*aucun droit*) against the other in relation to this Agreement, including for the avoidance of doubts in relation to the Power of Attorney.

ARTICLE 12 - CONFIDENTIALITY AND PRESS RELEASES

12.1 Confidentiality; Press Releases; Public Disclosure

The Parties undertake to keep the contents of this Agreement secret and confidential *vis-à-vis* any third party except to the extent that (i) the relevant facts are publicly known, (ii) disclosure is required by law or (iii) disclosure is required for the performance of this Agreement. In such case, the Parties shall, however, inform each other prior to such disclosure and shall limit any disclosure to the minimum required by statute or the authorities.

The Parties may only make press releases or other public announcements concerning the transactions contemplated by this Agreement, if and to the extent the form and text of such announcement have first been approved by the other Party.

If an announcement is required by law or by applicable stock exchange regulations, each Party may make such announcement after first consulting the respective other Party.

12.2 Confidentiality

The Parties undertake to keep confidential all information received from each other in connection with this Agreement, unless such information is in the public domain without breaching a confidentiality obligation towards the other Party.

ARTICLE 13 - ASSIGNMENT OF THIS AGREEMENT

Any rights and obligations under this Agreement may not be assigned and transferred, in whole or in part, without the prior written consent of the other Party hereto.

ARTICLE 14 - COSTS AND EXPENSES

Except as provided otherwise in this Agreement, each Party shall bear all costs and expenses incurred or to be incurred by it in connection with the negotiation, execution and performance of this Agreement, including fees, costs and expenses of its own advisors.

ARTICLE 15 - NOTICES BETWEEN THE PARTIES

15.1 Form of notices

Any statement of legal significance, notice or other declaration between the Parties shall be made in writing. The written form shall include fax (but no other transmission by way of telecommunication) and exchange of letters. Any electronic form (e.g. e-mail) shall not replace the written form.

15.2 Notices to the Assignee

Any notice to be given to the Assignee hereunder shall be addressed as follows:

E.ON France SAS

For the attention of: Mr. Antonio Haya

3 rue du Quatre Septembre, 75002 Paris, France

Fax: +33 1 4298-9382
Email: antonio.haya@eon-energie.com

as well as for information purposes to:

E.ON Kraftwerke GmbH
For the attention of: Thomas Jakob
Tresckowstraße 5, 30457 Hannover, Germany
Fax: +49 (511) 439 4378

as well as for information purposes to its advisors:

Freshfields Bruckhaus Deringer LLP
For the attention of: Dr. Anselm Raddatz
Feldmühleplatz 1, 40545 Düsseldorf
Fax: +49 211 4979 65 224
Email: anselm.raddatz@freshfields.com

15.3 Notices to the Assignor

Any notice to be given to the Assignor hereunder shall be addressed as follows:

Electricité de France
For the attention of: Frédéric Mayoux
Direction Optimisation Amont Aval & Trading, 1 place Pleyel 93282 Saint Denis, France Fax: +33 1 43 69 25 45
Email: frederic.mayoux@edf.fr

15.4 Change of Address

The Parties shall notify without undue delay any change of their respective addresses set forth in Articles 15.2 through 15.3 in writing to the respective other Party and to their respective advisors. Until such notification, the address as hitherto shall be relevant.

15.5 Notices to the Advisors

The receipt of notices or of copies thereof in connection with this Agreement by the Parties' advisors shall not constitute or substitute the receipt of such notices by the Parties themselves.

Any notice under this Agreement shall only become effective as soon as the relevant Party has received it, regardless of whether or not such notice has also been sent to the other Party's advisor and irrespective of the fact whether this Agreement provides for a receipt.

ARTICLE 16 - MISCELLANEOUS

16.1 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of France, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

16.2 Arbitration

Any dispute, controversy or claim arising from or in connection with this Agreement or its validity shall be finally settled by three (3) arbitrators in accordance with the Arbitration Rules of ICC. The

place of arbitration shall be Paris. The language of the arbitral proceedings shall be French, provided, however, that written evidence may be submitted in French language.

16.3 Amendments to this Agreement

Any amendment, supplementation or suspension of this Agreement, including of this provision, shall be valid only if agreed in writing.

16.4 Headings; Reference to French Legal Terms; References to Articles

All headings of Articles and paragraphs in this Agreement are for convenience purposes only and shall not be used for purposes of interpreting this Agreement.

Any reference made in this Agreement to any type of company or participation, proceedings, authorities or other bodies, rights, institutions, legal provisions or legal relationships (herein collectively referred to as *Legal Term*) under French law shall comprise any corresponding Legal Term under foreign law to the extent that such foreign law is applicable to the relevant facts and circumstances. To the extent that no such corresponding Legal Term exists under foreign law, the Legal Term whose effect and function is closest to the French Legal Term shall be used instead.

Any reference in this Agreement to Articles which are not followed by reference to a particular legal act or agreement are meant to make reference to an Article of this Agreement.

Any reference in this Agreement to a business day are meant to be a reference to any day, other than a Saturday or a Sunday or a public holiday in France or in Germany.

16.5 Annex

The Annex to this Agreement forms an integral part of this Agreement.

16.6 Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the matters referred to herein and supersedes all previous negotiations, agreements and understandings, whether written or oral, between the Parties with respect to the subject matter of this Agreement. There are no side agreements to this Agreement.

16.7 Severability

If any provision of this Agreement should be or become wholly or partially void, ineffective or unenforceable, the validity, effectiveness and enforceability of the other provisions of this Agreement shall not be affected thereby. Any such void, ineffective or unenforceable provision shall be deemed replaced by such valid, effective and enforceable provision as comes closest to the economic intent and purpose of the void, ineffective or unenforceable provision as regards subject-matter, extent, time, place and scope. The aforesaid shall apply *mutatis mutandis* to any gap in this Agreement.

ANNEX 1

EDF Bank details

Banque	: BNP PARIBAS – Agence centrale
Titulaire compte	: ELECTRICITE DE FRANCE EDF FINANCE SERVICES
Domiciliation	: PARIS AGENCE CENTRALE - 16 bd des Italiens 75009 PARIS
IBAN	: FR76 3000 4008 2800 0109 8006 876
Banque	: 30004
Guichet	: 00828
Compte	: 00010980068 clé 76
SWIFT	: BNPA FR PP

ANNEX 2

List of Addendums and Letters

- 1) Contrat de vente d'électricité conclu entre EDF et la SNET en date du 1er juillet 1996
- 2) Avenant n°3 au Contrat de vente d'électricité conclu entre EDF et la SNET en date du 1er juillet 1996, signed on 10/12/2004
- 3) Avenant n°4 au Contrat de vente d'électricité conclu entre EDF et la SNET en date du 1er juillet 1996, signed on 12/10/2005
- 4) Avenant n°5 au Contrat de vente d'électricité conclu entre EDF et la SNET en date du 1er juillet 1996, signed on 16/02/2007
- 5) Avenant n°6 au Contrat de vente d'électricité conclu entre EDF et la SNET en date du 1er juillet 1996, signed on 05/05/2008
- 6) Avenant n°7 au Contrat de vente d'électricité conclu entre EDF et la SNET en date du 1er juillet 1996, signed on 29/07/2008
- 7) Contrat pour la fourniture de l'énergie électrique produite par le groupe LFC de Carling (groupe 4) en date du 19 décembre 2003 (« Contrat SODELIF »)
- 8) Avenant n°1 au Contrat pour la fourniture de l'énergie électrique produite par le groupe LFC de Carling (groupe 4) en date du 19 décembre 2003, signed on 24/05/2005

Exhibit E