STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on February 17, 2011

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca

CASE 10-T-0154 - Application of St. Lawrence Gas Company, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for the Norfolk to Chateaugay Gas Transmission Line Project.

CASE 10-G-0295 - Petition of St. Lawrence Gas Company, Inc. for an Original Certificate of Public Convenience and Necessity Under Section 68 of the PSL for the Exercise of Gas Franchises of Numerous Municipalities in the Counties of Franklin and St. Lawrence.

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED AND AUTHORIZING EXERCISE OF NEW FRANCHISES

(Issued and Effective February 18, 2011)

BY THE COMMISSION:

INTRODUCTION AND BACKGROUND

We instituted these proceedings to consider an application and a petition by St. Lawrence Gas Co., Inc. (SLG). In Case 10-T-0154, SLG seeks a certificate of environmental compatibility and public need pursuant to Public Service Law (PSL) Article VII for a natural gas transmission pipeline extending into northern Franklin County from SLG's preexisting

pipeline in eastern St. Lawrence County. In Case 10-G-0295, SLG seeks authority pursuant to PSL §68 to expand its natural gas delivery service in those two counties by building a new network of distribution and service lines to be supplied by the proposed pipeline extension. In both proceedings, SLG's objective is to introduce gas service where it is not currently offered.

The application and petition led to negotiations among the applicant and other active parties, resulting in a Joint Proposal which has been submitted for our review and is unopposed in most respects. In this order we grant the requested certification for the transmission line, and we authorize the associated distribution network, in accordance with the terms submitted for our review in the Joint Proposal.

Description of the Project

The pipeline extension to be authorized by the PSL Article VII certificate will be a steel transmission line with varying diameters of eight, six, and four inches, pressurized to a maximum of 500 pounds per square inch. It will be connected with SLG's preexisting 10-inch diameter transmission line in the Town of Norfolk in St. Lawrence County, and continue about 48 miles to the Village of Chateaugay in Franklin County. The line will be installed underground in a right-of-way (ROW) up to 50 feet wide, comprising the ROWs of town or county roads (also currently used by other utility companies), for a total of about 19 miles; easements granted by landowners along the former Rutland Railroad bed, for about 23 miles; and easements from landowners on routes between the public roads and the railroad bed, for about six miles.

Facilities in or adjoining the transmission line ROW will include 13 district regulator stations, each occupying up to 1,000 square feet; temporary staging areas; pre-existing

electric transmission and distribution lines and telecommunication lines; and one active railroad crossing.

The distribution network to be authorized under PSL §68 as a means of exercising newly granted franchises will comprise about 50 miles of distribution lines, and associated service lines. This will enable SLG to deliver gas pursuant to franchises issued by the communities of Winthrop, Brasher Falls, and North Lawrence, in St. Lawrence County, and Moira, North Bangor, Brushton, Malone, Burke, and Chateaugay, in Franklin County. The incremental service areas cover 6,219 acres (9.7 square miles). SLG estimates that the new transmission and distribution lines will enable it to add two industrial customers, 372 commercial or institutional customers, and 2,113 residential customers in the project's first five years.

Procedural History

SLG filed the PSL Article VII application for the transmission line on April 7, 2010 and supplemented it on May 24, June 23, August 20, and September 30, 2010. The application includes a motion which we have granted insofar as it sought waivers of certain information requirements, and which we denied insofar as it sought an accelerated decision regarding applicability of local zoning requirements.[1] By letter dated July 15, 2010, the Secretary found that the application complied with PSL §122. (Compliance was effective as of July 15 because that was the date of our order granting waivers.) On June 16, 2010, SLG filed the PSL §68 petition regarding the distribution network.

[1] Case 10-T-0154, Order Regarding Motion for Waivers (issued July 15, 2010).

Since January 2008, SLG has been conducting numerous informational sessions and other meetings with residents and representatives of the affected communities.[2] The designated Administrative Law Judge held public statement hearings on August 24, 2010 in Malone (afternoon) and Winthrop (evening), and conducted a preliminary conference of the active parties in Albany on August 27. Meanwhile, SLG responded to extensive discovery from the parties, the results of which have been included in the record, and the parties conducted field investigations at the affected sites.

After exploratory discussions among the parties, SLG circulated a draft joint proposal on September 30, 2010 to all parties that wished to participate in settlement negotiations. On October 18, 2010, the negotiations began, pursuant to a public notice of impending negotiations which the Administrative Law Judge found compliant with 16 NYCRR 3.9. The negotiating process consisted of five personal and/or telephone conferences and electronic communications. These efforts culminated in a Joint Proposal filed December 22, 2010 by SLG, designated trial staff of the N.Y.S. Department of Public Service (Staff), the N.Y.S. Department of Environmental Conservation (DEC), the N.Y.S. Department of Agriculture and Markets, and Trout Unlimited's New York Council.[3] Thereafter, SLG and Staff submitted supplemental testimony, exhibits, and affidavits relevant to the Joint Proposal, which have been admitted into evidence because no objection was filed within a period designated by the Administrative Law Judge.

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[2] Appendix A of the Article VII Application lists these outreach activities as of March 2010, although they have since continued.

[3] The Joint Proposal accompanies this order as the Attachment.

Other Permits and Approvals

The Joint Proposal's elements adopted in this order include Appendix F, a certification of compliance with §401 of the Water Pollution Control Act (33 U.S.C. §1341) to be issued by the Director of our Office of Energy Efficiency and the Environment upon fulfillment of conditions specified in that appendix.

The Joint Proposal acknowledges that the distribution and service lines addressed in the PSL §68 proceeding may require permits from DEC, to be sought by SLG in accordance with requirements and procedures prescribed in the Environmental Conservation Law (ECL). The Joint Proposal also notes that the project may require a wetland disturbance permit from the U.S. Army Corps of Engineers pursuant to §404 of the Clean Water Act and/or Nationwide Permit Program (Nationwide Permit No. 12) and §10 of the Rivers and Harbors Act (33 U.S.C. §403).

In a previous order, we assumed lead agency status for purposes of the State Environmental Quality Review Act (SEQRA) and we determined that construction of the proposed distribution network will not have a significant impact on the environment.[4] The exercise of gas franchises by means of the proposed distribution project, as distinguished from the project's construction itself, is not an action subject to SEQRA requirements.[5]

[4] Case 10-G-0295, Order Establishing Lead Agency and Determining Significance (issued September 16, 2010).

[5] See Case 10-E-0077, *Bayonne Energy Center, LLC*, Order Granting Certificate of Public Convenience and Necessity (issued April 6, 2010; Confirming Order issued April 15, 2010).

THE JOINT PROPOSAL

The Joint Proposal itself should be consulted as to its exact terms. In general, however, it sets forth the parties' agreements about the matters on which PSL Article VII requires that we make findings regarding the proposed transmission line extension. Those findings, summarized below, are based on our review of the record. They are consistent with the conclusions advocated in the Joint Proposal's text and with the proposed findings, which we adopt, in the Joint Proposal's Appendix C.

Additionally, regarding the proposed distribution network, the Joint Proposal extensively recites the parties' agreements on matters identified as relevant in our 1989 Policy Statement on gas franchise expansions.[6] As discussed below, we agree with the parties' analysis and, on that basis, we conclude that SLG's exercise of its new franchises should be approved because it "is necessary or convenient for the public service" within the meaning of PSL §68.

PUBLIC INPUT

Parties' Statements

Each of the Joint Proposal's five sponsoring parties has filed a statement supporting it.[7] No active party has filed an opposing statement or other reply.

In assessing whether adoption of negotiated provisions would serve the public interest, factors we consider commonly include whether the agreement meets the criteria listed in our

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[6] Case 89-G-078 (sic), *Expansion of Gas Service*, Statement of Policy Regarding Rate Treatment to be Afforded to the Expansion of Gas Service into New Franchise Areas (issued December 11, 1989).

[7] Parties' statements were filed on various dates from December 29, 2010 through January 10, 2011.

Settlement Guidelines.[8] SLG, Staff, and DEC invoke the Guidelines for that purpose in their statements supporting the Joint Proposal: they comment that the Joint Proposal was fashioned by normally adversarial parties; that it offers results consistent with those to have been expected in a litigated proceeding; and that adoption of the proposed terms as a whole will achieve the requisite balance among investors' and customers' interests and the Department's and State's environmental, social, and economic policies. SLG's and Staff's statements also emphasize that the Joint Proposal resulted from procedures that have afforded the public a full opportunity to participate.

Public Statement Hearings and Written Comments

A notice inviting public comment, at the August 24 hearings in Malone and Winthrop or by mail, e-mail, or telephone, was posted on our website and published two to three times in each of four newspapers serving the affected areas. After the Joint Proposal was filed, another notice was similarly posted and published which invited further comments in writing or by telephone.

In response, five members of the public presented statements and informal questions at the public statement hearing in Malone (but none at the Winthrop hearing). As the hearing transcript shows in more detail, the speakers included a representative of Agri-Mark, Inc., supporting the project because natural gas would offer a more economic and environmentally benign alternative to the fuel oil it currently uses for cheese production. A local resident expressed a

[8] Cases 90-M-0255 *et al., Procedures for Settlements and Stipulation Agreements*, Opinion No. 92-2 (issued March 24, 1992), App. B, p. 8.

preference for a natural gas alternative, and inquired how it would be priced and whether it would be available at her location.

Three other residents expressed objections or concerns about the manner in which SLG has negotiated for easements from landowners; about health, safety, and environmental issues; and about the economic impact of gas as an alternative fuel. More specifically, one or more residents each complained that SLG's power of eminent domain, coupled with support from local government and law enforcement in planning the route and inspecting homeowners' properties, gives SLG an unfair advantage in negotiating for easements. As a result, the speakers alleged, the easements provide landowners too little compensation and too little protection against safety risks and adverse environmental impacts, while enabling SLG to obtain easement provisions that give the company unreasonably broad rights of entry and use.

Residents also claimed that the project's proposed routing, to the extent that it deviates from public roadways and the preexisting railroad ROW, will involve unreasonable incursions through forests or wetlands and thus cause significant adverse visual, aesthetic, environmental, or archaeological effects. The question of route selection was interrelated with that of safety, as one or more residents criticized the safety record of SLG's parent corporation (Enbridge Inc.) and therefore questioned the wisdom of routing the transmission line near dwellings; and health, as one resident asserted that low-frequency noise will cause unacceptable biological effects if it emanates from equipment

ancillary to the transmission line.[9] Finally, one resident questioned whether gas consistently will maintain a price advantage compared over other fuels and, even if it does, whether that economic benefit from the gas alternative will justify its adverse competitive impact on existing local fuel suppliers. Similarly, he expressed doubt that conversion to natural gas would provide him a direct economic benefit sufficient to outweigh the project's alleged non-economic detriments.

We fully recognize the importance of each of these issues. At the same time, upon examining this Joint Proposal, we regard it as a reasonable formula for resolving the often conflicting interests at stake. That result reflects the fact that, as noted in the proponents' statements, the Joint Proposal was developed through a process in which all interested regulatory agencies and all affected members of the public had an opportunity to negotiate for the best overall outcomes obtainable within the applicable legal framework. Indeed, the negotiating procedures were adapted specifically so that

[9] There was some uncertainty among the speakers, and company and Staff representatives answering their questions, as to whether any audible equipment would be installed near residences and, if so, whether it would be a type of equipment used continuously or only in emergencies. As noted above, the transmission line's design as presented in the Joint Proposal includes 13 district regulator stations, as distinguished from the "compressor stations," "pumping stations," and "blowdown valves" mentioned during the hearing as possible sources of ongoing noise. A regulator station continuously reduces downstream gas pressure to a level safe for the low-pressure side of the line on which it is installed.

residents expressing interest in the negotiations could participate effectively.[10]

As the residents' own statements seem to acknowledge, eminent domain does, by design, confer substantial bargaining power on legal "transportation corporations" such as SLG. However, the PSL Article VII process is designed to ensure--either through litigation before the Commission, or through a negotiated proposal as in this instance--that the project ultimately will incorporate all the relevant criteria of health, safety, economics, environmental protection, and the other public values we are statutorily directed to consider.

In addition to the public statements, we have received written comments from four individuals or households. Each comment predominantly or completely supports the project, stating that natural gas is a superior fuel for economic or environmental reasons or both; and that availability of gas will moderate the prices of competing fuels, help diversify fuel supplies, and mitigate the challenges of residential heating in a cold northern climate. Such benefits, according to one commenter, justify any competitive pressures that may result for preexisting energy suppliers.

Another commenter states that he welcomes the project because it will use the former railroad ROW, all of which he has traversed by bicycle except where the railbed has become

[10] Those invited to the negotiations included owners of one residence who favored a departure from the preferred route in the Article VII application to divert the line further from their house. The parties nevertheless agreed, and we conclude, that the preferred route should be adopted because the alternative would be longer and more costly and would require additional easements, including one in "very close proximity" to a different house. Joint Proposal, Para. 87.

impassable because of disuse.[11] He says we should require that SLG "restore the railbed to its original condition" to accommodate hiking and cycling. For similar reasons, he also favors "Alternative Route Section D," a 3.3 mile segment of the proposed transmission line ROW which would follow the railbed from Burke to Chateaugay, rather than the application's preferred route for this segment which would follow County Route 23.

Recreational development of the railbed might have been negotiable in the process leading up to the Joint Proposal, and may still be an appropriate subject for future negotiation among SLG and other interested parties. In these proceedings, however, neither the evidence filed nor the subsequent Joint Proposal provides us a sufficient record basis to compel SLG to use Alternative Route Section D or rehabilitate other portions of the railbed.

On the contrary, the application as originally filed includes a statement of the factors that weigh against using the railbed for Section D, namely that use of County Route 23 instead of the railbed would significantly obviate expenditures, negotiated easements, vegetative clearing, grading, and wetland and stream impacts.[12] Moreover, the reference to easements highlights the fact that the transmission line ROW, where it follows the railbed, is not a tract that will simply be transferred from the railroad to SLG. Rather, it comprises a series of parcels, on or adjoining the railbed, owned by third parties that have agreed to cede discrete rights to SLG for limited purposes. Thus, on the present record, it would be unreasonable that we compel renegotiation of easements in order

[11] Citing a log and maps at *http://russnelson.com/rutland.html.*

[12] Art. VII Application, Exh. 3, p. 3-3.

to add railbed rehabilitation or trail use as a precondition of the Article VII certificate.[13]

Another category of public comment is an organized mailing from the following officials or entities, who generally became participants or clients in SLG's outreach and informational efforts long before SLG filed the initial application for the transmission line:

- Elizabeth Little, State Senator, 45th District;
- Franklin County Legislature;
- Franklin County Manager;
- Malone Town Board;
- Brushton-Moira Central School District;
- Malone Central School District;
- Agri-Mark, Inc., d/b/a McCadam Cheese;
- North Lawrence Dairy, Inc.;[14]

[13] To further illustrate the point, the present case should be compared with a contemporaneous PSL Article VII proceeding in Case 10-T-0080, *National Grid – Spier Falls to Rotterdam.* An issue there has been whether to require that the applicant dedicate portions of its proposed electric transmission ROW to recreational use and maintain them accordingly. *Spier Falls* is distinguishable because the ROW in that case, in contrast to the railbed here, is subject to direct control and ownership by the utility company, which in turn acknowledges our authority to require that the company grant or prohibit public use of the ROW.

[14] North Lawrence Dairy advocated the transmission and distribution project because it hoped to use gas-fired processes to manufacture yogurt as trademark licensee of a national brand. After North Lawrence had filed its comment, however, the plant's owner announced that the plant would close because North Lawrence did not obtain the license. ("Dairy's Loans Remain in Place," *Watertown Daily Times,* January 20, 2011, *watertowndailytimes.com*.) Nevertheless, North Lawrence's comment remains pertinent insofar as availability of natural gas will economically benefit other potential operators of the plant.

- North Country Redevelopment Task Force;
- Business Development Corporation for a Greater Massena;
- St. Lawrence County Chamber of Commerce;
- Franklin County Industrial Development Authority; and
- St. Lawrence County Industrial Development Authority.

These commenters support the project primarily on the ground that use of natural gas as a fuel offers economic and environmental advantages. They predict that the economic advantages will benefit not only existing customers directly by mitigating their energy costs; but also the affected territory as a whole, because gas service is part of the infrastructure necessary to promote regional economic development by attracting new businesses and employment.

STATUTORY CRITERIA FOR THE TRANSMISSION LINE

In addition to the comments summarized above, the parties' supporting statements and the Joint Proposal itself address the criteria we must examine pursuant to PSL §126(1) when considering certification of the proposed transmission line extension under PSL Article VII. The statute provides that we may grant the certificate only after determining:

- the basis of the need for the project (§126(1)(a));
- the project's probable environmental impact (§126(1)(b));
- that adverse environmental impacts will be minimized, in view of available technology, the nature and economics of alternatives, and other factors including the effect on agricultural lands, wetlands, parklands and river corridors and other considerations specified in 16 NYCRR 86.5 (§126(1)(c));

- that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line (§126(1)(e));

- the project's conformance with state and local laws (§126(1)(f)); and

- that the project will serve the public interest, convenience, and necessity (§126(1)(g)).

The parties assert, and we agree, that issuance of a certificate as described in the Joint Proposal would satisfy these decisional criteria for the following reasons.

Basis of Need

The purpose of the transmission and distribution project is to enable SLG to expand its customer base, and enable the public to obtain gas service, in the affected portions of Franklin and St. Lawrence Counties. The distribution system has deliberately been planned to achieve that result, and thus reduce energy costs for present and potential agricultural, industrial, commercial, institutional, and residential customers. The cost savings, which SLG has documented in an economic impact assessment,[15] are expected to promote economic development and improve the region's competitiveness.

In general terms, the need for these public benefits is self-evident because there is no denying the critical importance of improving the economic conditions in the territory to be served. The transmission and distribution project has been supported by county, state, and federal funding in recognition of its importance as a means of economic development. In terms of specific distribution line placement, the proposed routes were chosen on the basis of SLG's prolonged

[15] Art. VII Application, Exh. 6.

and detailed market analyses, outreach efforts, and consultation with the affected communities and their elected officials.[16] As a result, the localities reached by the expanded transmission and distribution network will be those where potential gas customers have affirmatively demonstrated an interest in obtaining service.

Environmental Impact

Because most of the transmission line extension will follow preexisting ROWs of roads and highways, utility equipment, or the former railway, its environmental impacts will consist mainly of temporary conditions associated with construction activity.

Regarding land use in particular, the project's reliance on preexisting ROWs means that construction will only minimally affect current agricultural, residential, and commercial land uses adjoining the ROWs,[17] and the line's actual operation after construction will have no significant impact. Disruption of present land uses will be further minimized by routing the line to circumvent population centers insofar as practical.

Similarly, topography, geology, and soils will remain substantially unaffected after construction because the project is confined to existing ROWs and will create no new conditions such as impervious surfaces.[18]

Preexisting terrestrial ecology is expected to be altered, if at all, only temporarily insofar as construction

[16] *Ibid.*, Appendix A, *supra*.

[17] *Ibid.,* Exh. 4, Section 4.3.4.

[18] *Ibid.,* Exh. 4, Section 4.4.4.

will affect old fields, successional shrubland, agricultural fields, or wetlands. Land cover on the railbed and private land (*i.e.*, elsewhere than on the road and highway ROWs), which is predominantly agricultural, reverting agricultural, scattered woodlots and forest, and disturbed or developed areas, may be permanently affected. Under the Joint Proposal's guidelines, the environmental management and construction plan (EM&CP) must include detailed provisions for management of vegetation and preservation of trees during and after construction.[19]

The Joint Proposal's guidelines for the EM&CP include specified measures to avoid or minimize disturbances to adjoining agricultural lands and activities. In its supporting statement, the Department of Agriculture and Markets notes that it has worked with the Joint Proposal's other sponsors to ensure that the proposed routing, construction, and mitigation provisions will protect agricultural resources to the fullest extent practicable.

To protect streams and wetlands, the EM&CP will include an erosion and sedimentation control plan for minimizing stream siltation and sedimentation impacts. Stream crossings will be limited to preexisting crossings insofar as possible, and crossing techniques and equipment restrictions will be designed to minimize impacts to water quality, surface water hydrology, and aquatic organisms. Similarly, wetland crossings will be limited to crossings at preexisting locations or previously disturbed areas insofar as possible, and the EM&CP will include provisions governing restricted activity areas and wetland construction, crossings, and sediment and siltation control.[20] Consequently, as DEC notes in its supporting

[19] *Ibid.*, App. E, Para. B.10.

statement, the transmission line will cause no permanent impacts on State regulated wetlands, and the proposed Article VII certificate conditions will ensure compliance with state water quality standards including those governing turbidity and flow maintenance.

The transmission line will not significantly affect fish and wildlife. In particular, Trout Unlimited's statement explains that the Joint Proposal deserves adoption insofar as its transmission line provisions include reasonable measures to protect "several prime cold-water fisheries" crossed by the ROW. DEC's supporting statement points out that the Joint Proposal includes an Invasive Species Control Plan to reduce the introduction or spread of invasive species within and along the transmission line ROW.[21] As an additional benefit of the Joint Proposal, DEC notes that it includes measures to minimize and avoid impacts on six wetland habitat areas for the Blanding's Turtle, the only threatened or endangered species identified as potentially affected by the transmission line.

Clearing of the transmission line ROW, incidental to undergrounding, is expected to cause visual and aesthetic impacts only in instances where the ROW crosses roads at locations where the present land cover is predominantly forest or successional woody vegetation. More typically, tree clearing will be minimal and therefore the visual impact will be limited to small markers mandated by 16 NYCRR Part 255.[22] At the several locations where the ROW crosses major rivers, impacts upon the view from the river will be minimized because SLG will rely on

[20] *Ibid.*, Sections 4.7.4 and 4.7.5 and App. E.

[21] *Ibid.,* App. G.

[22] *Ibid.,* Section 4.8.3.

horizontal drilling, preexisting river crossings, and preservation of existing vegetation except as necessary for markers, and because the crossings will not be situated near steeply sloping, forested river banks. Where the ROW crosses minor streams, preexisting vegetation will ensure that the ROW's visual impacts will be limited to about 100 feet from the crossing location as viewed from the stream.[23]

Impacts on archaeological resources will be minimal because all but six of the transmission line's 48 miles will use roadways or the railbed where any cultural artifacts would already have been disturbed by previous land use.[24] Nevertheless, discovery of archaeological materials will stop construction and trigger procedures for review by our staff and the N.Y.S. Office of Parks, Recreation and Historic Preservation.[25]

Noise impacts will be minimal because they will either be construction-related and thus temporary, or will be limited to the sound of gas flowing through the 13 regulator stations at varying velocities and pressures. Temporary construction noise will not exceed relevant standards, and will be mitigated by restrictions on the time and manner of construction activities.[26] On a permanent basis, at all but the two potentially most noisy regulator stations (Malone East and Malone West), SLG expects that station noise during peak winter usage periods will not exceed 50 A-weighted decibels (dBA). Four of the potential 50 dBA stations (North Lawrence West, Moira, Brushton-Moira, and

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[23] *Ibid.*

[24] *Ibid.,* Exh. 27.

[25] *Ibid.,* App. D, Order Clauses 66-67.

[26] *Ibid.,* Section 4.10.1; App. D, Order Clause 39.

Burke) will be within 100 feet of residential structures. These four stations therefore may require vegetative buffers for noise reduction.[27] Under guidelines in the Joint Proposal, the extent to which such measures are necessary will be addressed as part of the EM&CP.[28]

Minimization of Adverse Environmental Impacts

As described in the preceding discussion, the environmental impacts of the transmission line as designed consist largely of temporary impacts associated with construction work, and the proposal includes measures to mitigate and remediate all impacts insofar as possible. However, PSL §126(1)(c) requires a further inquiry whether some alternative could more nearly minimize the environmental impacts.

We agree with the Joint Proposal's sponsors that the transmission line favored in the Joint Proposal is preferable to the alternatives addressed in the application because the former best satisfies four criteria: it will support a distribution system designed to reach the targeted customer communities in St. Lawrence and Franklin Counties, thus fulfilling the project's economic development objectives; it will maximize use of the preexisting railbed and local and state highways, thus minimizing the need to obtain easements from landowners and impose environmental impacts on previously undisturbed areas; it will minimize use of state highway ROWs, thus avoiding the permitting, construction, and operating and maintenance constraints characteristic of such ROWs; and it will avoid

[27] *Ibid.,* providing noise estimates and discussing the relevant criteria promulgated by the U.S. Environmental Protection Agency and DEC.

[28] *Ibid.*, App. E, Para. B.5.

residential structures and environmentally sensitive resources to the fullest practical extent. Consequently, rejection of the Joint Proposal's project design in favor of an alternative would neither mitigate environmental impacts more effectively nor provide any other sufficient public benefit.

Safety of Persons and Property

We agree with the Joint Proposal's sponsors that the transmission line as proposed will create no "undue hazard to persons or property."[29] PSL §126(1)(e), quoted above, focuses on whether the project's location is safe; and, as noted previously, the proposed routing avoids population centers where feasible. Additionally, a more fundamental question is whether a project itself, regardless of location, conforms with standards that make it safe. In this instance, the transmission line meets that test by complying with the design, construction, testing, operation, and maintenance requirements set forth in our regulations.[30]

Conformance with State and Local Laws

For the transmission line, PSL §130 renders inapplicable all procedural requirements for obtaining approvals or permits except as part of the Article VII proceeding. As proposed, the transmission line complies with all substantive state statutes and regulations, and with all local legal requirements.

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[29] *Ibid.,* Exhs. 5 and G-4.

[30] 16 NYCRR Chapter III, Gas Utilities Safety Code, Part 255. That conclusion is supported by the design and construction details shown in Exhs. 5 and G-4 of the Art. VII Application, and our staff will confirm it by means of field inspections as the work progresses.

According to PSL §126(1)(f) and 16 NYCRR 86.8, exemption from local requirements is appropriate if the local legal requirement, as applied to the project, would be unreasonably restrictive in view of existing technology, economic or cost factors, or consumer needs. The Article VII application provides a list of potentially relevant ordinances or other planning documents promulgated by Franklin and St. Lawrence Counties and 13 municipalities on the transmission line's route. It analyzes the applicability of the various local requirements and describes how the project will comply with them in most respects.[31]

In three instances, the Article VII application proposed that we grant waivers pursuant to PSL §126(1)(f), as described in the application. Specifically, the application stated that the transmission line's intended siting would violate minimum yard frontage and minimum front yard depths prescribed in the Town of Malone Zoning Law, front yard and rear yard setback depths prescribed in the Village of Malone Zoning Ordinance, and the requirement that the transmission line ROW be set back 75 feet from the centerlines of county and town roadways as prescribed in the Town of Burke Zoning Law.[32] For reasons explained in the application, realignment of the project to correct these violations would have defeated other important planning objectives calculated to better serve customers or minimize environmental impacts.

However, the Joint Proposal recites that subsequent consultation with the interested municipal authorities established that the Article VII application's interpretation of the zoning requirements cited in the application was unduly

[31] Art. VII Application, Exh. 7.

[32] *Ibid.*

restrictive, and that the proposed route will not violate those local provisions.[33] Thus, to the extent that we previously denied SLG's motion for waivers of local zoning requirements as premature,[34] the motion has now become moot.

Furtherance of Public Interest, Convenience, and Necessity

Based on the considerations summarized above, we conclude that adoption of the Joint Proposal's terms in their entirety regarding the transmission line will be consistent with PSL §126(1) and will serve the public interest, convenience and necessity by providing the benefits and safeguards described in the preceding discussion.

FINDINGS REGARDING THE TRANSMISSION LINE

After due consideration of the entire record, including all information set forth in the Joint Proposal and its appendices, we adopt the parties' proposed findings[35] as follows:

1. The proposed extension of a gas transmission line for 48 miles into Franklin County is needed to expand service to customers by providing them an available and economic supply of natural gas. Construction of the gas transmission line will stimulate growth and economic development in the communities of Winthrop, Brasher Falls, and North Lawrence in St. Lawrence County, and Moira, Brushton, North Bangor, Burke, Malone, and Chateaugay in Franklin County. The introduction of natural gas and the development of energy infrastructure will diversify and

[33] Joint Proposal, Revised Exh. 7.

[34] Case 10-T-0154, Order Regarding Motion for Waivers (issued July 15, 2010), *supra*.

[35] Joint Proposal, App. C, Para. A.

enhance competitiveness of the local economy including the local agricultural economic base. In addition to the direct investment in infrastructure, energy and cost savings realized from the conversion to natural gas will translate into economic benefits for area residences and businesses.

2. The nature of the probable environmental impacts include: (a) minimal ROW construction impacts on forestland, open land, wetland, agricultural and low-density residential land, and streams; (b) minimal impacts to vegetative community types resulting from construction and long-term maintenance; (c) minimal construction impacts on State regulated wetlands and protected streams and water bodies; (d) temporary construction-related impacts to fish and wildlife; (e) temporary construction disturbance and impacts to wetlands; (f) limited visual and aesthetic impacts resulting from construction and operation of the gas transmission line; (g) insignificant cultural resource impacts; (h) temporary and minimal construction-related noise impacts and minimal localized noise impact generated from operation of the transmission line; and (i) temporary disturbance and inconvenience associated with construction activities.

3. The gas transmission line, as described herein, represents the minimum adverse environmental impact, considering the state of available technology, the nature and economics of the various alternatives, and other pertinent considerations including, but not limited to, the effect on merchantable natural resources (agricultural and forested lands and mineral resources), wetlands, surface waters, wildlife, vegetation, cultural resources, and threatened and endangered species.

4. The location of the gas transmission line will not pose an undue hazard to persons or property along the area traversed.

5. The location of the gas transmission line conforms to applicable state laws and regulations issued thereunder, including ECL Articles 9, 15 and 24, and 6 NYCRR 608.8 and 663.5 and Parts 701 and 703.

6. The location of the gas transmission line conforms to applicable local laws and regulations issued thereunder.

7. Based upon all information set forth in the record, the gas transmission line will serve the public interest, convenience and necessity.

EXERCISE OF FRANCHISES

In addition to the above findings pursuant to PSL §126 regarding the project's transmission line component, we also must consider the Joint Proposal's representations that SLG's construction and operation of natural gas distribution and service lines, as a means of exercising the franchises issued by local municipalities (listed in Finding 1, above), "is necessary or convenient for the public service" within the meaning of PSL §68. We conclude that it is, and that the associated ratemaking treatment submitted in the Joint Proposal will reasonably balance customer and shareholder interests.

The distribution network is an integral part of the proposed project, and so the public benefits to be realized by installing it are the same as those attributable to the transmission line component. That is, the project will meet an existing public demand for natural gas and create environmental and economic benefits by making an alternate fuel available. As in the case of the transmission line, safety requirements for the distribution and service lines will be satisfied through conformance with the design, construction, testing, operation, and maintenance requirements set forth in our regulations.

To illustrate the project's economic benefits, the Joint Proposal explains that the project can reasonably be estimated to generate savings for the public of $60 million over 20 years, resulting directly or indirectly in an economic stimulus of $32 million in additional spending (including $10.6 million in St. Lawrence and Franklin Counties) and $1.7 million in additional state tax revenues over that period.[36] Similarly, an economic plan developed by communities in the Foothills region of northeast Franklin County calls for measures to preserve the economic viability of the McCadam Cheese plant which, as noted above, would benefit from the gas project;[37] and an Economic Development Strategy for the Town and Village of Malone identifies the gas project as an element of the infrastructure development necessary to support business and industry.[38]

The Joint Proposal satisfactorily explains how SLG can obtain supplies adequate to serve the customers to be added as a result of the project, without significantly changing SLG's historic ratios among storage, winter supply, and firm supply.[39]

The remaining issue is whether adoption of the Joint Proposal's terms would effectively implement our policies regarding rate treatment of the incremental service, and thereby allocate risks and costs fairly among customers and SLG shareholders.

Our 1989 policy statement on expansion into new franchise areas calls for an analysis of the incremental plant's

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[36] *Ibid.*, Paras. 117 and 118, citing Art. VII Application Exh. 6.

[37] *Ibid.,* Para. 119, citing Exh. 26 (§68 Petition), Att. AA.

[38] *Ibid.,* Para. 120.

[39] *Ibid.,* Paras. 95-98.

financial results over an initial five-year development period, to ensure that the utility company does not bear the risk of the new plant's failure to earn a reasonable return and that the company will not benefit insofar as the new plant earns an excessive return.[40] According to the policy statement, we may authorize the company to charge rates based on imputed average annual revenues sufficient to allow a reasonable return over the development period, and to collect a surcharge to the extent necessary to recover the revenues imputed.

In this instance, the rates offered in the Joint Proposal are based on incremental transmission and distribution revenues for the development period as projected in separate analyses by SLG and Staff.[41] The five-year development period starts on the date of the first incremental customer attachment. For purposes of the rate calculation, the project's incremental capitalization is assumed to total $23.5 million, comprising $17.2 million invested by SLG at the same 50% equity ratio that we approved in SLG's most recent rate case[42] and $6.3 million from the Franklin County Industrial Development Agency. Based on forecasted net revenues and a 6.75% return allowance, the allowable temporary surcharge will be $0.0660 per therm, representing 31% of base revenues and subject to refund at the end of the development period insofar as surcharge revenues exceed the five-year base revenue imputation.

These arrangements do in fact conform to the 1989 policy statement. As a result, they reasonably balance the relevant interests by providing the benefits of gas service to

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[40] Case 89-G-078, *Expansion of Gas Service* (*supra*).

[41] Joint Proposal, SLG's Exh. 12A (update of Art. VII Application Exh. G-3, Sched. G-3A.2) and Staff's Exh. 12B.

[42] Case 08-G-1392, *St. Lawrence Gas Co., Inc. – Rates*, Order Establishing Rate Plan (issued December 18, 2009).

new franchise areas, identifying supply sources to ensure the continuity of adequate service, protecting shareholders and SLG's financial integrity by means of the surcharge, protecting new customers insofar as the refund provision ensures that SLG will not derive excessive revenues from the surcharge, and insulating preexisting customers from the risks and revenue requirements associated with the incremental service.

For these reasons, we find that adoption of the Joint Proposal's terms regarding construction and rate treatment of the distribution network satisfies the statutory criteria of necessity and convenience under PSL §68.

The Commission orders:

1. The terms and provisions of the December 21, 2010 Joint Proposal submitted in these proceedings and attached to this order, regarding "the project" which comprises a transmission line subject to certification under Public Service Law (PSL) Article VII and a distribution network subject to approval under PSL §68, including all the Joint Proposal's appendices and proposed order clauses, are adopted and made a part of this order.

2. A Certificate of Public Convenience and Necessity is granted to St. Lawrence Gas Company, Inc. (the company) pursuant to PSL Article VII and subject to the terms of the Proposed Certificate Conditions, included as Appendix D of the Joint Proposal, which are adopted and incorporated into this order, including the requirement that the company shall, within 30 days after the issuance of the Certificate, submit to the Commission a verified statement that it accepts and shall comply with the Certificate and the conditions placed upon the Certificate.

3. If the company submits an acceptable Environmental Management and Construction Plan (EM&CP) and complies with all conditions contained in the Joint Proposal and this order, the Director of the Office of Energy Efficiency and the Environment, pursuant to §401 of the Clean Water Act, 33 U.S.C. §1341(a)(1), and PSL Article VII, will issue the certification described in Appendix F of the Joint Proposal that the project's transmission line component will comply with the applicable requirements of §§301, 302, 306, and 307 of the Clean Water Act as amended and will not violate New York State Water Quality standards and requirements.

4. The company shall file with the Commission for approval its EM&CP, consistent with the Certificate conditions adopted herein, no more than one year after the issuance of the Certificate.

5. A Certificate of Public Convenience and Necessity is granted to the company pursuant to PSL §68, to permit it to exercise the gas service franchises newly issued by the municipalities named in its petition filed June 16, 2010 in Case 10-G-0295 and to construct, subject to the Joint Proposal's terms adopted in and made a part of this order, the distribution and service lines necessary for rendering service in such franchise areas.

6. The Certificates issued in Order Clauses 2 and 5, above, may be vacated without notice if construction of the project has not commenced within one year after issuance of the Certificates.

7. The Secretary at her sole discretion may extend the deadlines set forth in this order.

8. These proceedings are continued.

By the Commission,

Jaclyn A. Brilling

Digitally Signed by Secretary
New York Public Service Commission

JACLYN A. BRILLING
Secretary

Case 10-T-0154
Case 10-G-0295

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 10-T-0154 - Application of St. Lawrence Gas Company, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the PSL for the Construction, Operation and Maintenance of a New 8, 6 and 4-inch Steel, High Pressure Natural Gas Transmission Line and Related Land and Equipment from the Town of Norfolk, St. Lawrence County to the Town of Chateaugay, Franklin County

Case 10-G-0295 - Verified Petition of St. Lawrence Gas Company, Inc., for a Certificate of Public Convenience and Necessity under Section 68 of the Public Service Law for the Exercise of Gas Franchises

JOINT PROPOSAL

By: St. Lawrence Gas Company, Inc.
Staff of the New York State Department of Public Service
New York State Department of Environmental Conservation
New York State Department of Agriculture and Markets
New York State Council of Trout Unlimited

Dated: December 21, 2010
Albany, New York

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STATE OF NEW YORK

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Case 10-G-0295	Verified Petition of St. Lawrence Gas Company, Inc., for a Certificate of Public Convenience and Necessity under Section 68 of the Public Service Law for the Exercise of Gas Franchises

THIS **JOINT PROPOSAL**, which includes Appendices A through G attached hereto and incorporated herein, is made on the 21st day of December, 2010 by and among St. Lawrence Gas Company, Inc. ("SLG" or the "Company"), Staff of the New York State Department of Public Service ("Staff"), the New York State Department of Environmental Conservation ("DEC"), the New York State Department of Agriculture & Markets ("Ag & Mkts"), the New York State Council of Trout Unlimited, and any other party or parties that sign and execute this Joint Proposal (collectively referred to as the "Signatory Parties").

INTRODUCTION

On April 7, 2010, SLG provided an application to the Secretary to the New York State Public Service Commission ("Commission") seeking a Certificate of Environmental Compatibility and Public Need ("Certificate"), pursuant to Article VII of the Public Service Law ("PSL"), authorizing construction, operation and maintenance of a new underground, multi-diameter (8, 6, and 4-inch) steel high-pressure (maximum of 500 pounds per square inch) natural gas transmission line (including related equipment) from the Town of Norfolk in St. Lawrence County to the Village of Chateaugay in Franklin County ("gas transmission line" or "gas

transmission facility"). The initial application was supplemented on May 24, 2010, June 23, 2010, August 20, 2010, and September 30, 2010. The initial application and its supplements are collectively referred to as the "Article VII Application." In a letter dated July 15, 2010, the Secretary to the Commission found that the Article VII Application was filed or otherwise in compliance with PSL § 122 as of July 15, 2010.

On June 16, 2010, SLG filed with the Secretary a Verified Petition ("Section 68 Petition") for a Certificate of Public Convenience and Necessity ("CPCN") under Section 68 of the PSL for the Exercise of Gas Franchises in numerous municipalities in Franklin and St. Lawrence Counties in connection with the proposed construction of gas plant ("distribution and service lines" or "mains and services"). The distribution lines are proposed to be constructed from the above-referenced gas transmission facility. The gas transmission line and distribution and service lines are collectively referred to as the "Project."

The gas transmission facility is proposed to transport natural gas from an existing SLG-owned 10-inch steel gas transmission line in the Town of Norfolk, St. Lawrence County. It will extend SLG's existing gas transmission facilities for approximately 48 miles between the Town of Norfolk, in St. Lawrence County and the Village of Chateaugay, in Franklin County. Towns crossed by the proposed gas transmission line are Norfolk, Stockholm, Brasher, and Lawrence in St. Lawrence County; and Moira, Bangor, Malone, Burke, and Chateaugay in Franklin County.

The proposed gas transmission line would be installed within an up to 50-foot wide right-of-way ("ROW"). The ROW substantially parallels and/or follows the former Rutland Railroad bed, and local and county roadways.

SLG also anticipates installing approximately 50 miles of distribution lines, as well as associated service lines. Communities that will be served by the proposed gas transmission line are Winthrop/Brasher Falls and North Lawrence, St. Lawrence County; and Moira, North Bangor, Brushton, Malone, Burke and Chateaugay in Franklin County. In constructing and operating the Project, SLG would exercise gas franchises, as set forth more fully in SLG's Section 68 Petition. In addition to the Section 68 Petition, the construction of the distribution and service lines may also require SLG to obtain permit(s) or other approvals from DEC pursuant to the Environmental Conservation Law ("ECL"). Any such additional permits or approvals with regard to the distribution and service lines component of the overall Project are not addressed in this Joint Proposal or associated Certificate Conditions.

Facilities associated with the gas transmission line include 13 district regulator stations. The district regulator stations each have a footprint of approximately 1,000 square feet. The regulator stations will be located immediately on or substantially contiguous to the proposed gas transmission line ROW on private land. Regulator stations are proposed at the intersection of the gas transmission line and proposed distribution areas in Winthrop/Brasher Falls, North Lawrence, Moira, Brushton, North Bangor, Malone, Burke and Chateaugay.

After issuance of the Secretary's compliance determination on July 15, 2010, public statement hearings were held before Administrative Law Judge ("ALJ") Rafael A. Epstein on August 24, 2010 in Malone and Winthrop, New York. A preliminary conference of the active parties was then held before ALJ Epstein in Albany, New York on August 27, 2010.

After exploratory discussions among the parties, a Notice of Impending Settlement Negotiations was sent to all parties and duly filed with the Commission on September 15, 2010.

Settlement conferences (in person and by telephone) were held on October 18, November 2, November 16, November 23, and November 30, 2010. Electronic communications were utilized to finalize settlement discussions.

After thorough discussion of the issues, the Signatory Parties recognize that the parties' various positions can be addressed through settlement and agree that settlement is now feasible. The Signatory Parties further believe that this Joint Proposal gives fair and reasonable consideration to the interests of customers and transmission owners alike in assuring the provision of safe and adequate service.

TERMS OF JOINT PROPOSAL

I. GENERAL PROVISIONS

1. It is understood that each provision of this Joint Proposal is in consideration and support of all the other provisions of this Joint Proposal and is expressly conditioned upon approval of the terms of this Joint Proposal in full by the Commission. If the Commission fails to adopt the terms of the Joint Proposal, the parties to the Joint Proposal shall be free to pursue their respective positions in this proceeding without prejudice. The terms and provisions of this Joint Proposal apply solely to, and are binding only in, the context of the present Article VII Application and Section 68 proceeding and do not necessarily reflect the position any Signatory Party would take in an adjudicatory proceeding. Each Signatory Party reserves the right in future Article VII proceedings to propose or include such terms and conditions as it may deem appropriate.

2. The Signatory Parties agree to submit this Joint Proposal to the Commission along with a request that the Commission adopt the terms and provisions of this Joint Proposal as set forth herein. The Signatory Parties agree that construction, operation and maintenance of the Project in compliance with this Joint Proposal and with the Proposed Certificate Conditions set forth in Appendix D attached hereto will comply with the Public Service Law and with the substantive provisions of applicable State law referenced in the Proposed Commission findings set forth in Appendix C attached hereto.

3. The Signatory Parties recognize that certain provisions of the Joint Proposal contemplate actions to be taken in the future to effectuate fully this Joint Proposal. Accordingly, the Signatory Parties agree to cooperate with each other in good faith in taking such actions.

4. In the event of any disagreement over the interpretation of this Joint Proposal or implementation of any of the provisions of this Joint Proposal, which cannot be resolved informally among the Signatory Parties, such disagreement shall be resolved in the following manner:

a. the Signatory Parties shall promptly convene a conference and in good faith attempt to resolve any such disagreement; and

b. if any such disagreement cannot be resolved by the Signatory Parties, any Signatory Party may petition the Commission for resolution of the disputed matter.

5. This Joint Proposal shall not constitute a waiver by SLG of any rights it may otherwise have to apply for additional or modified permits, approvals or certificates from the Commission or any other agency in accordance with relevant provisions of law.

6. This Joint Proposal shall not in any way alter SLG's obligation to comply with any applicable substantive ECL requirements, including SLG's obligation to obtain any required permits from DEC pursuant to the ECL for the distribution and service lines component of the Project.

7. This Joint Proposal shall not in any way alter DEC's jurisdiction with regard to the distribution and service lines component of the Project.

8. This Joint Proposal shall not in any way affect the process and timing associated with DEC's review and issuance of any applicable permits or other approvals required by SLG pursuant to the ECL for the distribution and service lines component of the Project.

9. This Joint Proposal is being executed in counterpart originals, and shall be binding on each Signatory Party when the counterparts have been executed.

10. Appendix A attached to this Joint Proposal lists the testimony, affidavits and exhibits agreed upon by the Signatory Parties to be admitted as record evidence in this proceeding.

II. DESCRIPTION OF PROJECT LOCATION

11. The Signatory Parties agree that the Description of Project Location set forth in Appendix B attached hereto accurately describes the location and configuration of the proposed gas transmission line and distribution and service lines.

III. ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED – ARTICLE VII APPLICATION

12. The Commission must consider the totality of all of the relevant factors in making its determination of environmental compatibility and public need. The relevant factors include, without limitation, need, environmental impact, availability and impact of alternatives, compliance with state and local laws, public safety, the public interest, convenience and necessity.

A. Need for the Proposed Facility

13. The purpose of the Project is to expand SLG's existing natural gas transmission and distribution capabilities into Franklin and St. Lawrence County and to expand their existing residential and commercial customer base. Distribution areas are defined by the populated areas and potential customer base in and around Winthrop/Brasher Falls and North Lawrence in St. Lawrence County, and Moira, Brushton, North Bangor, Burke, Malone and Chateaugay in

Franklin County. These distribution areas were selected with the objective of stimulating growth and economic development in these communities.

14. The introduction of natural gas and the development of energy infrastructure diversifies and enhances competitiveness of the local economy including the local agricultural economic base. In addition to the direct investment in infrastructure, potential energy cost savings realized from the conversion to natural gas translates into economic benefits for area residences and businesses.

15. In determining the potential distribution areas and the need for the facility, SLG conducted considerable public outreach efforts (see Exhibit 14 [Appendix A to the Article VII Application]). SLG conducted potential customer surveys, provided presentations to local legislative bodies and economic development agencies, and consulted with local senators and state representatives. Through these outreach efforts, SLG determined there is a significant and measurable demand and interest by the community (including residents and businesses), to expand natural gas service into the currently underserviced rural areas and local communities.

16. To determine the potential economic impacts and benefits of expanded distribution into St. Lawrence and Franklin Counties, SLG commissioned an economic impact assessment (see Exhibit 6 [Exhibit 6 to the Article VII Application]). The assessment considers the cost and savings from introduction of natural gas to the residents, businesses, and institutions of the area communities. Based upon the public outreach efforts, SLG forecasted potential additional customers and applied historical energy rates to calculate potential savings achieved by customers converting from fuel oil and propane to natural gas.

17. Based upon SLG's public outreach efforts, and feasibility and economic impact assessments, there is a significant local need and demand for the Project. The Project expects to significantly stimulate local economic growth through direct and indirect economic benefits. Because of the stated local need for the Project, it has received considerable funding support from County and State sources, as further described in the Article VII Application Exhibits and Section 68 Petition.

B. Environmental Impact

18. The Article VII Application, testimony and exhibits to be supplied for the record describe the nature of the probable environmental impacts associated with the gas transmission line and are briefly summarized below. The environmental impacts are expected to be minimal and substantially limited to temporary, construction-related disturbance and inconvenience.

i. Land Use

19. Impacts to land use on and adjacent to the proposed gas transmission line are anticipated to be minimal and temporary in nature, as the operation of the gas transmission line will not significantly impact the current agricultural, rural residential, or commercial land uses in the area (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.3.4). The majority of the proposed gas transmission line route will be installed in previously disturbed ROWs of various town and county roads, within the former railroad, and along existing utilities. Wherever possible, routes were selected to circumvent local communities and village centers to reduce disruption.

20. Land use in the vicinity of the proposed gas transmission line ROW is characterized by a mix of forested and open land. In the western portion of the gas transmission

line route, topography is fairly level and land use has a higher composition of forestland and large wetland complexes. The eastern portion of the gas transmission line ROW is predominantly agricultural and low-density residential land, interspersed with generally small, well defined hamlets and villages (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.3).

21. To minimize potential impacts to agricultural resources and operations within the limited active agricultural land within the gas transmission line footprint, SLG will adhere to the New York State Department of Agriculture and Markets ("Ag & Mkts") guidelines for pipeline ROW projects. The Environmental Management and Construction Plan ("EM&CP"), prepared in accordance with the guidelines set forth in Appendix E to the Joint Proposal, will present mitigation measures to be implemented during construction to minimize impacts to agricultural lands and operations, such as topsoil separation and decompaction techniques. Restoration measures, such as repair of drainage tile fields, decompaction, and thorough removal of all construction debris will also be implemented in active agricultural areas (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.3.4).

22. Some portion of the 78 acres of forestland within the gas transmission line route which contains timber suitable for logging will be converted to maintained ROW. Merchantable timber resources that will be impacted by the proposed project are limited by the relatively young age of much of the forest and previous logging activity. In accordance with landowner agreements, SLG will salvage any merchantable timber for use by the affected landowner. Construction and operation of the gas line will not preclude or prohibit adjacent landowners from continuing logging practices. Abundant land with logging opportunities is present within the

region and the area of land within the ROW with logging potential is relatively small (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.3.4).

23. Within one mile of the gas transmission line ROW, there are four sites documented by the DEC as remediation sites. The closest site is York Oil, which is a State and Federal Superfund Program site located in the Town of Moira, Franklin County. This site is located approximately 750 feet from the proposed gas transmission line ROW and therefore it is not anticipated that SLG will impact this Site (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.3.4).

24. The bed of the Salmon River at the proposed crossing site in the Town of Malone, Franklin County is within the vicinity of a nearby old landfill and may contain coal tar deposits. Although the Signatory Parties agree that the route for the proposed gas transmission line will not cross any area designated as part of the old landfill, if after certification, the route does pass through this area, trench spoils will be sampled and appropriately characterized prior to disposal and will be disposed of in an appropriate manner. In addition, a former coal tar plant existed upstream of the Malone crossing site on the Salmon River, but after consultation with DEC, the Signatory Parties agree that, at this time, no coal tar sediments have been found in the bed of the Salmon River at the proposed Malone crossing site. Nevertheless, to account for construction in this or any other area where there may be contaminated soils, SLG has prepared a "Plan for Construction Transmission, Distribution and Service Lines In or Near Known Areas of Contamination" (see Exhibit 25). SLG will also make reasonable efforts to monitor the Project for any unanticipated contamination, including by monitoring for unanticipated oil sheens.

ii. Topography, Geology, and Soils

25. It is not anticipated that construction and operation of the proposed gas transmission line will have a significant adverse impact to topography, geology or soils (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.4.4). No permanent impervious surfaces are proposed to be created and soil impacts are anticipated to be temporary. The proposed gas transmission line will utilize previously disturbed areas such as roadsides and the abandoned railroad for the proposed route, significantly minimizing potential impacts to topography, bedrock and soil conditions. Rock outcrops have been avoided during the siting of the gas transmission line. Depth to bedrock is greater than 60 inches in most areas, which is sufficient to accommodate project construction. Measures to protect and restore soils on agricultural lands will be undertaken during and after construction, and will include full restoration of agricultural soils in accordance with Ag & Mkts guidelines.

26. Specific erosion control measures will be defined and provided in an Erosion and Sediment Control Plan ("E&SCP"), which will be provided as part of the final construction documentation and EM&CP, which will be prepared in accordance with the guidelines set forth in Appendix E attached hereto.

iii. Vegetative Communities

27. The proposed gas transmission line ROW corridor is predominantly located within existing county town and road/highway ROWs, within the abandoned railroad and on private land. Land cover, particularly on private land and the abandoned railroad, is dominated by agricultural land, reverting agricultural land, scattered woodlots and forestland, and disturbed/developed land. The proposed corridor includes four primary vegetative community

types and also encounters surface waters and disturbed or unvegetated areas. All of the major plant communities found within the proposed ROW are common to New York State (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.5.1).

28. Only one listed threatened and/or endangered plant species has been documented within the general area of the proposed Project. Lake-cress (*Neobeckia Aquatica*) is a member of the mustard family and inhabits still and shallow water bodies. It is listed as threatened by the DEC and populations are in decline primarily due to eutrophication. There is no documented record of Lake-cress within the area of anticipated disturbance of project construction, and there were no observations of Lake-cress during 2009 and 2010 field surveys (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.5.1.1).

29. Only temporary impacts resulting from soil disturbance and selective clearing during construction are anticipated to non-forested areas such as old fields, successional shrubland, and agricultural fields. No permanent or significant changes in character or species composition are anticipated to old field, successional shrubland, agricultural, emergent marsh, wet meadow or scrub-shrub wetland areas, as these communities will be allowed to reestablish following construction. Non-agricultural areas will be maintained via a long term maintenance program that includes brush-hogging (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.5.2).

30. A comprehensive E&SCP will be developed and implemented to protect adjacent undisturbed vegetation and other ecological resources. Clearing techniques will be conducted in a manner that minimizes impacts on adjacent trees, agricultural land, water bodies or other sensitive resources.

31. Mitigation measures to avoid or minimize impacts to vegetation will include delineating sensitive areas where no disturbance or vehicular activities are allowed, educating the construction workforce on respecting and adhering to the physical boundaries of off-limit areas, implementing Best Management Practices contained in the EM&CP (prepared in accordance with the guidelines set forth in Appendix E attached hereto) during construction and maintaining a clean work area within the designated construction sites (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.5.3).

32. Following construction activities, temporarily disturbed areas will be seeded to reestablish vegetative cover. Detailed restoration plans will be described in the EM&CP and final construction drawings.

33. Measures to protect and restore agricultural lands will be undertaken during and after construction in accordance with Ag & Mkts guidelines for pipeline ROW projects.

34. To reduce the potential introduction or spread of target invasive vegetative species throughout regulated areas of the ROW, SLG will implement an Invasive Species Control Plan ("ISCP"), attached as Appendix G hereto.

iv. Fish and Wildlife Resources

35. The New York State Breeding Bird Atlas has documented the presence of 117 breeding bird species in the vicinity of the proposed gas transmission line. Field review conducted in 2009 confirmed that the area provides habitat primarily for common bird species that prefer brush and forest edge. There is no evidence that the area attracts significant concentrations of migrating or wintering waterfowl, shorebirds, songbirds, hawks or other species. Of all the bird species likely to occur on the proposed site, none are listed by the U.S.

Fish and Wildlife Service ("USFWS") or the DEC as endangered. Three species are state-listed threatened species and nine are state-listed as species of special concern (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.6.1.1).

36. There are no designated Important Bird Areas ("IBAs)") in proximity to the proposed gas transmission line. The nearest IBA is the Lisbon Grasslands, located approximately 11 miles southwest of the western terminus of the line (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.6.1.1).

37. The USFWS was consulted and determined that the federally listed endangered Indiana bat has been documented in St. Lawrence County. However, the nearest hibernaculum is located 80 miles southwest in the vicinity of Watertown. The USFWS also indicated the presence of the bald eagle in both Franklin and St. Lawrence County but noted that the species was officially delisted in August of 2007 (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.6.1.4).

38. According to the New York Natural Heritage Program ("NHP"), two known state-listed threatened species have been documented either within or adjacent to the proposed gas transmission line: the northern harrier (Franklin County) and the pied-billed grebe (St. Lawrence County). Neither of these species were observed during the 2009 field surveys, and in any event, small pipeline trenching activities in previously disturbed areas do not typically present harm to these species or their habitat (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.6.1.4).

39. The proposed gas transmission line route intersects several perennial streams that support fish populations. The most significant of these are the West Branch of the St. Regis

River, Little Salmon River and Salmon River. According to the NHP, no listed endangered, threatened or special concern fish species have been documented along the proposed gas transmission line route (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.6.1.3).

40. According to the New York State Reptile and Amphibian Atlas, Blanding's turtle, a state-listed threatened species, occurs within St. Lawrence County, but is not documented by the NHP within the vicinity of the proposed gas transmission line. No listed endangered, threatened or special concern species of reptile or amphibian were observed during the 2009 field surveys or by the NHP. The results of this consultation are documented in Section 4.6 of the Article VII Application. According to NHP, no Blanding's turtles had been documented within the vicinity of the proposed gas transmission line as of the date of the initial consultation, July 28, 2009.

41. DEC staff provided a map illustrating the known location of Blanding's turtles within the multi-town area surrounding the proposed gas transmission line. Of these occurrences, the closest appeared to be located two miles from the western most end of the proposed gas transmission line. While others were documented, they were considerably further away (> two miles) in other portions of St. Lawrence County, well outside of the vicinity of the proposed gas transmission line.

42. In an effort to determine if there was any more current or updated information available from NHP, a request was made for updated information pertaining to sensitive species or habitats within the vicinity of the proposed gas transmission line. NHP responded on April 20, 2010, and indicated that Blanding's turtles are not documented within the vicinity of the proposed gas transmission line.

43. DEC Staff requested that SLG perform a Blanding's Turtle Habitat Assessment on a portion of the proposed gas transmission line ROW. In response, SLG contracted with Riveredge Associates (Riveredge) to conduct a Blanding's Turtle assessment in September 2010 (see Exhibit 28).

44. Riveredge surveyed 53 wetlands along the proposed gas transmission line from its origin in Norfolk east to the St. Lawrence/Franklin County line. These surveys determined that three (3) wetlands (field delineated wetlands identified as 0B, CC, 16C) were found to provide suitable potential habitat for Blanding's turtles. Of these three wetlands, only one (0B) is located near (within 2 km) a known occurrence of Blanding's turtles.

45. Three (3) wetlands in the vicinity of the proposed gas transmission line were found to provide marginal habitat for Blanding's turtles. Riveredge's survey determined that these wetlands (field delineated wetlands identified as 3A, BB, and 15C) did not meet all of the criteria for suitable habitat, but given that some of the criteria were present, these wetlands provided marginally suitable habitat for Blanding's turtles.

46. Each of the potentially marginal or suitable wetlands is located in an area where the proposed gas transmission line will be buried in the right-of-way of a County Road (CR 49 and 52) or in the abandoned railroad bed. As such, the direct construction impact to Blanding's turtles and their habitats is likely minimal.

47. Minimization and avoidance measures which will be deployed include the erection of turtle excluders such as silt fence when working near these six wetlands. In addition, an inspector qualified to identify Blanding's turtles shall be present at active construction areas located in or immediately adjacent to the six identified wetlands.

48. Based on the above investigations and documentation, as well as the avoidance and minimization actions to be taken at the identified wetlands, none of the listed endangered, threatened or special concern wildlife species documented in the area are likely to be adversely affected by the construction of the proposed gas transmission line. The gas transmission line will not significantly alter or reduce available habitat for any of the listed species. There should be no significant change in the fish and wildlife community utilizing the proposed project area before and after construction.

v. Hydrology – Wetlands and Streams

49. The Project may require a wetland disturbance permit from the United States Army Corps of Engineers ("Corps") in accordance with Section 404 of the Clean Water Act and/or Nationwide Permit Program (Nationwide Permit No. 12) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403).

50. Streams within the proposed gas transmission line route could be temporarily affected by siltation and sedimentation from soils exposed during construction. In addition, certain streams will be directly impacted by the construction of the proposed gas transmission line. Temporary impacts related to construction at or near stream crossings include loss of habitat for aquatic organisms, constriction or alteration of stream flow, restriction of upstream or downstream passage by aquatic organisms, loss of streamside vegetation and associated shade, streambed disturbance, bank erosion, and downstream turbidity and siltation (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.7.4).

51. SLG shall implement a Frac-Out Contingency Plan for locations where streams or wetlands are crossed using horizontal directional drilling technology (see Exhibit 26).

52. Stream siltation and sedimentation impacts will be limited by implementing a comprehensive E&SCP which will be provided as part of the EM&CP. The direct impacts of stream crossings will be minimized by utilizing existing crossing locations whenever possible. Special crossing techniques, equipment restrictions, and erosion and sedimentation control measures will be utilized to reduce impacts to water quality, surface water hydrology and aquatic organisms. Clearing of vegetation along stream banks will be kept to an absolute minimum. Disturbance to the bed and banks of protected streams will be avoided altogether through use of horizontal directional drilling or other boring methodologies at certain streams or through crossing techniques such as a dry crossing (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.7.5). The specific crossing method to be used at each stream crossing will be identified in the EM&CP, which will be prepared in accordance with the guidelines outlined in Appendix E attached hereto.

53. Vehicle crossings of wetlands and streams will be avoided wherever possible (or cross at existing culverts), and will be indicated in construction drawings. If crossings are not avoidable, low impact vehicular crossing methods will be used such as timber mats or similar materials, and indicated in the EM&CP. Wetlands and streams will not be obstructed in such a way that impedes the free movement of water during vehicle/equipment crossings. If required due to flowing water across the worksite, or restrictive inundation, vehicles will cross at temporary matting locations. Temporary crossings will be removed as quickly as possible and any rutting that impedes water flows will be restored to pre existing condition following removal of temporary crossings (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.7.5).

54. Culvert replacement is not being conducted as a part of stream mitigation, but as a construction measure in locations only where required to properly install and protect the gas transmission line. If the culvert replacement activity is being conducted in an area where beaver activity is high (and the existing culvert requiring replacement is so affected), appropriate beaver control devices will be installed, as needed, to prevent replacement culvert failure. If there is insufficient fill over a culvert along the abandoned railroad, the pipe shall be installed under culverts either via horizontal directional drilling method, other boring methods, or by removal and replacement of the culvert. Where needed, existing damaged, failing or otherwise non-functional culverts will be replaced. All replaced culverts shall be installed pursuant to the EM&CP in such a way so as to maintain or improve drainage and surface water flows and shall, where practicable and where state protected streams are involved, follow DEC's culvert replacement guidelines. Therefore, even if there is culvert replacement no 'stream habitat loss' will occur.

55. For work in state protected streams, the general period which prohibits stream work is as follows:

a. For cold water trout fisheries, beginning September 15 and ending May 31; and

b. For warm water fisheries, beginning March 15 and ending July 15.

These time frames shall not apply to stream crossings that are conducted using horizontal directional drilling or boring technology.

56. State-protected streams that are anticipated to be crossed by the gas transmission line utilizing Horizontal Directional Drilling ("HDD") technology include the St. Regis River (at Delineated Wetland O), the Little Salmon River (at Delineated Wetland DD), the West Branch of

the St. Regis River (at Delineated Wetland J), Unnamed Tributary to Deer River (at Delineated Wetland 15C), Unnamed Tributary to Deer River (at Delineated Wetland 16C), Farrington Brook (at Delineated Wetland 23D), Unnamed Tributary to Alder Brook (at Delineated Wetland 44B), and the Salmon River (at Delineated Wetland D). State-protected streams that are anticipated to be crossed by the gas transmission line by installing in fill over the existing structure (e.g. stone arch, stone culvert, etc.) include the Trout River (at Delineated Wetland 37A), Little Trout River (at Delineated Wetland 42B), Alder Brook (at Delineated Wetland 42A), Allen Brook (at Delineated Wetland 45A), and the Chateaugay River. The EM&CP shall specify that, where HDD or other boring method is used to cross streams, a vegetated buffer of at least 50 feet will remain undisturbed on either side of the stream, except to the extent necessary to comply with 16 NYCRR Part 255, including, but not limited to, the need for line markers under 16 NYCRR Section 255.707.

57. It is anticipated that the construction of the proposed gas transmission line could temporarily impact up to 2.5 acres of wetlands along the ROW. Additionally, approximately 11 acres of state regulated upland adjacent areas may be disturbed during construction of the proposed gas transmission line. Potential impacts to wetlands will be minimized primarily through utilization of existing crossings by installation in previously disturbed areas, wherever possible. The EM&CP will describe practices SLG will implement in dealing with the following: restricted activities areas, construction in wetlands, vehicular/equipment crossings of wetlands, and sediment and siltation control (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.7.4 and 4.7.5).

58. Six state regulated freshwater wetlands are anticipated to be crossed via horizontal directional drilling or other bore methodology:

a. NO-22 (at Delineated Wetland 0B)
b. NO-28 (and associated unnamed trib. to Plumb Brook at Delineated Wetland 1A Only)
c. NL-28 (and associated Trout Brook at Delineated Wetland 10E)
d. NL-32 (and associated unnamed trib. to Deer River at Delineated Wetland 15C)
e. BR-16 (and associated unnamed trib to Lawrence Brook at Wetland 18A)
f. BR-15 (and associated Lawrence Brook at Delineated Wetland 19A).

59. There are other state regulated wetlands on or adjacent to the ROW, but there is (a) no permanent impact to the wetland due to existing fill or culvert, or (b) hydrologic conditions in the wetland may be conducive to open trench or other direct burial methods, depending on various field conditions. Construction methods will be altered on site, if site conditions are not suitable for direct bury methods. The specific crossing method to be used at each wetland crossing will be identified in the EM&CP, which will be prepared in accordance with the guidelines outlined in Appendix E attached hereto.

60. For those crossings nearby wetlands, whether State or Federal regulated wetlands, silt barriers will be installed on the edge of the ROW, and de-watering operations of the trench line will be used during construction in accordance with the E&SCP. If the lines are not going to be "ploughed in", but trenched in wetlands, then two-stage trenching will be utilized with top soil cast in one direction and sub soil in the opposite.

61. During the construction and long-term maintenance of the gas transmission line, the use of fueled vehicles and equipment poses a minor risk to streams and wetlands associated with unintentional spills of petroleum based lubricants, fuels, etc. The risk is considered minimal due to the lack of storage of large quantities of petroleum based products on site; the

lack of any bulk storage containers on site; the relatively small amount of oil-filled equipment needed to perform construction and maintenance; and the use of paved temporary staging areas during construction.

62. Nevertheless, to further protect streams and wetlands, SLG agrees to limit refueling activities within 100 feet of state regulated freshwater wetlands, and 100 feet of state protected streams. As required under applicable law and regulations, SLG shall report any petroleum based spill (as defined by the Navigation Law) to the DEC unless it meets all of the following criteria:

- The quantity is known to be less than 5 gallons; and
- The spill is contained and under the control of the spiller; and
- The spill has not and will not reach the State's water or any land; and
- The spill is cleaned up within 2 hours of discovery.

63. The EM&CP to be prepared pursuant to the guidelines set forth Appendix E will address spill response and chemical, petroleum and waste management procedures. The EM&CP will contain a spill response documentation form and instructions and contact information for the DEC Spill Hotline. The following general practices will be identified in the EM&CP and used throughout the construction of the gas transmission line to reduce the potential for spills:

- Potential pollutants will be stored and used in a manner consistent with the manufacturer's instructions in a secure location. Hazardous material storage areas will not be located near water courses or storm drain inlets and will be equipped with covers, roofs, and secondary containment to prevent stormwater from contacting stored materials. Chemicals that are not compatible shall be stored in segregated areas so that spilled materials cannot combine and react.

- Materials disposal will be in accordance with the manufacturer's instructions and all applicable local, state, and federal regulations.

- Materials no longer required for construction will be removed from the site as soon as practicable.

- Adequate garbage, construction waste, and sanitary waste handling and disposal facilities will be provided to the extent necessary to keep the site clear of obstruction and stormwater management practices clear and functional.

- The Occupational Safety and Health Act (OSHA) requires employers to provide adequate washing facilities at the worksite.

- All pollutants, including waste materials and demolition debris, that occur on-site during construction will be handled in a way that does not contaminate groundwater or stormwater.

- All chemicals including liquid products, petroleum products, water treatment chemicals, and wastes stored on site will be covered, contained, and protected from vandalism.

- Maintenance and repair of all equipment and vehicles involving oil changes, hydraulic system drain down, de-greasing operations, fuel tank drain down and removal, and other activities that may result in the accidental release of contaminants, will be conducted off-site. Materials spilled during maintenance operations will be cleaned up immediately and properly disposed of.

- Wheel wash water will be settled and discharged on site by infiltration. Wheel wash water will not be discharged to the stormwater system or the stormwater treatment system.

64. A qualified inspector will conduct inspections and will be prompted to visually observe evidence of spills (e.g. oil sheen). If an oil sheen is observed on surface water, absorbent pads and/or booms will be applied to contain and remove the oil.

65. In addition to spill response procedures and timing, the EM&CP, and inspections, SLG will minimize potential risk to streams and wetlands through the appropriate inspection of vehicles and equipment during construction and maintenance of the gas transmission line.

vi. Aesthetic, Visual and Recreational Resources

66. Aerial photo interpretation and field review conducted by SLG to identify locations where there is a relatively high probability that the proposed gas transmission line ROW will be visible, indicates that the actual visibility of the cleared ROW should be very limited. Areas of visibility are concentrated at or near proposed road crossings (generally within 100 feet) where land use on the proposed ROW is currently dominated by forest or successional woody vegetation. These conditions occur at a relatively limited number of sites within the study area. In village, hamlet and agricultural settings where little or no tree clearing will be required, the proposed ROW will have minimal visual impact beyond the addition of small pipeline markers (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.8.3).

67. The cleared gas transmission line ROW could also be visible from several major rivers that would be crossed by the line, including the St. Regis River, Chateaugay River, Deer River, Trout River, Little Trout River, Little Salmon River, Salmon River, and the West Branch of the St. Regis River. However, SLG is proposing to utilize horizontal directional drilling to cross the St. Regis River, Deer River, Little Salmon River, Salmon River, and the West Branch of St. Regis River. Additionally, SLG proposes to use an existing cleared crossing, and trench in the fill over structures crossing the Chateauguay River, Trout River and Little Trout River. Where horizontal directional drilling or other boring method is used to cross streams, a vegetated buffer of at least 50 feet will remain undisturbed on either side of the stream, except to the extent necessary to comply with 16 NYCRR Part 255, including, but not limited to, the need for line markers under 16 NYCRR Section 255.707. This, along with the lack of steep forested slopes adjacent to the river crossings, should assure that views of the clearing ROW are not available

from these rivers or their shorelines. At more minor stream crossings, where horizontal directional drilling or other boring methods are not proposed, the screening effect of upstream and downstream shoreline vegetation will generally limit views of the cleared ROW to within approximately 100 feet of the crossing locations (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.8.3).

68. The proposed gas transmission line will cross over an earthen embankment and a National Register-eligible stone arch tunnel at the Chateaugay River crossing in the Town of Chateaugay. SLG shall install the gas transmission line within an existing cleared earthen travel lane to avoid disturbing the forested embankment so no visual impact to the tunnel is anticipated. A National Register-eligible Greek Revival farmhouse located at 1742 County Route 23 should also not be impacted since the county has indicated that it will allow installation of the pipeline within the disturbed road embankment in this area. No trees are proposed to be removed in the vicinity of this structure and following construction, the only evidence of the gas transmission line would be small pipeline markers. Some clearing associated with the Project could be visible from St. Patrick's Cemetery in the Town of Chateaugay and the Mitchell and St. George's Cemeteries in the Town of Burke. National Register-eligible structures at 7388 Muzzey Road, 4452 U.S. Highway 11, and 155 Houndsville Road in the Town of Malone could also have views of the cleared ROW (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.8.3).

69. Some gas transmission line ROW clearing and gas line markers may be visible from a small portion of the Brasher Falls State Forest where it abuts the former railroad in the Town of Brasher. However, this impact should be minimal (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.8.3).

70. Impacts to the use of recreational resources, such as waterways and snowmobile trails, are primarily temporary in nature (e.g. noise, adjacent construction activity) and will be confined to the 50-foot gas transmission line ROW corridor.

vii. Cultural Resources

71. Panamerican Consultants, Inc. ("PCI") completed a Phase 1A Cultural Resources Investigation within a three mile radius of the proposed gas transmission line route (the "study area") and within the 50 foot gas transmission line ROW of the proposed route (the area of potential effect ("APE")) (see Exhibit 20 [Exhibit H of the Article VII Application]).

72. PCI conducted a Phase 1A architectural investigation within the 3-mile radius study area to identify all National Register listed and National Register-eligible listed properties.

73. Fifteen historic archeological sites have been identified within the 3-mile study area, but none of these sites are located within the APE. The foundation remains of a twentieth century structure is located 100 feet northeast of the proposed gas line route APE in North Lawrence, but it is not anticipated to be impacted by construction. Although portions of the proposed gas transmission line ROW are sensitive for both historic and prehistoric cultural resources, PCI concluded that the majority of the gas transmission line ROW has an overall low sensitivity for archeological resources. Areas where construction is proposed to be on the former railroad have minimal archaeological sensitivity because of the significant previous disturbance associated with construction and operation of the railroad. Areas of relatively higher archaeological sensitivity include, but are not limited to areas around the Salmon River, Little Salmon River and both branches of the St. Regis River.

74. PCI identified 103 National Register listed and National Register-eligible sites, including three historic districts within the 3-mile study area. The only identified National Register listed and National Register-eligible site located within the project APE is a National Register-eligible farmhouse located at 1742 County Route 23 in the Town of Chateaugay. Although the edge of this property is within the APE, the house itself is located over 150 feet from the proposed gas transmission line route centerline and will not be impacted by construction. No other direct impacts to National Register listed or National Register-eligible sites are anticipated (see Exhibit 20 [Exhibit H of the Article VII Application]).

75. SLG submitted a Phase IB Archaeological Investigation Protocol to determine the presence or absence of buried cultural resources within the study area and APE. The Protocol was reviewed, revised and then approved by the Office for Parks, Recreation and Historic Preservation ("OPRHP"). The Protocol was subsequently filed in this proceeding (see Exhibits 25 and 27).

76. PCI conducted a Phase 1B Archeological Investigation in accordance with the Protocol approved by the OPRHP. A total of 1,450 shovel tests were dug during the Phase IB archaeological investigation to determine the presence or absence of buried cultural resources within the APE. No prehistoric cultural materials were found during this investigation. Deposits of modern and some historic materials were identified during the field investigation at nine locations. All but one were found in disturbed conditions with no historic context or possible research value. One small historic site (designated PCI/St. Lawrence Gas-1) was found on the south side of 2593 CR 49 (Cornelius Daly [Trust] property).

77. To ensure that impacts to cultural resources are minimized to the maximum extent practicable, SLG will retain an archeological monitor, who will be on call for the duration of construction activities. SGL will hold pre-construction training sessions with the contractor, which will include education on identification of culturally or archeologically significant materials. If sensitive archeological materials or human remains are encountered during construction, work will be immediately stopped in the location of the find and the archeological monitor will be notified (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.9).

viii. Noise

78. Construction-related noise impacts from the proposed gas transmission line will be minimal. Noise generated will either be temporary (resulting from the operation of construction equipment) or permanent (resulting from changes in gas pressure at the regulator stations). Both types of noise will be localized (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.10).

79. Construction of the gas transmission line will cause temporary increases in ambient noise levels in the immediate vicinity of the construction sites. On-site construction noise will occur mainly from heavy-duty construction equipment (e.g., trucks, backhoes, excavators, loaders, and cranes).

80. Construction noise will vary according to the equipment in use, the distance from the construction area, the land use in the adjacent area, and the presence of existing vegetation, and the presence of buildings and houses. Noise from on-site construction activities along the gas transmission line route could be intermittent or continuous but would be limited to short durations over a period of 3 to 4 weeks at any one location.

81. SLG estimates that at 100 feet from operating district regulator stations, noise levels will be up to 50 dBA, when maximum loads are experienced at the station. However, at the Malone East and West stations, noise levels could be up to 70 dBA at 100 feet from the stations, at times of maximum loads. Maximum conditions will typically occur during the winter during the highest gas use. Four of the 13 proposed district regulator stations are located approximately 100 feet from a residential structure (North Lawrence West, Moira, Brushton-Moira, and Burke). Measures to minimize periodic noise disturbance may include installation of modest vegetative barriers at these locations (see Exhibit 4 [Exhibit 4 of the Article VII Application], Section 4.10).

C. Cost of the Facility

82. The total estimated cost of the proposed gas transmission line is $15,429,628. The detail of the cost estimate is as follows:

Expenditure/Item	**Estimated Cost**
(1) Right of Way	$600,000
(2) Surveys	$450,000
(3) Materials	$2,859,258
(4) Labor	$9,633,560
(5) Engineering and Inspection	$525,530
(6) Administrative Overhead	-
(7) Legal and Other Services	$550,000
(8) Interest During Construction	$61,280
(9) Contingencies	$750,000
Total	**$15,429,628**

83. The sources of the cost figures provided above are as follows:

a. Right of Way – The total ROW cost estimate is based on actual costs incurred to date for secured ROW easements, as calculated on a per foot basis. That per foot cost was applied to the total footage of purchased ROW needed for the preferred route. There are a total of 106 parcels of land along the preferred route that will require easements or licenses for construction, operation and maintenance of the

proposed pipeline. SLG has secured 75 of those easements and/or licenses, as of September 30, 2010. This estimate also includes a contingency cost for the purchase or lease of district regulator station sites, estimated at a cost of $2,000 to $5,000 per site.

b. Surveys – This estimate includes the topographic and planimetric aerial surveys, as well as environmental, cultural, archaeological, agricultural and geotechnical surveys required to evaluate the potential environmental impacts of the facility.

c. Materials – The estimated cost of materials is based on quotes received from distributors and/or manufacturers of pipe, valves, fittings, pipe coating, etc.

d. Labor – Labor cost estimates reflect an average of the courtesy bids for installation of steel pipeline as well as the quote received for clearing of the ROW. Also included is an estimate of the costs associated with hydrostatically testing the gas transmission facility and performing x-ray examinations of welds.

e. Engineering and Inspection – Estimated costs for engineering and inspection were calculated using fully loaded current wages of those individuals who have been or are expected to be involved in the planning or inspection of the gas transmission line construction.

f. Administrative Overhead – The estimated administrative overhead is included in the loaded wages as calculated for Engineering and Inspection above.

g. Legal and Other Services – The estimated cost for legal and other services includes counsel for representation through the Article VII process as well as the cost associated with reaching agreements with the taxing jurisdictions involved in the overall Project with regard to real estate taxes.

h. Interest During Construction – A calculation of allowance for funds used during construction (AFUDC) was based on current interest rates applied on the average rate base increase over the period of construction of the gas transmission line using SLG's current debt/equity ratio.

i. Contingencies – A contingency estimate for the gas transmission line was based on approximately 5% of the total estimated cost.

84. In order to establish credible estimates for various portions of the gas transmission line project, SLG solicited courtesy bids from a number of suppliers of services and materials. Over the past two years, SLG has received courtesy bids from four pipeline contractors as well

as from SLG's parent company for the installation cost of the steel pipelines. These bids have been reviewed and an average calculated for the model.

85. Quotes for steel pipe were provided by two manufacturers as well as through SLG's parent company. The low bid was used in the project estimate. Estimated costs of other materials have been provided by vendors from which SLG has ordered the materials in the past or were based on recent purchases of those materials by SLG. Since the cost of these materials amounts to a small percentage of the total material cost, only the one bid was used for most materials. However, multiple bids will be solicited for all materials when procurement for the project begins.

D. Availability and Impact of Alternatives

86. The record demonstrates that, after a consideration of potential alternatives, the preferred route for the gas transmission line, as described in Exhibit 2 of the Article VII Application, is the route that is most preferable. Reasonable alternatives to the preferred route were limited by the following factors:

a. Distribution areas are defined by the populated areas and potential customer base in and around Winthrop/Brasher Falls and North Lawrence in St. Lawrence County, and Moira, Brushton, North Bangor, Burke, Malone and Chateaugay in Franklin County.

b. The preferred gas transmission line route primarily follows an abandoned railroad ROW, and the disturbed road ROW of several local and county highways, minimizing the number of involved landowners and potential environmental impacts by siting the majority of the proposed gas transmission line route in previously disturbed areas.

c. The route must avoid residential structures and sensitive environmental features to the maximum extent practicable; and

d. The route must largely avoid state highway ROW to the extent possible because of permitting, construction and operational and maintenance constraints presented by co-locating on state highway ROW.

87. A proposed alternative route originally suggested by Mr. and Mrs. Nimz to cross their property in the Town of Moira/Village of Brushton was considered, but this is not a preferable option. The preferred route as submitted in the Article VII Application across the Nims property is approximately 1000 feet in length. The alternative route suggested by the Nimz's would consist of a total length of approximately 2200 feet, or an additional 1200 feet. The average cost per foot for the 8" steel pipeline is approximately $58. The resulting additional cost for the proposed alternative route would therefore be just under $70,000. In addition, under the Nimz's proposed alternative, there would be two additional easements required. For one of these easements, the placement of the 8" high-pressure main pipe SLG would have to be through the yard in very close proximity to the house of one of these landowners. The tangible and intangible cost for these additional easements and any additional environmental impact has not been factored into the cost.

E. State and Local Laws

88. SLG will comply with the substantive provisions of each applicable state statute and regulation. By way of example, SLG will comply with the statutes and regulations cited in Paragraph 5 of Appendix C attached hereto.

89. Exhibit 7 (as revised on December 2, 2010) of the Article VII Application identifies, for each local jurisdiction, every substantive local legal provision (ordinance, law, regulation, standard, and requirement) potentially applicable to the construction of the proposed gas transmission line. SLG will comply with, and the location of the gas transmission line as

proposed conforms to, all applicable substantive local legal provisions (see Exhibit 7B [which contains a further revised Exhibit 7 since SLG's filing on May 21, 2010 in response to the Secretary's May 6, 2010 deficiency letter] which explains the basis for the conclusion that SLG will comply with local laws).

F. Public Interest, Convenience, and Necessity

90. SLG conducted considerable public outreach efforts over the last two years. SLG conducted potential customer surveys, provided presentations to local legislative bodies and economic development agencies, and consulted with local senators and state representatives. Through these outreach efforts, SLG determined there is a significant and measureable demand and interest by the community (including residents and businesses), to expand natural gas service into the currently underserviced rural areas and local communities.

91. In fact, as noted below and in Exhibit G-2 to the Article VII Application (Exhibits 11 and 11A listed in Appendix A to this Joint Proposal), it is anticipated that firm gas service will be provided to 2,113 residential, 372 commercial (including 4 New York State Department of Corrections Facilities) and 2 industrial customers by the end of year 5. Communities served will include Winthrop, Brasher Falls, North Lawrence, Moira, Brushton, North Bangor, Malone, Burke and Chateaugay.

92. SLG commissioned an economic impact assessment to determine the potential economic impacts and benefits of expanded distribution into St. Lawrence and Franklin Counties (see Exhibit 6). The assessment considers the cost and savings from introduction of natural gas to the residents, businesses, and institutions of the area communities. Based upon the public outreach efforts, SLG forecasted potential additional customers and applied historical energy

rates to calculate potential savings achieved by customers converting from fuel oil and propane to natural gas.

93. Based upon public outreach efforts, and feasibility and economic impact assessments, there is a significant local need and demand for the Project. The Project expects to significantly stimulate local economic growth through direct and indirect economic benefits.

IV. PUBLIC CONVENIENCE AND NECESSITY – SECTION 68 PETITION

A. Description of Franchises to Be Exercised

94. SLG is proposing to construct gas distribution and service lines and to exercise gas franchises in the Towns of Brasher, Lawrence and Stockholm in St. Lawrence County and the Towns of Bangor, Burke, Chateaugay, Malone and Moira and the Villages of Brushton, Burke, Chateaugay and Malone in Franklin County. SLG is proposing to tap its existing transmission line located near the Joy Road in the Town of Norfolk, NY and construct the gas transmission facility to a point near the Village of Chateaugay, NY. It is anticipated that firm gas service will be provided to 2,113 residential, 372 commercial (including 4 New York State Department of Corrections Facilities) and 2 industrial customers by the end of year 5. Communities served will include Winthrop, Brasher Falls, North Lawrence, Moira, Brushton, North Bangor, Malone, Burke and Chateaugay.

B. Gas Supply Requirements

95. The Company has access to adequate supplies of natural gas to serve the prospective customers. Gas supply required for the proposed distribution and service lines will be secured through an increase in existing upstream capacity and commodity contracts. The Company currently holds Firm Transportation Service ("Firm Service") contracts on the

TransCanada Pipeline System ("TCPL") with a receipt point of Empress Alberta and delivery point at the Niagara Gas Transmission Limited interconnection at Cornwall, Ontario.

96. The total gas supply portfolio will be increased slowly as the projected load growth occurs in the expansion area. Annual increases in commodity, TCPL capacity, storage and winter purchases will mirror the increase in demand. The overall ratio between firm supply, storage and winter supply will be maintained at similar levels to the Company's historic ratios.

97. Any new TCPL capacity required will be acquired through TCPL's open season bidding process. Recent market changes have created available firm capacity on TCPL's system and firm capacity to Cornwall will be available over the next few years. The Company has successfully used TCPL's Open Season in the past.

98. The Company is also connected to the Iroquois Gas Transmission System ("IGTS") at three locations: the Lisbon Gate, the Edwards Gate, and the New Bremen Gate.

C. Commission Franchise Expansion Policy

99. On December 11, 1989, the Public Service Commission issued a Policy Statement ("Policy Statement") regarding the rate treatment to be afforded to the expansion of gas service into new franchise areas. Case 89-G-078 – In the Matter of the Formulation of a Policy Regarding the Rate Treatment Afforded to Expansion of Gas Service into New Franchise Areas, Statement of Policy Regarding Rate Treatment to be Afforded to the Expansion of Gas Service into New Franchise Areas (issued December 11, 1989). The Policy Statement establishes, among other things, that if a new franchise proposal is projected to earn the allowed rate of return by the fifth year, all investments and revenues would be afforded normal rate treatment. If the fifth year rate of return is expected to be less than the allowed rate of return, rate

determinations during the five-year development period shall include imputations equal to the projected average revenue deficiency during the five-year period and a company may, at its option, impose a surcharge on customers in the new area during the five-year development period. A company may also receive contributions from municipalities or individual customers to offset the need for such a surcharge

D. Economic Feasibility and Benefits

i. Background

100. The Company is undertaking this Project as an extension of its current services throughout northern New York State. Over the last few years the Company has participated in several meetings throughout the project area including meetings of both the Franklin County and St. Lawrence County Legislature, Town and Village Board meetings, customer survey meetings, local service club meetings and meetings with several potential large volume customers. The availability of natural gas service as an energy alternative is considered, by those contacted, to be essential to the communities, the residents and the businesses within the project area. The benefits of natural gas can help attract and retain jobs within the project area, can help reduce New York State's carbon footprint and can provide meaningful savings in energy costs for the local businesses and residents.

ii. Market Surveys

101. To help determine the economic viability of the Project, a sample residential and commercial survey was conducted in mid-February 2008 and again in August and September 2010. Both surveys indicated very favorable responses. Potential energy savings contributed to

the very positive results, even if there needs to be a temporary surcharge (see Exhibit 11A [Updated Exhibit G-2 to the Article VII Application]).

102. Based on the above, it is anticipated that firm gas service will be provided to 2,113 residential, 372 commercial (including 4 New York State Department of Corrections Facilities) and 2 industrial customers by the end of year 5.

103. Customer attachments have been estimated through a physical count of each house and business along the pipeline route and throughout the towns and villages where gas will be distributed. This house count was then used as a basis from which a saturation percentage was applied to calculate annual customer attachments.

104. The projected customer attachments are reflective of both the customer survey, discussed above, and the very favorable views expressed to the Company through the numerous contacts made within the communities. The strong support for Payment in Lieu of Tax ("PILOT") agreements from the Industrial Development Agencies ("IDA"), the local municipalities, and school boards also lend support for the projected customer additions included in the financial analysis.

105. Volumes for residential and small commercial customers (industrial customers excluded) have been estimated based on trends of customers in the Company's existing service territory. Annual gas consumption of 94 decatherms ("Dt") per residential customer and 654 Dt per commercial customer have been incorporated into the feasibility model through year five. The Company has assumed a larger average consumption for commercial customers in years 1 through 5 based on the assumption that the largest commercial customers located within the

expansion area will convert early in the project timeline versus a more gradual addition of smaller commercial customers.

106. In addition, the Company plans to provide service to as many residents within the planned distribution areas that wish to convert to natural gas. Residences and businesses in the proposed distribution areas currently use electricity, propane, fuel oil, and wood as energy sources, and electric delivery service is provided by both Niagara Mohawk Power Corporation d/b/a National Grid and New York State Electric and Gas.

iii. Economic Feasibility

107. The Company has prepared an economic feasibility analysis of the Project, which includes transmission and distribution, based on a 5 year development period. This analysis is based on incremental distribution revenue and costs associated with a forecast of residential, commercial and industrial customer additions (see Exhibit 12A [Updated Exhibit G-3, Schedule G-3A.2 to the Article VII Application]).

108. Total 5 year plant costs for the transmission line and the associated distribution systems are estimated at $23.5 million, and will be offset by a $6.3 million allocation from the County of Franklin Industrial Development Agency ("COFIDA"). The Company will provide $17.2 million towards the project over the five year development period and will fund the investment in a manner consistent with the capital structure of 50% debt, 50% equity as approved in SLG's latest rate case, Case 08-G-1392.

109. The results of the financial analysis indicated a total shortfall in public funding of $7.7 million. In other words, in order to make the Company's allowed rate of return by the fifth year of development SLG requires an offset to capital expense of $7.7 million. This shortfall is

reduced by the $6.3 million provided through COFIDA. The Company is exploring additional contributions to offset the balance of $1.4 million.

110. If additional contributions are not found or any additional contributions are less than the total required to earn the allowed rate of return by the fifth year, SLG will seek permission to offset the shortfall through a temporary surcharge as permitted by the Policy Statement. A temporary surcharge has been included in the feasibility analysis in years 1 through 5.

111. The temporary surcharge, assuming it is implemented, will be allocated to all customers within the expansion area. This surcharge was calculated on the basis of the aggregate five year revenue deficiency divided by the total estimated sales volume for the first five years as described in the Policy Statement.

112. In addition to the public contribution of $6.3 million, the feasibility of the Project is also dependent on property tax abatement over the first 14 years of the project. The Company has requested approval of PILOT agreements from all taxing jurisdictions within the project area. PILOT agreements will be negotiated by both COFIDA and the St. Lawrence County IDA.

113. Resolutions in support of the proposed PILOTS have been approved by 100% of the taxing jurisdictions located within the project area (see Exhibit 11A).

114. The PILOT arrangements anticipated by SLG include a PILOT term of 15 years with an abatement schedule providing for 100% exemption relating to the cost of the transmission line and distribution lines and associated equipment in years 1-5, with such exemption being reduced in 10% increments in PILOT years 6-14. The cost of the gas

transmission line, the distribution lines and associated equipment will be subject to full taxation beginning in year 15, the last year of the PILOT arrangements.

115. The PILOT arrangements have been designed to gradually increase property tax expense to help the feasibility of the expansion project. The gradual introduction of property tax expense will help the Company earn its allowed rate of return in each year beginning in the fifth year of development. Revenue from projected customer additions will offset the gradual increase in PILOT payments.

iv. Economic Benefits

116. The Project will have a large and positive impact on the community's economic viability. The high cost of energy has made it difficult to attract new business and to expand existing businesses and has increased the cost of living for local residents. New businesses, existing businesses and the residents located within the project area can benefit from the availability of natural gas.

117. The Project will have significant positive regional and statewide economic impacts. As demonstrated in the 2007 Center for Governmental Research (CGR) report, the project's construction phase and customer savings will result in millions of additional dollars of revenue to the State and Franklin and St. Lawrence Counties (see Exhibit 6 [Exhibit 6 to the Article VII Application]. The report states that statewide, the total customer savings is estimated to equal $60 million dollars over 20 years, and that savings is expected to generate an additional $32 million statewide in (indirect and induced) spending. The fiscal impact of the construction activity and customer savings to New York State is expected to equal $1.7 million in additional tax revenue over 20 years. Regionally, the report states, the economic impacts (St. Lawrence

and Franklin County) will include an additional $10.6 million generated from the expenditure of the customer savings over 20 years.

118. The CGR report makes the following conclusion with respect to the impact of the proposed natural gas expansion project:

> While it is difficult to predict the future, CGR has provided conservative estimates of the economic and fiscal impact of the proposed natural gas line extension into Franklin County, NY. In doing so, we have considered the potential job retention or creation as a result of the project. There are realistic scenarios under which New York State could "break even" given an initial $6.8 million investment. The natural gas line extension provides an opportunity for existing businesses to become more competitive as well as potential income investment opportunities to take advantage of the lower cost of natural gas.

119. In addition to the CGR report, the Foothills 2020 report was written in 2007 as a collaborative effort of 6 communities located in northeast Franklin County (see Exhibit 26 [Section 68 Petition], Attachment AA). Their goal was to create a comprehensive plan in an effort to revitalize the Foothills region and stop the declining economic state of the region. Identified in the plan was the need to protect and ensure the survival and expansion of the McCadam Cheese factory in Chateaugay. This plan clearly states the need for help from higher levels of government to create the infrastructure necessary to provide natural gas to local residents and businesses to improve the local economy and help businesses locate and expand in the Foothills.

120. The recently adopted Economic Development Strategy for the Town and Village of Malone included a SWOT (strengths, weaknesses, opportunities and threats) analysis which identified an opportunity to support the pipeline in order to help boost the local economy and create job opportunities. A goal of the strategy was to develop regional infrastructure to better

meet the needs of the various businesses and targeted industry sectors. The natural gas pipeline will be a vital piece of infrastructure for the future of Malone and the region in order to continue moving forward, create job opportunities and improve the local quality of life. The plan notes that creating this infrastructure will reduce residential and commercial energy costs.

v. Revenue, Rate Treatment and Expenses

121. Distribution revenues for each service classification have been calculated in accordance with the Company's filed P.S.C. No. 3 Gas Tariff and SLG's latest rate case, Case 08-G-1392. The economic feasibility analysis of the project has been calculated using the incremental net revenue and costs associated with the forecast of residential, commercial and industrial customer additions.

122. An average annual net margin per customer type, has been used to project the total net margin revenue incorporated in the financial analysis. Average net margin per customer type has been multiplied by the projected number of customers in each service classification to arrive at total net margin revenue. A summary of customer additions, customer usage and revenue is presented in Schedule G-3A.4 of Exhibit G-3 of St. Lawrence Gas' Article VII application (see Exhibit 12A).

123. Large volume (or anchor) customer net margin has been calculated individually by applying distribution rates as incorporated in P.S.C. No. 3 Gas Tariff, Service Classification No's 2 and 3 and SLG's latest rate case, Case 08-G-1392 to projected customer usage.

124. Included in the financial analysis are the incremental expenses associated with the project including annual depreciation, property taxes, marketing expenses and operating and maintenance ("O&M") expenses.

125. Property taxes are based on the incremental capital investment associated with the transmission line, distribution line and associated equipment. The calculation of property tax expense is reduced through proposed PILOT Agreements, as described above.

126. Net income has been calculated and is presented as part of the financial analysis of the total project.

vi. Future Rate Treatment, Franchise Recordkeeping, and Surcharge Refund

127. Separate accounting will be maintained for the new franchise area for gross plant, accumulated depreciation, net plant, base revenues, and temporary surcharge revenues for a minimum of sixty (60) months from the date service is turned on to the first customer in the new franchise area ("Development Period"). Maintenance of separate accounting beyond the Development Period shall continue until the actual revenues[1], excluding temporary surcharge revenues, for a twelve month period exceed the minimum revenue imputation for a 12 month period, as defined in Section 132, or sixty months beyond the Development period, whichever is less. The Company shall notify the Director of the Office of Electric, Gas, & Water, in writing, of the discontinuation of the maintenance of separate accounting for the new franchise area 30 days prior to the discontinuation.

128. In order to facilitate future rate case filings, the economic feasibility model is summarized month by month and by a running twelve months for expenses, taxes, return on rate base elements, revenue requirement at 6.75% return, base revenues, temporary surcharge revenues, average gross plant, and average net plant (see Exhibit 12B).

[1] Actual revenues shall include base revenues, temporary surcharge revenues, weather normalization revenues (or credits), and revenue decoupling mechanism revenues (or credits)

129. The maximum temporary surcharge shall be $.0660 per therm for the first sixty (60) months beginning when service is turned on to the first customer in the new franchise area.

130. The allowed revenue requirement for the new franchise area (base revenues and temporary surcharge revenues) for the Development Period is projected to be $8,695,753 ("Allowed Revenue Requirement").

131. The average net plant for the Development Period for the new franchise area is projected to be $13,011,433 ("Imputed Average Net Plant").

132. The Company shall impute total revenues[2] and average net plant for the franchise area in any future rate case filed by the Company for rate years incorporated within the Development Period. For such rate cases, the rate design will recover the revenue requirement exclusive of the franchise area.[3] Exhibit 12B provides the minimum total revenue imputation and the maximum average net plant imputation. For example, assuming service is turned on to the first customer in the franchise area in September 2011, for rate years ending December 31, the minimum total revenue imputation shall be $1,713,037 for 2013[4], $1,961,873 for 2014[5], $1,996,477 for 2015[6], and $2,111,027 for 2016[7] and the maximum average net plant imputation shall be $12,664,299 for 2013, $14,543,402 for 2014, $15,297,455 for 2015, and $15,935,770 for

[2] Total revenues are defined as base revenues and temporary surcharge revenues for the new franchise area. Weather normalization and revenue decoupling mechanism revenues are adjusted revenues which are set at zero in revenue forecasts during the Development Period.
[3] The resulting delivery rates will be the same for all customers including those located within the new franchise area.
[4] If September 2011 is month 1, December 31, 2013 is month 28.
[5] If September 2011 is month 1, December 31, 2014 is month 40.
[6] If September 2011 is month 1, December 31, 2015 is month 52.
[7] If September 2011 is month 1, December 31, 2016 is month 64.

2016. Imputations, if required, will be capped by the final column[8] values at $2,165,316 for base revenue and $16,204,672 for average net plant.

133. Normal ratemaking procedures shall apply to all revenues, costs and investments after the Development Period in accordance with the Policy Statement.

134. According to the Policy Statement, the Company may be subject to prudency reviews relating to the new franchise area during the Development Period. Unless subject to such prudency reviews, normal ratemaking procedures shall apply to all revenue, costs and investments after five years.

135. At the completion of the Development period, a two-step calculation will be made to determine if excess revenue should be refunded to new franchise area customers. This calculation is described in Sections 136 and 137. The term "Excess Revenue" is defined as the positive[9] difference between the actual revenues during the Development Period and the Allowed Revenue Requirement or the Adjusted Allowed Revenue Requirement as defined in Section 136 below. Excess Revenue cannot exceed the amount of the actual temporary surcharge revenues.

136. The first step in calculating Excess Revenue, if any, is given in this section. The Company will compare the Imputed Average Net Plant of $13,011,433 for the Development Period to the actual average net plant for the same period. If it is determined that the actual average net plant is less than $13,011,433 a downward adjustment will be made to the Allowed Revenue Requirement. This reduced allowed revenue requirement ("Adjusted Allowed Revenue Requirement") will be used for the exclusive purpose of determining excess revenue. The downward adjustment to the annual revenue requirement shall equal 44.61% (equals 6.75% per

[8] Month 72.
[9] Actual revenues during the Development Period must exceed the Allowed Revenue Requirement or Adjusted Allowed Revenue Requirement for the difference to be a positive difference.

year times 5 years times the ratio of the allowed revenue requirement to the allowed revenue requirement less income taxes (approximately 1.32)) of the difference between $13,011,433 and the actual average net plant for the Development Period. If it is determined that the actual average net plant is more than $13,011,433[10], the Company will use the Allowed Revenue Requirement in the second step of the calculation as described below in Section 137.

137. The second step in the Excess Revenue calculation is to identify the difference between the actual revenues and the Adjusted Allowed Revenue Requirement (if actual average net plant is less than the Imputed Average Net Plant) or the Allowed Revenue Requirement (if actual average net plant is equal to or greater than the Imputed Average Net Plant) during the Development Period. If the calculation produces a positive result the Company will be required to refund the Excess Revenue. If the calculation produces a negative result no refund is required. The Excess Revenue cannot exceed the actual temporary surcharge revenues. At the end of each year during the Development Period, the Company will calculate, using Exhibit 12B, the Company's liability, if any, to date for the Excess Revenue refund and make the appropriate deferral to account for that liability. At the end of the Development Period, the Excess Revenue will be calculated, and, if any, will be refunded to customers of the new franchise area only. At the end of the Development Period, Excess Revenue will be refunded to each service class in proportion to the actual surcharge revenue collected from such service class over the Development Period.

[10] The Company will have the right to petition the Commission for recovery of any deficiency in its revenue requirement that the Company believes is related to the average net plant, for the Development Period, being in excess of $13,011,433.

138. The Company may defer all plant investments including depreciation, O&M expenses, and actual revenues associated with any new[11] large volume customer (SC-3, SC-4, SC-4A or SC-5) that was not included in the feasibility analysis, reviewed as part of the Article VII/Section 68 process, for subsequent disposition by the Commission.

E. Environmental Impact and Compliance with SEQRA

139. The installation of the proposed distribution and service lines will result in only a temporary disruption of the land uses encountered but will not result in significant permanent physical alteration of the land. Trench spoil excavated for installation of the distribution and service lines will be returned to the trench unless it is not suitable for backfill over the pipe. In that case, clean fill will be backfilled over the pipe. Areas disturbed for construction along the pipeline route shall be restored to their pre-existing conditions.

140. Unless large rocks or contaminated soil are encountered, native soil would be used for backfill. Wherever pavement is removed for trench installation there would be soil removed to a depth of at least 12" in order to place suitable foundation for the replacement paving. Other than these situations, minimal amounts of soil are expected to be removed permanently since there is usually a small amount that cannot be returned to the ditch.

141. There will be buried valves at various points throughout the distribution systems. However, the only "visible" evidence of these would be the cover of a valve box which would be flush with the existing grade when completed.

[11] New is defined as a customer whose facilities and operation of facilities were not in existence at the date of this Joint Proposal.

142. It is not anticipated that any mature trees will have to be removed for installation of the distribution and service lines. All mains will be plastic and normally can be routed around or installed under mature trees, if necessary, by boring installation methods.

143. Other than a rare occasion where the Company may need to get an easement to go around a road culvert or some other obstruction, all distribution mains will be constructed within existing public road rights of way.

144. The distribution systems will take several years to complete; the Company's plan is to install mains and services based on customer demand. In some areas, all mains will be in place by year five. Normally, construction would be limited to those months of the year when weather conditions facilitate excavation work; that is, May through November in this area of New York.

145. The potential environmental impacts associated with the exercise of the gas franchises and construction of gas plant has been evaluated. An expanded Long Environmental Assessment Form ("EAF"), which addresses all Towns and Villages in which St. Lawrence Gas is seeking was included with the Section 68 Petition.

146. In an Order issued on September 16, 2010, the Commission, as Lead Agency, determined that the proposed construction of the distribution and service lines was a Type I action under the State Environmental Quality Review Act ("SEQRA"). However, after review of the Section 68 Petition and EAF (which describes impacts of the proposed action on land, including contaminated soils, water, air, plants and animals, aesthetic resources, cultural resources, open space and recreation, critical environmental areas, transportation, energy, public health and safety, and community character, and how such impacts are proposed to be minimized

or avoided), the Commission concluded that based on the criteria for determining significance listed in 6 NYCRR § 617.7(c), the identified adverse environmental impacts resulting from the proposed action will not be significant and adopted a negative declaration pursuant to SEQRA.

V. PROPOSED FINDINGS

147. The Signatory Parties agree that the record in this proceeding supports the Proposed Commission Findings set forth in Appendix C attached hereto.

VI. PROPOSED CERTIFICATE CONDITIONS

148. The Signatory Parties agree that the Proposed Certificate Conditions set forth in Appendix D attached hereto are acceptable and appropriate for inclusion in a Certificate of Environmental Compatibility and Public Need and Certificate of Public Convenience and Necessity, as applicable, authorizing construction and operation of the Project.

VII. ENVIRONMENTAL MANAGEMENT & CONSTRUCTION PLAN GUIDELINES

149. The Signatory Parties agree that the General Guidelines for Environmental Management and Construction Plan(s) set forth in Appendix E attached hereto are acceptable and appropriate for application to the Project.

VIII. WATER QUALITY CERTIFICATION

150. The Signatory Parties agree that the record in this proceeding supports that proposed water quality certification set forth in Appendix F attached hereto.

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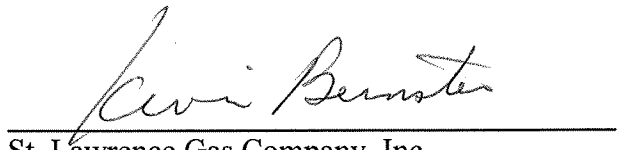
IN WITNESS WHEREOF, the Parties hereto have this day signed and executed this Joint Proposal.



St. Lawrence Gas Company, Inc.
By: Kevin M. Bernstein, Esq.

IN WITNESS WHEREOF, the Parties hereto have this day signed and executed this Joint Proposal.

Staff of the New York State Department of Public Service designated to represent the public interest in this proceeding
By: David Drexler, Esq.

IN WITNESS WHEREOF, the Parties hereto have this day signed and executed this Joint Proposal.

New York State Department of Environmental Conservation
By: Jonathan A. Binder, Esq.

IN WITNESS WHEREOF, the Parties hereto have this day signed and executed this Joint Proposal.

New York State Department of Agriculture & Markets
By: Diane Smith, Esq.

IN WITNESS WHEREOF, the Parties hereto have this day signed and executed this Joint Proposal.

New York State Council of Trout Unlimited
By: William Wellman, Vice President – Region 5