

CAPACITY RELEASE SERVICE AGREEMENT

Capacity Release Agreement No. ____

This Capacity Release Service Agreement (the "Agreement") is entered into as of _____ by and among **Consolidated Edison Company of New York, Inc.** ("Con Edison"), **Orange and Rockland Utilities, Inc.** ("O&R"), _____ ("Capacity Release Seller/Qualified Seller" as these terms are defined in Con Edison's and O&R's Schedules for Gas Service) and _____, Capacity Release Seller/Qualified Seller's Agent/Designee (hereinafter "its Agent"), if an Agent is so designated below.

WITNESSETH:

WHEREAS, Con Edison and O&R desire to release their rights and obligations to certain entitlements of transportation capacity on interstate pipelines; and

WHEREAS, Capacity Release Seller/Qualified Seller (hereafter "Seller") and its Agent (if any) desires to assume such rights and obligations.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, Con Edison, O&R, Seller and its Agent (if any) agree as follows:

1. **Release and Assumption.** Subject to the terms and conditions hereof, Con Edison and O&R will release their capacity rights and obligations (as set forth in the service agreements of certain releasing interstate pipelines) and the Seller and/or its Agent will assume those rights and obligations, effective November 1, 2010, for service under the releasing pipelines' respective Rate Schedules (all such capacity is hereafter referred to as the "Released Capacity" and all such pipelines as "the Pipelines"), based on Seller's projected firm customer pool as of November 1, 2010. On or about October 1st, 2010, Con Edison and O&R will send an electronic mail notification ("Email Notification") to the Seller and/or its Agent advising it of the specific Pipelines and quantities per day of delivery capacity that it is releasing to Seller for the annual period commencing on November 1, 2010. Unless Seller and/or its Agent, within two (2) business days of its receipt of the Email Notification, notifies Con Edison and O&R via return Email that Seller rejects or seeks to revise the Email Notification it shall be binding on the Parties. Any requested revisions to the Email Notification must be accepted by Con Edison and/or O&R by sending a revised Email Notification to Seller before it will be binding on the Parties. The quantity of Released Capacity may increase or decrease from month to month during the period from November 1, 2010 through October 31, 2011 to the extent necessary to reflect changes in Seller's firm customer pool after November 1, 2010. Any such changes in the amount of Released Capacity will be (i) reflected on the applicable Pipeline(s) electronic bulletin board(s) and (ii) sent by Con Edison and O&R via Email Notification to the Seller and shall be subject to all of the terms and conditions set forth in this Agreement.
2. **Conditions.** This release and assumption is conditioned upon the following:
 - (A) Seller and/or its Agent complying with (i) Federal Energy Regulatory Commission ("FERC") regulations and policies, including without limitation regulations and policies addressing "shipper must-have-title" and (ii) Gas Tariffs of the Pipeline(s) on which capacity is released.
 - (B) Seller and/or its Agent paying the Pipelines for the Released Capacity in accordance with the Pipelines' respective FERC Gas Tariffs.
 - (C) Seller and/or its Agent satisfying the credit requirements prescribed by the FERC Gas Tariffs of the Pipelines on which capacity is released and providing Con Edison and O&R, when requested, with appropriate documentation of continued compliance with those requirements. Seller and/or its Agent shall also notify Con Edison and O&R immediately of any change in its financial circumstances that results in non-compliance with the Pipelines' requirements.

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3. Term. The Released Capacity shall be released, at the direction of the Seller, to either the Seller or its Agent, commencing at 10:00 A.M. Eastern Standard Time on November 1, 2010 and shall continue to be released until 10:00 A.M. Eastern Standard Time on November 1, 2011.

4. Character of Release. Capacity releases shall be effectuated in accordance with FERC regulations and Gas Tariff(s) of the Pipelines on which capacity is released. Con Edison's and O&R's release of capacity shall not constitute a guarantee of any particular level of service by the Pipelines on which capacity is released. Con Edison and O&R shall not be liable to Seller and/or its Agent in any way for interruptions of service by the Pipelines, but represent that the Released Capacity will be firm, primary delivery point capacity or will be part of a path of firm, primary delivery point capacity to Con Edison's and/or O&R's Citygates.

5. Tariffs. All parties to this Agreement shall be subject to and bound by the terms and conditions of Con Edison's Service Classification No. 20 of the Schedule for Gas Service-PSC No. 9 Gas, O&R's Service Classification No. 11 of the Schedule for Gas Service-PSC No. 4 (both the Con Edison and O&R Tariff Schedules are hereafter together referred to as "the Schedule"), Con Edison's Gas Sales and Transportation Operating Procedures Manual, O&R's Gas Transportation Operating Procedures Manual (together the Companies' Manuals are referred to as the "GTOP") and the provisions of the Pipelines' FERC Gas Tariffs relating to capacity releases.

6. Receipt Points. Depending on the specific Pipelines on which capacity is released to Seller (see Section 1 above), the following points of receipt shall be available to Seller and/or its Agent: (i) under Con Edison's service agreements with the Pipelines: Texas Eastern: ELA, STX, WLA, M1; Tennessee: Z0 – 100 Leg; Z1 - 500 Leg and Z1 – 800 Leg; Iroquois: Waddington; Transco: Leidy; Transco: Z1-Z6, Z2-Z6, and Z3-Z6; National Fuel: Niagara; Iroquois: Brookfield; Algonquin: Ramapo; and Millennium: Independence; and (ii) under O&R's service agreements with the Pipelines: Columbia: Gulf-Rayne, LA, Leach, KY, Eagle, PA, Milford, PA, Broad Run, WV and Hi Hat Appalachian Pool; Tennessee: Zone 0 100 Leg, Zone 1 500/800 Leg, and Niagara; Texas Eastern: ELA, WLA, STX, ETX and M1; and Algonquin: Hanover, NJ.

7. Delivery Points. Depending on the specific Pipelines on which capacity is released to Seller (see Section 1 above), the following points of delivery (and delivery point entitlements) shall be available to Seller and/or its Agent: (i) under Con Edison's service agreements with the Pipelines: Texas Eastern: Goethals; Tennessee: White Plains; Iroquois: South Commack; Transco: Manhattan; National Fuel: Leidy; Iroquois: Hunts Point; Algonquin: Brookfield; Millennium: Ramapo; National Fuel: Independence and (ii) under O&R's service agreements with the Pipelines: O&R's Citygate Scheduling Point #54 (Columbia); Scheduling Point #40 (Algonquin); Scheduling Point #020293 (Tennessee); and Scheduling Point #600323 (Millennium).

8. Payment of Pipeline Charges, Seller and/or its Agent's Reimbursement Obligation, and Con Edison's and O&R's Termination Right. Seller and/or its Agent shall pay the Pipelines directly for all charges associated with the use of the Released Capacity, including (without limitation) demand charges, commodity charges, taxes, surcharges, fuel allowances, imbalance and overrun charges, penalties, and other applicable charges. If Seller and/or its Agent fails to pay the Pipeline(s) for any charges resulting in Con Edison and/or O&R receiving less than the full credit from the Pipeline(s) to which they or it was otherwise entitled, Seller and/or its Agent shall, no later than five (5) business days after receipt of Con Edison's and/or O&R's invoice, reimburse Con Edison and/or O&R for all such amounts, plus:
 - (a) interest on the unpaid pipeline charges at the rate prescribed for Con Edison by General Rule III. (8) (L) of the Schedule and for O&R in General Information Section 6 (6)(1) of the Schedule and
 - (b) for Con Edison, an amount in respect of Gross Receipts Taxes based upon the applicable total effective percentage increase specified on Con Edison's then-effective Statement of Percentage Increase in Rates and Charges and for O&R, an amount based upon the applicable tax surcharge factor specified on O&R's then-effective "Statement of Increase in Rates and Charges".

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Con Edison and O&R may terminate this Agreement immediately (or at any time thereafter) upon receipt of notice that Seller and/or its Agent has failed to pay the Pipeline(s) for any of the Pipeline charges described above. Such termination shall not affect Con Edison's and/or O&R's right to reimbursement from Seller and/or its Agent as described above.

9. Balancing. Seller and/or its Agent is responsible for:
- (i) monitoring deliveries of gas to and receipts from the Pipelines; and
 - (ii) avoiding, eliminating, or paying for imbalances that arise on the Pipelines' systems because of Seller's and/or its Agent's use of the Released Capacity.
10. Indemnification and Warranty. Seller and/or its Agent shall indemnify, defend and hold harmless Con Edison and O&R from all losses, damages and penalties resulting from the failure by the Seller and/or its Agent to satisfy any of the conditions set forth in Section 2 hereof or to perform any obligation under this Capacity Release Service Agreement with Con Edison and O&R and under the Pipeline(s)' service agreement(s). Seller and its Agent also warrant that capacity released hereunder shall be used only to transport gas to which the holder of the capacity also has title.
11. Recalls of Released Capacity. The Released Capacity, or any portion thereof, may be recalled by Con Edison and/or O&R for any of the following reasons:
- (i) to the extent that the amount of the total Maximum Daily Quantities ("MDQs") for Con Edison or Maximum Aggregated Daily Contract Quantity ("MADCQ") for O&R, applicable to firm customers served by Seller behind Con Edison's or O&R's Citygate decrease (as determined in accordance with the Schedule); or
 - (ii) if Seller and/or its Agent fails to comply with the terms and conditions of the Schedules, Con Edison's or O&R's GTOPI or this Capacity Release Service Agreement; or
 - (iii) if Seller and/or its Agent fails to comply with the Pipelines' capacity release provisions; or
 - (iv) when required to preserve the integrity of Con Edison and/or O&R's facilities and service; or
 - (v) whenever Seller and/or its Agent fails to deliver gas to Con Edison or O&R equal to the aggregate MDQs/MADCQs of Seller's customers.
12. Notices. Any formal communications concerning this Agreement shall be in writing and delivered promptly either by hand, by first class mail, by Email or by facsimile to the appropriate address, as follows:

To: Con Edison and O&R:

Michele Doyle
Manager, Gas Transportation Services and Planning
Consolidated Edison Company of New York, Inc
111 Broadway, Suite 1601
New York, NY 10006
Tel. No.: 212-227-1126 Fax No.: 212-528-0397
Email: doylem@coned.com

Suzanne Sweeney
Manager, Retail Access
Orange & Rockland Utilities, Inc.
390 W. Route 59
Spring Valley, NY 10977
Tel. No: 845-577-3222 Fax: 845-577-362
Email: sweeneys@ORU.com

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To: Seller:

Name: _____

Address: _____

Tel. No.: _____

Fax No.: _____ Email: _____

To: Seller's Agent:

Name: _____

Address: _____

Tel. No.: _____

Fax No. _____ Email: _____

IN WITNESS WHEREOF, the above-identified parties have caused this Capacity Release Service Agreement to be signed by their respective duly authorized representatives as of the date and year first above written.

**CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. AND
ORANGE AND ROCKLAND UTILITIES, INC.**

By: _____
Paul A. Olmsted, Director – Energy Management

SELLER NAME

By: _____
Name/Title

SELLER'S AGENT/DESIGNEE

By: _____
Name/Title