



Orange and Rockland Utilities, Inc.
4 Irving Place
New York NY 10003-0987
www.oru.com

July 20, 2009

Honorable Jaclyn A. Brillig,
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Capacity Release Service

Dear Secretary Brillig:

Orange and Rockland Utilities, Inc. ("O&R" or the "Company") hereby submits for filing the following tariff leaves reflecting revisions to its Schedule for Gas Service, PSC No. 4 – Gas ("Gas Tariff").

10th	Revised Leaf No.	80.2
13th	Revised Leaf No.	80.3
12th	Revised Leaf No.	152.1

These tariff leaves filed electronically today are scheduled to become effective on November 1, 2009.

Reason for Filing

The purpose of this filing is to modify the Company's capacity release service available to Qualified Sellers ("Sellers") serving firm transportation customers. Specifically, for the reasons discussed below, the Company is proposing to change the terms under which the Company will release interstate pipeline capacity to Sellers and to revise its Capacity Release Service Adjustment ("CRSA"), a mechanism currently used to credit or surcharge customers for the difference between the average cost of capacity released to Sellers ("maximum rate") and the Company's adjusted weighted average cost of transportation ("Adjusted WACOT").¹

Under the Company's current capacity release program, the Company releases capacity from its capacity portfolio to facilitate end user and Seller participation in the competitive market. In accordance with Commission policy, the capacity release program has been structured so that, on a burner tip basis, capacity is released by the Company at a cost comparable to the Adjusted WACOT paid by full service customers.

Ideally, this policy would be implemented by the Company's releasing to each customer a pro rata "slice" of all firm pipeline capacity in the Company's portfolio at maximum lawful prices. However, operational, administrative, competitive and/or reliability considerations results in the Company's releasing capacity on some but not all of its pipeline suppliers. Accordingly,

¹ As defined in General Information Section 2.2 of the Company's Gas Tariff, the Company's WACOT is adjusted to reduce TransCanada demand charges to the extent necessary to result in comparability between Canadian and domestic commodity costs.

implementation of the Commission's policy has been a two-step process – releasing pipeline capacity on certain of the Company's pipeline suppliers to Sellers, pursuant to pre-arranged deals, at maximum lawful prices, and crediting or surcharging (as applicable) all retail choice customers through the CRSA an amount to bring the net cost of this capacity in line with the Adjusted WACOT reflected in the Company's full service rates.

Prior to a recent revision of federal rules governing the release of capacity on interstate pipelines, prearranged capacity release transactions were permitted only when the price of the released capacity was equal to the maximum rate set forth in the pipeline's Federal Energy Regulatory Commission ("FERC") - approved tariff (18 CFR §284.8(h)(1)). Prearranged capacity releases are necessary for the Company's retail access program in order to assure that the capacity obtained by the Company for its customers remains "dedicated" to the Company's retail markets, and therefore available for use by participating Sellers.

The Company is now proposing to revise its tariff to enable it to release capacity to Sellers at its Adjusted WACOT. The Company's proposed change has been made possible by recent revisions to federal regulations adopted by the FERC in Order 712. Promotion of a More Efficient Capacity Release Market, Order No. 712, 123 FERC ¶ 61,286 (2008) ("Order 712"). In Order 712, the FERC adopted a number of important changes to rules governing capacity release on interstate pipelines. The pertinent changes adopted by FERC applicable to state retail choice programs were (1) an exemption from the long established bidding requirement applicable to capacity releases at less than the maximum rate; and (2) relief from the longstanding requirement that the rate for short term capacity releases not be greater than the pipeline's maximum rate for such capacity. As a result of these changes, releases under the Company's retail access program are exempt from the bidding requirement regardless of the rate at which the Company makes its releases to Sellers. These changes allow the Company to release pipeline capacity to Sellers at a rate equal to the Company's Adjusted WACOT without posting the proposed release transaction for bidding. This means that the Company can enter into prearranged release transactions with the price of the released capacity set to bring the Seller's capacity cost to the Company's Adjusted WACOT.

Under its revised capacity release program (the "New Program"), the Company will calculate a capacity release rate to become effective each November 1 for a twelve-month release term. This capacity release rate will be set at the Company's projected Adjusted WACOT based on rates for each upstream pipeline as published in its FERC tariff. Sellers will pay directly to the Company's pipeline suppliers the Adjusted WACOT established for that twelve-month release term for all interstate pipeline capacity released to them during the twelve-month term.

Under the New Program, the CRSA will be used to credit or charge firm transportation customers for any reconciling amounts associated with the difference between the Adjusted WACOT charged to Sellers during the twelve-month release term and the actual Adjusted WACOT experienced by the Company during the same period. In addition, the CRSA will be used to implement a final reconciliation of the current capacity release program for the twelve-month period ended October 31, 2009, which will be included in the CRSA from November 1, 2009, through October 31, 2010.

Summary of Tariff Changes

General Information Section 12.2, which includes a description of the CRSA, has been revised to define the CRSA as the difference between the projected Adjusted WACOT used to bill Sellers under Service Classification No. 11 for released capacity and the actual Adjusted WACOT for each twelve-month period commencing November 1. In addition, language has been included allowing for a final reconciliation of the current capacity release program.

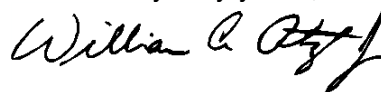
Service Classification No. 11 has been revised to state that pipeline capacity will be released to Sellers at the Company's Adjusted WACOT.

Conclusion and Notice

Enclosed herewith is a "Notice of Proposed Rule Making" for publication in the State Register pursuant to the provisions of the State Administrative Procedures Act. The Company will publish notice of the changes filed today in accordance with the Commission's regulations on newspaper publication.

Any questions regarding this filing can be directed to me at (212) 460-3308.

Very truly yours,



William A. Atzl, Jr.
Director – O&R Rates

NYS DEPARTMENT OF STATE

Notice of Proposed Rule Making

Public Service Commission
(SUBMITTING AGENCY)

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms and nonscannable text attachments will be cause for rejection of this notice.

Pursuant to the provisions of the State Administrative Procedure Act (SAPA), NOTICE is hereby given of the following agency action:

1. Proposed action:

The Public Service Commission (the "PSC") is considering whether to approve, reject, in whole or in part, or modify a proposal filed by Orange and Rockland Utilities, Inc. (the "Company") to make various changes in the charges, rules, and regulations contained in its Schedule for Gas service, P.S.C. No. 4 – Gas, effective November 1, 2009.

2. Statutory authority under which rule is proposed:

Public Service Law, Section 66(12).

3. Subject of rule:

The Company has proposed changes to modify its capacity release service available to Qualified Sellers.

4. Purpose of rule:

The Company is proposing to change the terms under which the Company will release interstate pipeline capacity to Sellers and to revise its Capacity Release Service Adjustment ("CRSA"), a mechanism currently used to credit or surcharge customers for the difference between the average cost of capacity released to Sellers and the Company's adjusted weighted average cost of transportation. The Company is now proposing to revise its tariff to enable it to release capacity to Sellers at its Adjusted WACOT. The Company's proposed change has been made possible by recent revisions to federal regulations adopted by the FERC in Order 712. Promotion of a More Efficient Capacity Release Market, Order No. 712, 123 FERC ¶ 61,286 (2008) ("Order 712")

Under the revised tariff, the CRSA will be used to credit or charge firm transportation customers for any reconciling amounts associated with the difference between the Adjusted WACOT charged to Sellers during the twelve-month release term and the actual Adjusted WACOT experienced by the Company during the same period. In addition, the CRSA will be used to implement a final reconciliation of the current capacity release program for the twelve-month period ended October 31, 2009, which will be included in the CRSA from November 1, 2009, through October 31, 2010.

5. Terms of rule (check applicable box):

The rule contains 2,000 words or less. An original copy of the text in scannable format is attached to this form.

The rule contains more than 2,000 words. Therefore, an original copy of a summary the text (in scannable format) is attached to this form.

Pursuant to SAPA § 202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule containing less than 2,000 words. The original text in scannable format is attached to this form.

6. The text of the rule and any required statements or analyses may be obtained from:

Name of agency contact Margaret Maguire, Clerk II
Office address Three Empire State Plaza
Albany, New York 12223
Telephone number (518) 474-3204

7. Regulatory Impact Statement (RIS) (check applicable box):

- A RIS of 2,000 words or less is submitted with this notice.
- A summary of the RIS is submitted with this notice because the full text exceeds 2,000 words.
- A consolidated RIS is submitted with this notice because:
- the rule is one of a series of closely related and simultaneously proposed rules.
 - the rule is one of a series of virtually identical rules proposed during the same year.
- An RIS is not submitted because this rule is a technical amendment and, therefore, exempt from SAPA § 202-a. Attached to this notice is a statement of the reason(s) for claiming this exemption.
- An RIS is not submitted because this rule is subject to a consolidated RIS printed in the Register under a notice of proposed rule making ID No. PSC-_____; Register date: _____.
- An RIS is not submitted with this notice because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).

8. Regulatory Flexibility Analysis for Small Businesses (RFASB) (check applicable box):

- An RFASB of 2,000 words or less is submitted with this notice.
- A summary RFASB is submitted with this notice because the full text exceed 2,000 words.
- A consolidated RFASB is submitted with this notice because this rule is the first of a series of closely related rules that will be the subject of the same analysis.
- An RFASB is not submitted because this rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses. A statement is attached setting forth this agency's finding and the reasons upon which the finding was made, including what measures were used by this agency to ascertain that this rule will not impose such adverse economic impact or compliance requirements on small businesses.
- An RFASB is not submitted because this rule is subject to a consolidated RFASB printed in the Register under a notice of proposed rule making, ID No. _____; Register date: _____.
- An RFASB is not submitted with this notice because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).

9. Rural Area Flexibility Analysis (RAFA) (check applicable box):

- An RAFA of 2,000 words or less is submitted with this notice.
- A summary RAFA is submitted with this notice because the full text exceeds 2,000 words.
- A consolidated RAFA is submitted with this notice because this rule is the first of a series of closely related rules that will be the subject to the same analysis.
- An RAFA is not submitted because this rule will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. A statement is attached setting forth this agency's finding and the reasons upon which the finding was made, including what measures were used by this agency to ascertain that this rule will not impose such adverse impact or compliance requirements on rural areas.
- An RAFA is not submitted because this rule is subject to a consolidated RAFA printed in the Register under a notice of proposed rule making, ID No. _____; Register date: _____.
- An RAFA is not submitted because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).

10. Job Impact Statement (JIS) (check applicable box):

- A JIS of 2,000 words or less is submitted with this notice.
- A summary JIS is submitted with this notice because the full text exceeds 2,000 words.
- A JIS/Request for Assistance is submitted with this notice.
- A consolidated JIS is submitted with this notice because this rule is the first of a series of closely related rules that will be subject to the same analysis.
- A JIS is not submitted because it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities. A statement is attached setting forth this agency's finding that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.
- A JIS is not submitted because this rule is subject to a consolidated JIS printed in the **Register** in a notice of proposed rule making ID No. _____; Register date: _____.
- A JIS is not submitted with this notice because this rule is a "rate making" as defined in SAPA § 102(2)(a)(ii).
- A JIS is not submitted because this rule is proposed by the State Comptroller or Attorney General.

11. Prior emergency rule making for this action was previously published in the _____ issue of the Register, I.D. No. _____.

12. Expiration Date (check only if applicable):

This proposal will not expire in 180 days because it is for a "rate making" as defined in SAPA § 102(2)(a)(ii).

13. Public Hearings (check box and complete as applicable)

A public hearing is required by law and will be held at __ a.m./p.m. on _____, 19__, at

A public hearing is not required by law, and has not been scheduled.

A public hearing is not required by law, but will be held at __ a.m./p.m. on _____, 19 __, at

14. Interpreter Service (check only if a public hearing is scheduled):

Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within a reasonable time prior to the scheduled hearing. Requests must be addressed to the agency contact designated in this notice.

15. Accessibility (check appropriate box only if a public hearing is scheduled):

All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

All public hearings except the following have been scheduled at places reasonably accessible to persons with a mobility impairment:

- 1.
- 2.
- 3.

None of the scheduled public hearings are at places that are reasonably accessible to persons with a mobility impairment.

An **optional** explanation is being submitted regarding the nonaccessibility of one or more hearing sites.

16. Submit data, views or arguments to (complete only if different than previously named agency contact):

Name of agency contact Jacyln A. Brillling, Secretary
Office address Three Empire State Plaza
Albany, New York 12223
Telephone number (518) 474-6530

17. Additional matter required by statute:

Check box if NOT applicable.

18. Public comment will be received until:

45 days after publication of this notice (MINIMUM, public comment period).

5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing).

Other: (specify) _____.

19. Regulatory Agenda: **(The Division of Housing and Community Renewal; Workers Compensation Board; and the departments of Agriculture and Markets, Banking, Education, Environmental Conservation, Health, Insurance, Labor and Social Services** and any other department specified by the governor or his designee must complete this item. If your agency had an optional agenda published, that should also be indicated below):

This action was listed as a Regulatory Agenda item in the first January issue of the Register, 19_.

This action was listed as a Regulatory Agenda item in the last June issue of the Register, 19_.

This action was not under consideration at the time this agency's Regulatory Agenda was submitted for publication in the Register.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name _____ Signature
Address _____
Date _____ Telephone _____

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in scannable format as described in the Department of State's "NYS Register Procedures Manual."
2. Submit the **original notice and scanner copy** collated as (1) form; (2) text or summary of rule; and if any, (3) regulatory impact statement, (4) regulatory flexibility analysis for small businesses, (5) rural area flexibility analysis, (6) job impact statement - **and ONE copy of that set.**
3. **Hand deliver to:** DOS Office of Information Services, 41 State Street (3rd Floor), Albany
Address mail to: Register/NYCRR unit, Department of State, Albany, NY 12231

GENERAL INFORMATION

12. ADJUSTMENT OF RATES IN ACCORDANCE WITH CHANGES IN THE COST OF GAS
(Cont'd.)

12.2 MONTHLY GAS ADJUSTMENT (Cont'd.)

(D) Gas in Storage Working Capital (applicable to Service Classification Nos. 1, 2 and 6)

The Monthly Gas Adjustment shall be adjusted by a per Ccf rate to reflect gas in storage working capital costs associated with storage assets used for reliability and balancing purposes. Such rate shall be equal to 20 percent of the total gas in storage working capital rate applicable to firm sales customers in accordance with the Commission's Order Establishing Rates in Phase 2 ("Order"), issued and effective October 18, 2001, in Case No. 99-G-1695. Such rate shall be applied to (1) sales to Service Classification Nos. 1 and 2 customers and (2) deliveries to Service Classification No. 6 customers. The difference between the rate included in the Monthly Gas Adjustment and the total gas in storage working capital rate applicable to firm sales customers, determined in accordance with the above Order, shall be deemed to be sales related and shall be included in the Merchant Function Charge applicable to Service Classification No. 1 and Service Classification No. 2 customers. Gas in storage working capital costs recovered through the Monthly Gas Adjustment and the Merchant Function Charge shall be combined and trued up annually to actual costs determined by multiplying the actual twelve-month average gas in storage balance by the effective Other Customer Capital Rate. This true up will be part of an annual reconciliation of the Monthly Gas Adjustment.

(E) Research and Development Surcharge (applicable to Service Classification Nos. 1, 2 and 6)

Customers will be assessed a Research and Development ("R&D") Surcharge to provide funding for gas R&D projects in accordance with the Commission's February 14, 2000 Order in Case No. 99-G-1369.

GENERAL INFORMATION

12. ADJUSTMENT OF RATES IN ACCORDANCE WITH CHANGES IN THE COST OF GAS (Cont'd.)

12.2 MONTHLY GAS ADJUSTMENT (Cont'd.)

(F) Capacity Release Service Adjustment (applicable to Service Classification No. 6)

The Monthly Gas Adjustment applicable to all Service Classification No. 6 customers shall be adjusted to reflect a Capacity Release Service Adjustment.

The Capacity Release Service Adjustment is a charge/credit reflecting the difference between the projected Adjusted WACOT used to bill Qualified Sellers under Service Classification No. 11 for released capacity and the actual Adjusted WACOT for each twelve-month period commencing November 1. The Capacity Release Service Adjustment shall be set annually, to become effective on November 1, based on the over or under recovery of capacity costs associated with the difference between the projected and actual Adjusted WACOT for the preceding twelve-month period commencing November 1, and estimated deliveries to Service Classification No. 6 customers.

In addition, for the twelve-month period ending October 31, 2010, the Capacity Release Service Adjustment will include a reconciliation of any remaining balance in the difference between the amount charged/credited to Service Classification No. 6 customers through the Capacity Release Service Adjustment and the actual differences between pipeline reservation rates and the Company's Adjusted WACOT as of October 31, 2009.

(G) Curtailement Cost Recovery Charge (applicable to Service Classification Nos. 1, 2 and 6)

Customers shall be subject to a charge, stated on a cents per Ccf basis and shown separately on the Statement of Monthly Gas Adjustment, to recover the costs associated with payments made to Sellers in accordance with General Information Section 11.1 (E) "Curtailement of Service" of this Rate Schedule.

(H) Temporary Surcharge (applicable to Service Classification Nos. 1, 2 and 6)

Customers shall be assessed a Temporary Surcharge to recover a portion of the Company's Rate Year 3 delivery revenue requirement as approved by the Commission in Case No. 05-G-1494. The Temporary Surcharge shall be designed to recover \$4.5 million (\$4.46 million net of revenue taxes) and shall be assessed for service rendered from November 1, 2008 through October 31, 2009.

PSC NO. 4 GAS
ORANGE AND ROCKLAND UTILITIES, INC.
INITIAL EFFECTIVE DATE: November 1, 2009

LEAF: 152.1
REVISION: 12
SUPERSEDING REVISION: 11

SERVICE CLASSIFICATION NO. 11 (Cont'd.)

MANDATORY CAPACITY RELEASE SERVICE:

A Seller and/or its Agent/Designee ("its Agent") must contract for firm upstream pipeline capacity under the terms and conditions of this Service Classification for the period commencing November 1, and extending to October 31 of each year (the "capacity release period"). A Seller and/or its Agent must contract for such capacity equal to the Maximum Aggregated Daily Contract Quantity ("MAX ADCQ") (as defined in the Balancing Service Option and Winter Bundled Sales Service Option sections of this Service Classification) to serve the needs of Seller's firm transportation customers served under Service Classification No. 6. A Direct Customer must contract for such capacity to supply gas to itself under Service Classification No. 6. Seller and/or its Agent must use such capacity to serve Seller's firm transportation customers behind the Company's citygate during the months of November through March when the temperature is forecast to be below the prescribed temperature established in accordance with the Company's Gas Transportation Operating Procedures. Sellers and/or their Agents taking service hereunder will be notified of the prescribed temperature in accordance with the Company's Gas Transportation Operating Procedures.

Available pipeline capacity will be released by the Company directly to Seller and/or its Agent in accordance with the terms and conditions of the interstate pipeline's FERC gas tariff and the rules and regulations of the FERC. Capacity will be allocated to Sellers in accordance with the Company's Gas Transportation Operating Procedures.

Sellers and their Agents, if applicable, must execute a Capacity Release Service Agreement for capacity prior to the start of each capacity release period. Deadlines for executing this Capacity Release Service Agreement may be found in the Company's Gas Transportation Operating Procedures or will be directly communicated to Sellers by the Company.

If a Seller has a net increase in its firm load (as confirmed by the Company), after the date the Seller and its Agent, if applicable, execute a Capacity Release Service Agreement hereunder for a capacity release period, the Company will release to the Seller and/or its Agent such additional capacity to meet that net increase to the extent additional capacity is available. Requests for additional capacity must be received by the Company by the 21st day of the month preceding the request's effective date.

Firm interstate pipeline capacity will be released to the Seller and/or its Agent at the Company's Adjusted WACOT. The Seller and/or its Agent shall be directly billed by the pipeline for such capacity and will be responsible for paying the pipeline for such charges.

Issued By: William Longhi, President, Pearl River, New York
(Name of Officer, Title, Address)