

**Orange and Rockland Utilities, Inc.**  
**One Blue Hill Plaza**  
**Pearl River, New York 10965**

**Community Distributed Generation**  
**Net Crediting Manual**

**For Customers Eligible for the Value Stack Tariff and  
Compensation**

**Version 2, Filed July 15<sup>th</sup>, 2024**

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**Table of Revisions**

Version Number	Section Revised	Description	Date
2	Various	Updated appropriate sections to reflect multiple savings rate and multiple anchor enhancements.	7/15/24

## Net Crediting Manual for CDG Projects subject to Value Stack Compensation

### 1. Introduction

On July 17, 2015, the Public Service Commission (“PSC” or “Commission”) issued its *Order Establishing a Community Distributed Generation Program and Making Other Findings* in Case 15-E-0082 (“Community Distributed Generation Order” or “CDG Order”) under which the policies, requirements and conditions for implementing Community Net Metering were established, hereinafter referred to as CDG. Subsequently, on March 9, 2017, the Commission issued its *Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters* in Case 15-E-0751 (“Value of Distributed Energy Resource Order” or “VDER Order”) in which the policies, requirements, and conditions for CDG were updated to reflect a transition away from net metering. On October 19, 2017, the Commission issued its *Order Establishing Oversight Framework and Uniform Business Practices for Distributed Energy Resource Suppliers* in Case 15-M-0180 which establishes Uniform Business Practices (“UBP- DERS”) for oversight of distributed energy resources suppliers (“DERS” or “DER suppliers”) and a more specific and detailed set of provisions for CDG providers. Finally, on September 12, 2018, the Commission issued its *Order on Value Stack Eligibility Expansion and Other Matters* (“Expansion Order”), which enabled more generator technology types to be CDG Hosts.

On December 12, 2019, the PSC issued its Order Regarding Consolidated Billing for Community Distributed Generation in Case 19-M-0463 (“Net Crediting Order”) which established the policies, requirements and conditions to implement Net Crediting. The terms of service for CDG that resulted from the VDER Order, the Expansion Order, and the Net Crediting Order are set forth in the Company’s Schedule for Electricity, P.S.C. No. 3 (“Tariff”) under Rider N, Net Metering and Value Stack Tariff for Customer Generators (“Value Stack Tariff”).

This Net Crediting Procedural Manual (“Manual”) sets forth Orange and Rockland Utilities, Inc.’s (“O&R” or the “Company”) procedural requirements for CDG providers that wish to participate in Net Crediting, consistent with the requirements outlined in the Order(s) noted above, the UBP-DERS, and the Tariff. Additional procedural requirements for CDG providers can be found in *O&R’s Community Distributed Generation Procedural Requirements For Customers Eligible for the Value Stack Tariff and Compensation* (“CDG Procedures”).

Typically, a CDG project involves the following three parties: the CDG Host; CDG Satellites (also referred to as Subscribers); and the Company. A CDG Host is the project sponsor and is responsible for owning or operating the generation facility, coordinating the project’s interconnection and operation, and supervising and fostering cooperation among the CDG Satellites. CDG Satellites are the project subscribers who will own or contract for a proportion of the credits accumulated at the generation facility’s meter, as a percentage of the facility’s output in excess of usage on the CDG Host’s account. The Company is responsible for distributing the

credits from the CDG Host's account to CDG Satellites, in accordance with the CDG Host's instructions and the Value Stack Tariff.

CDG Hosts may enroll in the Net Crediting Program, under which the Company will apply the savings rate provided by the CDG Host to all of the CDG Satellites in the project (excluding any Anchor Satellite) resulting in a net credit being applied to the CDG Satellites' electric bills. The Company will remit payment to the CDG Host, on behalf of the CDG Satellites, equal to the CDG Subscription Fees less the Utility Administrative Fee owed by the CDG Host to the Company.

The Company may modify its Net Crediting procedures as needed based on experience or as required by the PSC, including modification of the UBP-DERS. In the event of any inconsistency between the Tariff or any PSC order and this Manual, the Tariff and/or PSC orders will govern.

## 2. Definitions

The capitalized terms included in this Manual shall have the meanings set forth below.

**Allocated Credit:** The Value Stack credit allocated by the CDG Host for its net hourly injected energy during the CDG Host's billing period to a CDG Satellite, pursuant to the Value Stack Tariff.

**Applied Credit:** Equal to the portion of the Total Available Credit, that offsets the CDG Satellite's electric service bill from the Company each billing period. A CDG Satellite's applied credit cannot exceed the amount of a CDG Satellite's electric service bill from the Company during an individual billing period. The Company shall use the Applied Credit as the basis to determine the CDG Subscription Fee.

**Anchor Satellite:** For purposes of this Manual, a CDG Satellite that is demand billed by the Company and has a demand of 25 kW or greater in the previous 12 months and is designated by the CDG Host to be excluded from Net Crediting Program, and the Utility will not apply the CDG Savings Rate to the calculation of credits. The Anchor Satellite is known as the Excluded Anchor Customer in the Community Distributed Generation Net Crediting Agreement. For CDG Host Bill Periods ending prior to June 1<sup>st</sup>, 2025, only one Anchor Satellite may be excluded from the Net Crediting Program per CDG Project. For CDG Host Bill Periods ending after June 1<sup>st</sup>, 2025, multiple Anchor Satellites may be excluded from the Net Crediting Program per CDG Project.

**CDG Allocation Request:** The CDG Host's instruction to the Company as to the disposition of Allocated Credit or Host Bank Allocated Credit.

**CDG Host:** A non-residential customer that owns or operates electric generating equipment eligible for the Value Stack Tariff and whose net energy produced by its generating equipment is applied to the accounts of the CDG Satellites. A CDG Host is also commonly referred to as a

CDG Sponsor or CDG Provider.

**CDG Host Payment:** The payment from the Company to the CDG Host representing the sum of the CDG Subscription Fees from the CDG Project, less the sum of the Utility Administrative Fees retained by the Company.

**CDG Satellite:** An O&R electric distribution customer who is allocated value stack credits from its CDG Host in accordance with the Value Stack Tariff. A CDG Satellite is also commonly referred to as a CDG Subscriber.

**CDG Savings Rate:** The rate used to calculate the value of the CDG Project's monthly value stack credits that will be provided by the Utility to CDG Satellites' electric utility accounts, allocated as directed by the CDG Sponsor, where such rate shall not be less than five percent. For CDG Host Bill Periods ending prior to June 1<sup>st</sup>, 2025, the same CDG Savings Rate must be used for all CDG Satellites subscribed to the CDG Project, except for the Anchor Satellite, if applicable. For CDG Host Bill Periods ending after June 1<sup>st</sup>, 2025, a CDG Project may have up to three CDG Savings Rates.

**CDG Subscription Fee:** The amount of the Applied Credit withheld from the CDG Satellite's electric monthly bill, representing the amount owed to the Host by the Satellite.

**Enrollment Period:** A 60-day period that begins once the Company receives the completed Enrollment documentation.

**Host Bank Allocated Credit:** The credit allocated by the CDG Host from the CDG Host's Banked Monetary Credit pursuant to the Value Stack Tariff. CDG Savings Rates may only be updated in the Monthly Allocation request only.

**Net Crediting Program:** A voluntary program offered by the Company to CDG Hosts. The Net Crediting Program authorizes the Company to remit payments to the CDG Host on behalf of CDG Satellites, resulting in a net value stack credit on the CDG Satellite's O&R electric bill.

**Non-residential Customer:** For purposes of this Manual, a customer billed by the Company under a Service Classification ("SC") other than SC 1 or SC 19.

**Total Available Credit:** The Value Stack credit available to offset a CDG Satellite's bill. The Total Available Credit is the sum of the Allocated Credit, Host Bank Allocated Credit (if any), and any remaining Value Stack credit from the preceding billing month that was carried forward to the current billing period.

**Utility Administrative Fee:** The amount paid by the CDG Host to the Company for participation in the Net Crediting Program. The rate used to calculate the Utility Administrative

Fee is currently set at one percent by the Net Crediting Order, and will be available in the Company's tariffed statements.

### 3. Enrollment Process:

3.1. The CDG Host must comply with the CDG Procedures, except where modified under this Net Crediting Manual.

3.2. The CDG Host shall submit the following required enrollment documentation to the Company:

- 3.2.1 Cover sheet/Enrollment Checklist;
- 3.2.2 Net Crediting Agreement;
- 3.2.3 CDG Host Certification Form;
- 3.2.4 Payment documentation, including Automated Clearinghouse ("ACH") form, IRS Form W-9, and Bank Letter; and
- 3.2.5 Value Stack Community Distributed Generation (CDG) Allocation Request Form ("Allocation Form").

3.3. The enrollment documentation is attached hereto as Appendices A, B, C and D.

3.4. The enrollment documentation shall be submitted to the Company via upload to the Company's interconnection online portal, PowerClerk. A 60-day Enrollment Period will begin once all completed forms are received by the Company.

3.5. Existing projects that apply for Net Crediting shall submit to the Company all the enrollment documentation listed above, including an updated CDG Host Certification Form and Allocation Form.

3.6. During the Enrollment Period the Company will review the submitted enrollment documentation.

3.7. After approval of the submitted documentation and the Enrollment Period ends, Net Crediting will be effective on the CDG Host's subsequent billing date in accordance with the Value Stack Tariff.

3.8. The CDG Host shall execute the Net Crediting Agreement and submit the same to O&R for execution.

3.9. By submitting a CDG Allocation Request, the CDG Host shall certify that the CDG Host

has entered into written contracts with each of its CDG Satellites acknowledging that each CDG Satellite will receive net credits pursuant to the Net Crediting Program.

**4. Initial Value Stack CDG Allocation Request:**

- 4.1. The CDG Host shall complete and submit an initial allocation request using the Allocation Form included in Appendix C. The CDG Host shall comply with the CDG Procedures when completing this form, along with the additional requirements below.
- 4.2. Initial allocation requests must be received by the Company via PowerClerk as part of the enrollment documentation, minimum of 60 days before commencing service as a CDG project. The CDG Host shall designate in its initial application for CDG service, the CDG Host account, the CDG Satellite accounts that will receive credits under the CDG Program, the allocation percentages, the initial Savings Rate, and the Anchor Satellite(s), if any (subject to Sections 6 and 7 below). O&R will notify the CDG Host when submission of a complete and accurate initial allocation request has been accepted by the Company.
- 4.3. The Company shall use the initial CDG Allocation Request for disposition of a CDG Host's Allocation Credit until such time that a subsequent CDG Allocation Request is effective.

**5. Subsequent Value Stack CDG Allocation Request:**

- 5.1. To modify a CDG Allocation Request, the CDG Host shall complete and submit an updated Allocation Form included in Appendix C. The CDG Host shall comply with the CDG Procedures when completing this form, along with the additional requirements below.
- 5.2. In an updated Allocation Form, the CDG Host may modify: (1) the CDG Satellite accounts; and/or (2) the percentage allocated to one or more of its CDG Satellite accounts; and/or (3) the Anchor Satellite(s); and/or (4) the CDG Savings Rate. Updates may be submitted once per CDG Host billing cycle by giving notice to the Company no less than 45 days before the CDG Host account's cycle billing date to which the modifications apply.
- 5.3. The CDG Host may modify its CDG Savings Rate monthly by giving notice to the Company no less than 45 days before the CDG Host account's cycle billing date to which the modifications apply. See Sections 6 and 7 below for details on the CDG Savings Rate and Anchor Satellite.
- 5.4. CDG Allocation requests will be effective with the first full CDG Host billing period that commences at least 30 days after the Company's receipt of an accepted Allocation

Form.

## **6. CDG Savings Rate**

- 6.1. The CDG Host shall complete and sign the Allocation Form and indicate the CDG Savings Rate.
- 6.2. The CDG Savings Rate shall not be less than five percent, and rates utilizing fractionalized percentages may go out to one decimal place of accuracy.
- 6.3. The sum of the CDG Savings Rate and the rate of the Utility Administrative Fee may not exceed 100 percent.
- 6.4. For CDG Host Bill Periods ending prior to June 1<sup>st</sup>, 2025, the same CDG Savings Rate must be used for all CDG Satellites subscribed to the CDG Project, except for the Anchor Satellite customers, if applicable. For CDG Host Bill Periods ending after June 1<sup>st</sup>, 2025, a CDG Project may have up to three CDG Savings Rates.
- 6.5. If there is an inaccurate CDG Savings Rate listed on the allocation form, the utility is not required to execute retroactive changes for allocations that have already been billed.
- 6.6. In instances when the error is a result of the utility, the utility is responsible for appropriately crediting the subsequent customer bill.

## **7. Anchor Satellite**

- 7.1. The CDG Host shall complete and sign the Allocation Form and indicate the Anchor Satellite(s), if applicable.
- 7.2. The CDG Host may modify the Anchor Satellite(s) once per CDG Host billing cycle by submitting an updated Allocation Form to the Company no less than 45 days before the CDG Host account's cycle billing date to which the modifications apply.
- 7.3. For CDG Host Bill Periods ending prior to June 1<sup>st</sup>, 2025, only one Anchor Satellite may be excluded from the Net Crediting Program per CDG Project. For CDG Host Bill Periods ending after June 1<sup>st</sup>, 2025, multiple Anchor Satellites may be excluded from the Net Crediting Program per CDG Project.

## **8. Calculation of Value Stack Credit, CDG Satellite Payment, and Utility Administrative Fee**

- 8.1. The CDG Savings Rate applied to a CDG Satellite's bill will be the rate in effect on the CDG Satellite's bill period end date, regardless of the savings rate in effect during the

billing period for which the underlying value stack credit was allocated by the CDG Host.

- 8.2. A CDG Satellite's Allocated Credit will be calculated each CDG Host billing period as per the Value Stack Tariff.
- 8.3. A CDG Satellite's Applied Credit will be calculated based on the portion of the Total Available Credit that offsets the CDG Satellite's electric bill each billing period.
- 8.4. A CDG Subscription Fee will be calculated based on a CDG Satellite's Applied Credit each billing period. The CDG Subscription Fee is equal to the amount of the Applied Credit multiplied by a percentage equal to one minus the CDG Savings Rate.
- 8.5. When a CDG Satellite is billed, the Company shall apply a net credit to the CDG Satellite's electric charges equal to the Applied Credit less the CDG Subscription Fee.

For example, a CDG Satellite has a Total Available Credit of \$100. The CDG Satellite's electric bill charges are \$90. The Applied Credit is \$90 and \$10 is carried over to the CDG Satellite's subsequent billing period. Using a Savings Rate of five percent, the CDG Subscriber Fee is \$85.50 (*i.e.*,  $\$90 \times (1 - .05) = \$85.50$ ).

- 8.6. The Utility Administrative Fee is equal to the Applied Credit multiplied by one percent.

Using the above example, the Utility Administrative Fee is \$0.90 (*i.e.*, \$90 Applied Credit multiplied by the one percent Utility Administrative Fee).

- 8.7. If the CDG Host identifies an Anchor Satellite, the Company will not apply any CDG Subscription Fee to the Anchor Satellite's portion of the Applied Credit.
- 8.8. For the first billing cycle to which Net Crediting is applicable and all subsequent billing cycles, the CDG Savings Rate will be applied to any credit carryover and Host Bank Allocation applied to the CDG Satellite's bill that month. This includes any credit carryover and Host Bank allocation that existed on the CDG Satellite's account prior to the Project's participation in the Net Crediting program.
- 8.9. The Company shall provide to the CDG Host each month the CDG Detail Report which contains CDG Satellite level account details for the value stack credits and the Net Crediting Program.

## **9. Payment to CDG Host**

- 9.1. The CDG Host shall pay O&R the Utility Administrative Fee on a monthly basis.
- 9.2. The Company's payment to the CDG Host will include all CDG Subscription Fees net of the Utility Administrative Fees that were withheld from CDG Satellites that billed during the CDG Host's billing cycle.
- 9.3. O&R shall remit payment to the CDG Host on a monthly basis. Payment shall be via ACH and within 30 days from the CDG Host account's cycle billing date.
- 9.4. Using the example set forth in Section 8.5 above:

A CDG Host has a cycle billing date of February 10 for the bill cycle of January 10 to February 9. The payment will include all CDG Satellite payments net of Utility Administrative Fees that were withheld from January 10 through February 8. The Company will pay the CDG Host by March 11.

The amount remitted by the Company to the CDG Host is \$84.60 (\$85.50 less \$0.90).

- 9.5. O&R must receive changes to banking information at least 60 days prior to the CDG Host account's cycle billing date on which the banking information will become effective.
- 9.6. The Company shall provide payment details to the CDG Host related to each CDG Satellite on the monthly CDG Detail Report.

## **10. CDG Host Unenrollment from Net Crediting Program**

- 10.1. To unenroll from the Net Crediting Program, a CDG Host must complete and submit an updated CDG Host Certification Form.
- 10.2. The effective date of the unenrollment will be the CDG Host account's cycle billing date that begins at least 45 days after submission of the request.

## **11. CDG Host Re-enrollment in the Net Crediting Program**

- 11.1. The CDG Hosts can re-enroll in the Net Crediting program 12 months from the effective date of unenrollment.
- 11.2. The CDG Host must complete the entire Enrollment Process as set forth in Section 3 above.

## **12. CDG Satellite Drops from CDG Project**

- 12.1. After the Company renders a final bill for any customer receiving value stack credits, any remaining credit will not be cashed out, refunded, or transferred in accordance with the Value Stack Tariff.
- 12.2. A CDG Satellite that is no longer participating in a CDG Project can use its excess value stack credit carryover until the carryover balance is zero.
- 12.3. A CDG Satellite that is no longer participating in a CDG Project shall receive the full value of the Applied Credit without netting of any CDG Subscription Fee.
- 12.4. A CDG Satellite with excess value stack credit carryover cannot enroll in a new CDG project until the carryover balance is zero.
- 12.5. The Company shall notify the CDG Host of a CDG Satellite account closure via the subsequent CDG Detail Report.

## **13. CDG Host/Project Change of Ownership**

- 13.1. The CDG Host shall notify O&R of any change of ownership of the CDG project or the CDG Host entity at least 60 days prior to the effective date of the change.
- 13.2. The new owner will execute and submit all required payment documents listed in the enrollment documentation pursuant to Section 3 above, at least 60 days prior to their effective date. The CDG Host will also provide the Company with the required documentation for the changes as set forth in the Net Crediting Agreement.

#### **14. CDG Satellite Inquiries**

- 14.1 The Company shall be responsible for resolving utility billing-related CDG Satellite inquiries and complaints. In the case of CDG Satellite inquiries to the Company related to the CDG Host, the Company will promptly provide CDG Satellites with the CDG Host's contact information.

## Appendix A

### Net Crediting Enrollment Form/Application Checklist

Project ID (assigned by O&R): \_\_\_\_\_

Project Name: \_\_\_\_\_

Address: \_\_\_\_\_

Project O&R Account Number (if available): \_\_\_\_\_

Contact Name, Phone Number and Email Address for questions: \_\_\_\_\_

\_\_\_\_\_

The CDG Host shall submit the following documents along with this checklist to the Company in the manner indicated. Once the Company receives all completed forms, the 60 day Enrollment Period will begin. The Company will notify the CDG Host via email upon receipt of all completed enrollment documents.

1. Checklist – upload to PowerClerk
2. Net Crediting Agreement – sign and date; then upload to PowerClerk
3. CDG Host Certification Form – upload to PowerClerk
4. CDG Value Stack Subscriber Allocation Request – complete, sign and date; then upload to PowerClerk
5. Payment information – complete and upload to PowerClerk
  - a. Automated Clearinghouse form
  - b. IRS Form W-9
  - c. Bank Letter

### CDG Host Certification Form

**Please check all applicable boxes:**

	Initial CDG Host Certification
	Annual CDG Host Certification
	Enrollment in Net Crediting Program
	Unenrollment from Net Crediting Program

### CDG Satellite Account Information

The CDG Host shall designate at least ten CDG Satellite Accounts with this initial application, all located in Orange and Rockland Utilities, Inc.'s (the "Company") service territory. No CDG Satellite shall have on-site generation or receive credits from another net-metered or Value Stack Host account. The CDG Host shall provide this list of CDG Satellite Accounts to the Company at least 60 days before the Company issues the first CDG bill. The CDG Host shall submit this information to the Company via the form included in Appendix C.

### CDG Host Certification

CDG Hosts must complete all sections.

#### **Section A.**

I certify that this CDG application meets all terms and conditions of Rider N and requirements of the PSC that are adopted pursuant to its Orders issued in Case 15-E-0082, Case 15-M-0180 and Case 15-E-0751, as they may be amended or superseded from time to time.

I certify that the demand billed CDG Satellite Accounts with demands of 25kW or greater listed with this application receive, in aggregate, no more than 40 percent of the generator's output.

I certify that each CDG Satellite Account is receiving at least 1,000 kWh annual but is not receiving credits in excess of the CDG Satellite Account's historic average annual kWh usage (or forecast usage if historic data is not available).

I certify that all CDG Satellite Accounts, whether submitted with this application or subsequently, are all located within the Company's service territory.

I certify that the sponsor of this CDG project meets creditworthiness standards as described in the October 16, 2015 Order in Case 15-E-0082, as they may be amended or superseded from time to time.

I certify that the sponsor of this project will satisfy all obligations assumed with respect to Satellite Account owners (project members).

I will re-submit these certifications to the Company on an annual basis.

## **Section B. Enrollment in the Net Crediting Program**

**If not enrolling in the Net Credit Program check  Not Applicable**

I certify that this CDG application meets all terms and conditions of Rider N and requirements of the PSC that are adopted pursuant to its Order issued in Case 19-M-0463, as they may be amended or superseded from time to time.

I certify that I have notified all CDG Satellites that the CDG project is participating in the Net Crediting program.

I certify that I have notified all CDG Satellites of the Savings Rate submitted to the Company for use in the Net Crediting program, and that the Savings Rate will not be reduced without the affirmative consent of all affected CDG subscribers.

I certify that the Anchor Satellite(s) is a non-residential, demand billed customer with a demand of 25 kW or greater in the prior 12 months of submission to the Company of the Anchor Satellite's information and that the total percentage allocated to Anchored Satellites does not exceed 40%.

I certify that the Anchor Satellite(s) has agreed to receive the full value stack credit without reduction for any CDG Subscription Fee.

## **Section C. Unenrollment from Net Crediting program.**

**If not Unenrolling in the Net Credit Program check**  Not Applicable

I certify that I have notified all CDG Satellites that the CDG project is unenrolling from the Net Crediting Program.

I certify that I acknowledge that the CDG project cannot enroll in the Net Crediting Program for 12 months from the effective date of the unenrollment.

**Section D: Signature of Authorized Representative of CDG Host**

To the best of my knowledge the information provided herein is accurate and no attempt has been made to misrepresent the facts.

Name of CDG Host (Please print) \_\_\_\_\_

CDG Host Utility Account Number \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Telephone \_\_\_\_\_

Email \_\_\_\_\_

Affiliation to person responsible for account (Check one)

Owner  Partner  Agent [Attach documentation of authorization by Principal]

Corporate Officer  Other (specify) \_\_\_\_\_

**Completed form should be uploaded to PowerClerk**



Value Stack Community Distributed Generation (CDG) Allocation Request Form

**Community Distributed Generation Net Crediting Agreement  
for [CDG Project Name and Identification Number]**

This Agreement (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Orange and Rockland Utilities, Inc. (the “Utility” or “O&R”), a New York corporation with a principal place of business at One Blue Hill Plaza, Pearl River, New York 10965 and \_\_\_\_\_, a community distributed generation (“CDG”) sponsor (the “CDG Sponsor” or “Sponsor”), a [state] [type of legal entity] with a principal place of business at \_\_\_\_\_.

The Utility and the CDG Sponsor are also individually referred to herein as a “Party” or collectively as “Parties.”

**Whereas**, the New York State Public Service Commission (“Commission”) first authorized CDG in its July 17, 2015 Order Establishing a Community Distributed Generation Program and Making Other Findings in Case 15-E-0082 to enable a broader community participation in renewable programs;

**Whereas**, the Commission subsequently issued its March 9, 2017 *Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters* (“VDER Transition Order”) in Case 15-E-0751 which in part provided for modifications to the compensation of Distributed Energy Resources (“DERs”) by creating the Value Stack compensation mechanism for eligible DERs, including CDG projects;

**Whereas**, the Commission’s September 14, 2017 *Order on Phase One Value of Distributed Energy Resources Implementation Proposals, Cost Mitigation Issues, and Related Matters* in Case 15-E-0751 directed electric utilities subject to the Commission’s jurisdiction to submit tariffs based on the Value Stack compensation mechanism developed in the VDER Transition Order;

**Whereas**, under the original CDG construct: the CDG Sponsor enters into a contractual arrangement with the Utility’s electric customers to participate in a CDG project pursuant to which the participating customers (“Satellites”) are billed monthly subscription fees by the CDG Sponsor for their participation in the CDG project per the terms of the contractual arrangement and the Utility calculates and distributes the CDG credits to each Satellite on the Satellite’s electric utility bill, allocated as directed by the CDG Sponsor for the CDG project.

**Whereas**, on June 18, 2019, the Commission issued its *Notice Seeking Comments Regarding Consolidating Billing for Community Distributed Generation* in Case 19-M-0436, seeking input on modifying the existing CDG construct so that the CDG Sponsor would not have to separately bill the Satellites for the monthly subscription fees for a CDG project;

**Whereas**, the Commission’s December 12, 2019 *Order Regarding Consolidated Billing for Community Distributed Generation* (“CDG Net Crediting Order”) in Case 19-M-0463 adopted a net crediting model whereby the Utility is to calculate the participating CDG Satellites’ credits, remit a percentage of the value of such credits to the CDG Sponsor, less the Utility Administrative Fee retained by the Utility, and provide the remaining credit value on the CDG Satellites’ electric utility bills (“Net Crediting Program”), thus eliminating the need for the CDG Sponsor to separately bill the participating CDG Satellites for monthly subscription fees;

**Whereas**, the Commission’s May 16, 2024 *Order Approving Multiple Savings Rates for Community Distributed Generation Subscribers* (“Multiple CDG Savings Rates Order”) in Case 21-E-0629 approved up to three distinct CDG Savings Rates per project, as well as authorizes CDG projects to exclude more than one anchor customer from Net Crediting;

**Whereas**, the CDG Sponsor is a DER provider registered with the Commission with a CDG project located at \_\_\_\_\_, and identified by the Utility as \_\_\_\_\_ (the “CDG Project”);

**Whereas**, the CDG Sponsor wishes to enroll the CDG Project in the Net Crediting Program of the Utility;

**Whereas**, the CDG Sponsor attests that it has entered into valid, fully executed contracts (“Net Crediting Subscription Contracts”) with CDG Satellites who are the Utility’s electric customers for participation in the Net Crediting Program;

**Whereas**, the Net Crediting Order directs electric utilities to offer the Net Crediting Model for all CDG projects, both new and existing, incorporating both those existing CDG projects receiving Value Stack compensation as well as those receiving volumetric credits, this Agreement addresses only CDG projects generating Value Stack Credits;

**Whereas**, the Utility has established a billing process to permit the Utility to calculate the total value of the CDG Satellites’ Value Stack Credits, remit a percentage of the value of such credits to the CDG Sponsor (less the Utility Administrative Fee retained by the Utility), and provide the remaining value of such credits on the CDG Satellites’ electric utility bills, allocated as directed by the CDG Sponsor; and

**Whereas**, the Utility has filed tariff leaves with the Commission effectuating the Net Crediting Program per the CDG Net Crediting Order and is willing to implement the Net Crediting Program for the CDG Project, subject to the terms and conditions of this Agreement, and Commission orders.

**NOW THEREFORE**, the Parties hereto, each in consideration of the Agreement of the other, which the Parties agree is sufficient, do hereby agree as follows:

**1. Definitions.** Any capitalized terms used in this Agreement shall be defined as set forth below:

- 1.1. CDG Sponsor** is the entity that organizes, owns, and/or operates a CDG project and may be identified as the “CDG Host” in some Utility tariffs. A CDG Sponsor may be involved in one or more CDG projects and be otherwise engaged in soliciting customers, members, or subscribers for a CDG project or CDG projects, through its own employees or agents, on its own behalf. A CDG Sponsor must be registered with the Commission consistent with the Uniform Business Practices for Distributed Energy Resource Suppliers (“UBP-DERS”).
- 1.2. CDG Sponsor Payment** is the payment from the Utility to the CDG Sponsor representing the sum of the CDG Subscription Fees from the CDG Project, less the sum of the Utility Administrative Fees retained by the Utility.
- 1.3. CDG Satellite** is an electric customer of the Utility who is participating in the CDG Project.
- 1.4. CDG Savings Rate** is the rate used to calculate the value of the CDG Project’s monthly Value Stack Credits that will be provided by the Utility on CDG Satellites’ electric utility accounts, allocated as directed by the CDG Sponsor, where such rate shall not be less than 5 percent. For CDG Host Bill Periods ending prior to June 1<sup>st</sup>, 2025, the same CDG Savings Rate must be used for all CDG Satellites subscribed to the CDG Project, except for the Excluded Anchor Customers, if applicable. For CDG Host Bill Periods ending after June 1<sup>st</sup>, 2025, a CDG Project may have up to three CDG Savings Rates, as described within the Net Crediting Manual.
- 1.5. CDG Subscription Fee** is the value of the CDG Project’s monthly Value Stack Credits calculated pursuant to Rider N of the Electricity Tariff by O&R and provided to the CDG Sponsor.
- 1.6. Commission** is the New York State Public Service Commission.
- 1.7. Confidential Information** is as defined in Sections 9.1 and 9.2 of this Agreement.
- 1.8. Electricity Tariff** is O&R’s effective P.S.C. No. 3, Schedule for Electric Service approved by the Commission which may be amended or succeeded from time to time.
- 1.9. Excluded Anchor Customer** is a demand-billed, non-mass market Utility electric customer with demand greater than or equal to 25kW that enters into a contract to

participate as an enrolled Satellite in the CDG Project that the CDG Sponsor identifies as being excluded from the Net Crediting Program. If the CDG Sponsor notifies the Utility that the CDG Project has an Excluded Anchor Customer, the Utility will not apply the CDG Savings Rate to the calculation of credits to the Excluded Anchor Customer. For CDG Host Bill Periods ending prior to June 1<sup>st</sup>, 2025, only one Excluded Anchor Customer may be excluded from the Net Crediting Program per CDG Project. For CDG Host Bill Periods ending after June 1<sup>st</sup>, 2025, multiple Excluded Anchor Customers may be excluded from the Net Crediting Program per CDG Project.

- 1.10. Net Crediting Program** is the Utility's CDG program as implemented pursuant to the Net Crediting Order where the Utility applies a portion of the CDG Project's Value Stack Credits to the CDG Satellites' electric utility accounts and remits the remainder to the CDG Sponsor, less the Utility Administrative Fee.
- 1.11. Net Crediting Manual** is the Utility's detailed guide for implementing the Net Crediting Program. The Net Crediting Manual is maintained by the Utility.
- 1.12. Net Crediting Subscription Contract** is the agreement between the CDG Sponsor and each CDG Satellite participating in the Net Crediting Model.
- 1.13. Net Member Credits** are the resulting credits on the CDG Satellite's electric utility account calculated pursuant to Rider N of the Electricity Tariff, based on the CDG Project's monthly Value Stack Credits, the applicable CDG Savings Rate, the CDG Satellite's Allocation Percentages, the CDG Satellite's monthly retail charges, and the CDG Satellite's banked credits, including any banked credits allocated from the CDG Sponsor.
- 1.14. Representative** means any contractor, subcontractor, CDG Satellite, or other entity to which Confidential Information may be transferred under this Agreement.
- 1.15. Utility Administrative Fee** is the amount of the monthly value of the CDG Project's Value Stack Credits that the Utility will retain, as approved by the Commission.
- 1.16. Value Stack Credits** are the credits generated from electricity generated from the CDG Project pursuant to Rider N of the Electricity Tariff.

- 2. Effective Date.** This Agreement shall be effective upon execution by the last Party to sign

with the Utility's date to commence the Net Crediting Program to be as specified in the Net Crediting Manual.

### **3. Term/Termination**

**3.1.** This Agreement shall remain in effect until terminated (i) in accordance with its terms or (ii) by an order of the Commission, whichever shall occur first.

**3.2.** Notwithstanding anything to the contrary elsewhere in this Agreement or in the Electricity Tariff, the Utility, by written notice to the CDG Sponsor, may if permitted in a proceeding, terminate this Agreement in whole or in part with respect to the CDG Project or suspend further performance without terminating this Agreement upon the occurrence of any of the following: (a) the CDG Sponsor or CDG Project terminates or suspends doing business, except where such suspension is caused by Force Majeure; (b) the CDG Sponsor or CDG Project becomes subject to any bankruptcy or insolvency proceeding under federal or state law (and which proceeding is not removed or dismissed within sixty (60) days from the filing thereof), or becomes insolvent, becomes subject to the direct control of a transferee, receiver or similar authority in relation to a bankruptcy or insolvency proceeding, or (except as otherwise provided in Section 15.7) makes an assignment for the benefit of creditors; (c) the CDG Sponsor commits a material breach of any of its obligations under this Agreement with respect to the Net Crediting Program and has not cured such breach within thirty (30) days after receipt of a written notice from the other Party specifying the nature of the breach (provided, however, that if such breach cannot be cured within thirty (30) days, the cure period will be extended as long as CDG Sponsor is pursuing diligent efforts to cure, such extended cure period not to exceed an additional thirty (30) days); or (d) the CDG Project is in material violation of the Utility's electric standards, including but not limited to provisions related to interconnection and safety and has not cured such violation within thirty (30) days after receipt of a written notice from the other Party specifying the nature of the violation (provided, however, that if such breach cannot be cured within thirty (30) days, the cure period will be extended as long as CDG Sponsor is pursuing diligent efforts to cure, such extended cure period not to exceed an additional thirty (30) days). Notwithstanding the aforementioned cure provisions or any other provision of this Agreement, the Utility may take immediate actions with respect to the CDG Project interconnection if deemed necessary by the Utility, in its sole discretion, to protect the safety of the public, customers, or employees, or the operation of the electric system.

**3.3.** The foregoing notwithstanding, the CDG Sponsor may upon written notice to Utility

remove the CDG Project from the Net Crediting Program. The CDG Sponsor and the Utility shall follow the process detailed in the Net Crediting Manual for removal of the CDG Project from the Net Crediting Program. The CDG Sponsor shall notify the affected CDG Satellites of the removal of the CDG Project from the Net Crediting Program.

#### **4. Representations.**

- 4.1.** The CDG Sponsor represents that it is and shall remain in compliance with all applicable laws, tariffs, regulations, and the Utility's electric standards, safety, and cybersecurity standards with respect to the CDG Project during the term of this Agreement including the Electricity Tariff.
- 4.2.** Each person executing this Agreement for the respective Parties represents and warrants that he or she has authority to bind that Party.
- 4.3.** Each Party represents that (a) it has the full power and authority to execute, deliver, and perform its obligations under this Agreement; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate or other action by such Party; and (c) this Agreement constitutes that Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.
- 4.4.** The Utility and the CDG Sponsor shall exercise all reasonable care, diligence and good faith in the performance of their duties pursuant to this Agreement and carry out their duties in accordance with applicable recognized professional standards.
- 4.5.** The CDG Sponsor represents that it is registered with the Commission as provided for in the Uniform Business Practices for DER Suppliers ("UBP-DERS") and will abide by all applicable requirements in the UBP-DERS as it may be amended from time to time by the Commission.

#### **5. CDG Sponsor Rights and Responsibilities**

- 5.1.** The CDG Sponsor will enroll the CDG Project and CDG Satellites in the Net Crediting Program pursuant to the Net Crediting Manual. When enrolling a CDG project in the Net Crediting Program, a CDG Sponsor may designate up to three CDG Savings Rate which will be applicable to all CDG Satellites for the CDG Project, with the exception of the Excluded Anchor Customer.
- 5.2.** The CDG Sponsor shall provide the Utility with all information required in the Net

Crediting Manual. The CDG Sponsor shall respond promptly (within no more than two (2) business days) to the Utility's requests for Net Crediting Program related data to the extent such data is required for the Utility to perform hereunder.

- 5.3. The CDG Sponsor shall handle customer inquiries and complaints from CDG Satellites related to the CDG Project and such calls will not be handled by the Utility. The Utility will remain responsible for resolving Utility billing-related customer inquiries and complaints.
- 5.4. The CDG Sponsor shall cooperate with and provide the Utility with necessary documentation relating to any transactions resulting hereunder.
- 5.5. The CDG Sponsor shall provide timely and accurate information to the Utility regarding participating CDG Satellites and any other information necessary for the Utility to perform hereunder.
- 5.6. The CDG Sponsor agrees that services rendered by the Utility shall not relieve the CDG Sponsor from any obligation to maintain records or otherwise comply with applicable laws. The CDG Sponsor agrees that it will maintain backup data and files for all information provided to the Utility as protection against loss of such information.
- 5.7. In the event that the CDG Sponsor receives a CDG Satellite subscription payment directly from the CDG Satellite, in error, the CDG Sponsor shall return such payment to the CDG Satellite.
- 5.8. The CDG Sponsor is responsible for notifying the Utility of any changes to CDG Satellite allocations in accordance with the rules and guidelines of the CDG Net Crediting Manual.

## **6. Utility Rights and Responsibilities**

- 6.1. The Utility shall remit the CDG Sponsor Payment to the CDG Sponsor in accordance with the procedures established in the Net Crediting Manual. The CDG Sponsor Payment shall be remitted to CDG Sponsor via Automated Clearing House ("ACH"), check, or other payment form provided for in the Net Crediting Manual. Such remittance shall be performed at least monthly and shall be completed in a commercially reasonable time frame, and in any event, no later than seventy (70) days after the Utility has applied the CDG Subscription Fee to a CDG Satellite's electric utility bill.

- 6.2.** The Utility shall provide Net Member Credits on CDG Satellite electric utility bills, allocated pursuant to the CDG Sponsor's directive, consistent with the Net Crediting Subscription Contract with each CDG Satellite.
- 6.3.** In no event shall the aggregate value of applied net credits, CDG Subscription Fee and Utility Administrative Fee for a given billing cycle exceed the sum of value stack credits and available banked credits for that cycle.
- 6.4.** In the event the Utility is required to cancel and rebill from the CDG Sponsor or CDG Satellites, the CDG Sponsor Payment will reflect the effect of those adjustments. If the CDG Project unenrolls from net crediting and the resultant CDG Subscription Fees differ from the amount originally paid to the CDG Sponsor, the Utility will invoice/refund the CDG Sponsor for the difference.
- 6.5.** The Utility will provide information to the CDG Sponsor utilizing the format, methods, and timeframes defined in the Net Crediting Manual.
- 6.6.** If the CDG Sponsor identifies an Excluded Anchor Customer in the manner set out in the Net Crediting Manual, the Utility will not apply the CDG Savings Rate to the calculation of the Excluded Anchor Customer's Net Member Credit, and will provide the Excluded Anchor Customer with 100 percent of its allocation of the Value Stack Credits in accordance with the Net Crediting Manual procedures and Electricity Tariff.
- 6.7.** The Utility shall be responsible for resolving Utility billing-related customer inquiries and complaints. In the case of customer inquiries to the Utility related to the CDG Sponsor, the Utility will promptly provide customers the CDG Sponsor's contact information.
- 6.8.** For CDG Satellites subscribed to budget billing plans, the Utility is responsible for ensuring their Net Member Credits are subtracted from the current amount due rather than the underlying balance.
- 6.9.** The Utility is responsible for updating and implementing CDG Satellite allocation lists as directed by the CDG Sponsor, in accordance with relevant rules and guidelines of the CDG program.
- 6.10.** The Utility shall provide Net Member Credits to the CDG Satellites within two (2)

months after the CDG Sponsor's billing cycle except in the case bi-monthly billed accounts in which case the appropriate time period would be (3) months.

- 7. Utility Compensation.** To compensate the Utility for the provision of the Net Crediting Program, the Utility will retain the Utility Administrative Fee, deducted from the CDG Sponsor Payment, as described in the Net Crediting Tariff. The Utility may not retain any Utility Administrative Fee in connection with the Excluded Anchor Customer.
- 8. Taxes.** The Utility is not responsible for assessing or collecting any taxes on payments made to the CDG Sponsor. Nothing in this Agreement shall be construed as imposing upon the Utility the obligation of remitting to any federal, state, or local taxing authority those taxes that are the collection and remittance responsibility of the CDG Sponsor.
- 9. Confidential Information**
  - 9.1.** Except as otherwise provided herein, the Parties agree not to disclose to any third party and to keep confidential, and to cause their affiliates, officers, directors, members, employees and Representatives not to disclose to any third party and to keep confidential, any and all customer information obtained by either Party from the other relating to this Agreement (including but not limited to, all business-sensitive and competitive information disclosed by either Party to the other Party, including billing information, issues, or data associated with any customer). Information described in this paragraph 9.1 and described in paragraph 9.2 of this Section 9 is collectively referred to as "Confidential Information." Each Party will require its affiliates, officers, directors, members, employees, and Representatives to comply with this Agreement and any other agreement regarding the exchange of Confidential Information, including but not limited to the terms and conditions of an applicable Interconnection Agreement, Data Security Agreement, Professional Services Contract, General Contract Conditions, or Non-Disclosure Agreement.
  - 9.2.** In addition, each Party acknowledges that all information furnished and identified by the other Party as being confidential or proprietary information, trade secret, confidential commercial information, critical infrastructure, or other information that is confidential pursuant to state, federal or local law, regulation or rule, is and shall remain the sole and exclusive property of such other Party.
  - 9.3.** Information and data provided to the Utility by the CDG Sponsor under this Agreement shall be used by the Utility for the purposes of billing, receiving, depositing, posting, processing and remittance of CDG Satellite utility bill credits or for

determining the amounts due the CDG Sponsor. Confidential Information may be disclosed by the receiving Party to its employees, agents, consultants and Representatives on a need-to-know basis only.

- 9.4.** The receiving Party is required to destroy Confidential Information within six (6) years from the date received or the date when the information is no longer required for the operation of the Net Crediting Program, whichever occurs last, and thereafter, to destroy such Confidential Information or, at the request of the disclosing Party, return such Confidential Information.
- 9.5.** The confidentiality obligations of this Article do not apply to information which: (i) is already known to the Party free of any restriction at the time it is obtained from the other Party; (ii) is subsequently learned by one Party from an independent third party free of any restriction and without breach of this Agreement; (iii) is or becomes publicly available through no wrongful act of either Party; (iv) is independently developed by one Party without reference to any Confidential Information of the other; (v) is disclosed by one Party to a third party, with the express written permission of the other Party; (vi) is disclosed to the extent required by applicable laws and regulations or by any subpoena or similar legal process (where the disclosing Party must seek confidential treatment from the appropriate court of law or regulator of competent jurisdiction and must inform the non-disclosing Party as soon as practicable to allow the non-disclosing Party to intervene and seek protection of the Confidential Information); or (vii) is disclosed pursuant to the lawful requirement or formal request of a governmental agency or a party in any regulatory proceeding, provided that if one Party is requested or, in the written opinion of its counsel, legally compelled by a governmental agency or a party in any regulatory proceeding to disclose any Confidential Information of the other Party, such party, to the extent permitted by law, agrees to provide the other Party with prompt written notice of such request so that the other Party has the opportunity to pursue its legal and equitable remedies regarding such potential disclosure. The receiving Party further agrees that if the disclosing Party is not successful in precluding the requesting legal or governmental body from requiring disclosure of the Confidential information, the receiving Party will furnish only that portion of the Confidential Information which, in the written opinion of its counsel, it is legally required to disclose, and will exercise all reasonable efforts to obtain assurances that confidential treatment will be accorded to the Confidential Information.
- 9.6.** Each Party acknowledges and agrees that its breach or threatened breach of this

Article may cause the other Party irreparable harm which may not be adequately compensated by monetary damages. Accordingly, in the event of any such breach or threatened breach by either Party, such Party agrees to the granting of equitable relief, including temporary restraining orders or preliminary or permanent injunctions, in addition to any legal remedies to which the other Party may be entitled, without proof of actual damages.

**9.7.** The provisions of this Article shall survive the expiration or termination of this Agreement.

## **10. Resolution of Disputes between Utility and CDG Sponsor**

**10.1.** Each Party agrees to attempt to resolve all disputes arising under this Agreement promptly, equitably, and in a good faith manner.

**10.2.** If the Parties fail to resolve any dispute under this Agreement within ten (10) days after written notice of the dispute, the Parties agree to submit the dispute to mediation by a mutually acceptable mediator, in a mutually convenient location in New York State, in accordance with the then current International Institute for Conflict Prevention & Resolution Procedure, or to mediation by a mediator approved by the Commission. The Parties agree to participate in good faith in the mediation for a period of up to ninety (90) days. If the Parties are not successful in resolving their disputes through mediation, the Parties may then refer the dispute for resolution to the Commission, which shall maintain continuing jurisdiction over this Agreement.

**11. Resolution of Disputes between CDG Sponsor and CDG Satellite.** The CDG Sponsor will be responsible for resolution of all inquiries and complaints related to the CDG Project in accordance with its Net Crediting Subscription Contract with CDG Satellites. The Utility will refer to the CDG Sponsor all inquiries and complaints initiated by CDG Satellites arising from or relating to the CDG Project or the Net Crediting Subscription Contract.

## **12. Indemnification**

**12.1.** The CDG Sponsor shall indemnify, defend, and hold the Utility and its corporate affiliates and their respective officers, directors, trustees, employees, agents, successors, Representatives and assigns harmless from and against any and all loss, liability, damage or expense (including reasonable attorneys' fees), statutory or administrative fines or penalties or claims for injury or damages arising out of the performance of this Agreement or breach thereof by CDG Sponsor, including any

claims, demands, causes of action, litigation, suits, proceedings, hearings or investigations (collectively "Claims") by a third party for payments based upon any agreement or understanding alleged to have been made by the third party, directly or indirectly, with CDG Sponsor in connection with any of the transactions contemplated by this Agreement, except to the extent caused by the gross negligence or willful misconduct of Utility.

**12.2.** The obligations of this Article 12 will survive the expiration, suspension or termination of this Agreement or the Net Crediting Program.

### **13. Force Majeure**

**13.1.** Neither Party shall be considered in default under this Agreement or responsible in tort, strict liability, contract or other legal theory to the other Party for damages of any description for any interruption or failure of service or deficiency in the quality or quantity of service, or any failure to perform if such failure is caused by factors beyond the Party's reasonable control that by exercise of reasonable diligence the Party is unable to prevent or overcome, including without limitation, storm, flood, lightning, earthquake, explosion, civil disturbance, labor dispute, sabotage, war, insurrection, act of God or the public enemy, action of a court, or public authority ("Force Majeure").

**13.2.** If any Force Majeure occurs, the Party delayed or unable to perform shall give immediate written notice to the other Party. During the pendency of the Force Majeure, the duties of the Party affected by the Force Majeure conditions shall be abated and shall resume without liability thereafter, provided that an obligation to make payments under this Agreement shall not be excused by the occurrence of an event of Force Majeure.

**14. Security Interest.** The CDG Sponsor shall, without further consideration and at the CDG Sponsor's expense, use all commercially reasonable efforts to take or cause to be taken, any action, including the execution and delivery of instruments and documents, reasonably requested by the Utility to establish a first priority perfected security interest in favor of the Utility in the amounts included in Value Stack Credits related to the CDG Sponsor's provision of subscription services to CDG Satellites from the CDG Project. The failure by the CDG Sponsor to fulfill any obligation of the CDG Sponsor pursuant to this paragraph shall specifically be deemed a breach of a material term or condition of this Agreement. Nothing in this Section 14 will be deemed to provide Utility with any rights to the CDG Sponsor Payment to CDG Sponsor. If an entity providing material financing to a CDG Sponsor requires the Utility to take a subordinate security interest before it will provide financing to

the CDG Sponsor, the CDG Sponsor may request the Utility to take a subordinate interest. The Utility's agreement to take a subordinate security interest to the financier will not be unreasonably withheld, delayed, or conditioned. No subordination agreement by the Utility will be effective unless it is in writing and signed by both Parties.

## **15. Miscellaneous**

**15.1. Entire Agreement.** This Agreement, all Exhibits and attachments hereto and all documents referenced herein, constitute the entire agreement between the Parties and supersedes all other agreements, communications, and representations.

Paragraph headings are for convenience only and are not to be construed as part of this Agreement.

**15.2. Amendment.** Unless otherwise provided herein, no modification of, or supplement to, the terms and provision stated in this Agreement shall be or become effective without the written consent of both Parties. If the Net Crediting Program is suspended by statute or Commission order, this Agreement will be modified in accordance with such statute or order.

**15.3. Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same document.

**15.4. Severability.** In the event that any portion or part of this Agreement is deemed invalid, against public policy, void or otherwise unenforceable by a court of law, the validity and enforceability of the remaining portions thereof shall otherwise be fully enforceable.

**15.5. Change in Law.** To the extent that new mandatory regulatory, legislative or accounting changes, tax law changes, other regulatory policy changes, or other events materially affect the ability of either Party to comply with the provisions of this Agreement, including but not limited to material financial consequence, managerial, mechanical or technical compliance, the Parties agree to meet and use best efforts to renegotiate the terms and conditions of this Agreement to restore the position of the detrimentally affected Party to a financially neutral position or to be able to meet the managerial, mechanical and technical requirements of compliance. Methods that the Parties may consider to restore the detrimentally affected Party's ability to comply with this Agreement shall include, but not be limited to cost recovery through rates, payment for service by the unaffected Party, technical assistance, or other assistance

as may be agreed upon. Renegotiated terms and conditions shall be effective when reduced to writing and signed by both Parties. If the Parties are unable to renegotiate acceptable changes, they may avail themselves of the dispute resolution mechanism set forth in Section 10 of this Agreement, and the existing terms and conditions of this Agreement shall continue to be effective through the conclusion of such dispute resolution mechanism.

**15.6. Waiver.** No waiver by any Party of any one or more defaults by the other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any other present or future default, whether of a like or different character. No delay by either Party in enforcing any of its rights hereunder shall be deemed a waiver of such rights.

**15.7. Assignment.**

15.7.1. Neither Party may assign any of its rights or obligations under this Agreement without obtaining the prior written consent of the non-assigning Party, which consent shall not be unreasonably withheld, delayed or conditioned, provided however that the CDG Sponsor has a right to assign (and/or collaterally assign, in connection with a financing transaction) its right to payments to be made by the Utility hereunder. The CDG Sponsor shall provide the Utility with a copy of the document in which the assignment is made or so much of the document as may be necessary to make clear the identity of the parties thereto and the terms of the assignment. The CDG Sponsor hereby waives any claim against the Utility for making payments pursuant to the assignment.

15.7.2. An assignment, transfer or other disposition of the Utility's rights and obligations under this Agreement resulting from or associated with (i) any restructuring of the assets of the Utility or (ii) any acquisition, consolidation, merger or other form of combination of the Utility by, into, or with any person or entity shall not be subject to the prior notice and consent requirements of this sub-article.

15.7.3. No assignment of this Agreement shall relieve the assigning Party of any of its obligations under this Agreement. Any assignment, transfer or other disposition of this Agreement, or any rights, duties or obligations hereunder by either Party, except as specifically permitted herein, is in violation of this sub-article and void.

**15.8. Subcontracting.** Each Party may subcontract all or any portion of the performance to be rendered hereunder without the express approval of the other as to the tasks to be

subcontracted and the subcontractor, provided, however that each Party shall be fully responsible for the acts and omissions of its subcontractors and their agents as it is for its own acts and omissions.

- 15.9. No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement. Nothing contained herein shall be deemed to confer any rights or grant any remedies or give any benefit to any third party.
- 15.10. Relationship of the Parties.** This Agreement is not intended, and shall not be construed to create any association, joint venture, agency relationship or partnership between the Parties of to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of or otherwise bind the other Party.
- 15.11. Governing Law.** This Agreement is governed by the laws of the State of New York without regard to the doctrines governing choice of law. All disputes arising hereunder shall be brought either before the Commission the state courts of the State of New York, or a federal court located in the State of New York.
- 15.12. Construction.** In the event of any conflict between the provisions of this Agreement and the provisions of the Electricity Tariff, the applicable provisions of the Electricity Tariff shall apply.
- 15.13. Notices.** Except as otherwise provided herein, any notices given under this Agreement shall be in writing and shall be delivered to the recipient Party at the address set forth in Exhibit A, by hand or sent by (a) certified mail, return receipt requested, first class postage prepaid, or (b) nationally recognized courier service. Notices given hereunder shall be deemed to have been given upon receipt or refusal to receive. The address to which such notices shall be given by either Party may be changed by written notice given by such Party to the other Party pursuant to this sub-article.
- 15.14. Other Remedies.** Nothing contained herein shall be construed as a limitation on the right of either Party to pursue any remedy it may have at law or in equity.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives.

**CDG SPONSOR:** \_\_\_\_\_

Name (Print): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ORANGE AND ROCKLAND, UTILITIES, INC.**

Name (Print): \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

All notices and information addressed to the Utility shall be addressed as follows:

Orange and Rockland Utilities, Inc.  
390 West Route 59  
Spring Valley, New York 10977  
Attn:

All notices and information addressed to the CDG Sponsor shall be addressed as follows:

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