



July 12, 2022

Via Email Only

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Re: Commission Case 11-G-0221

Greetings – this correspondence is regarding Commission Case 11-G-0221. I am an attorney at DT Midstream, Inc., the ultimate parent company of Bluestone Gas Corporation of New York, Inc. (“Bluestone”).

In May 2012, Bluestone and US Bank National Association (as Trustee) entered into an Irrevocable Trust Agreement (attached) that can only be terminated by the written agreement of Bluestone, US Bank, and either the NY State Department of Public Service or NY State Public Service Commission once \$400,000 has been received by US Bank and distributed to benefit the public in the Town of Sanford and/or Broome County.

I’ve drafted the attached Trust Termination Agreement and shared it with US Bank and both parties are satisfied with the format and content. I am requesting that the appropriate person in your agency review the attached and, if the format and content is amenable, to sign on behalf of each of the NY State agencies listed and return to me. I am happy to schedule a quick call if you think beneficial to discuss this matter more in depth. My contact information is below. Thank you for your time.

Sincerely,

A handwritten signature in blue ink that reads 'Andrew T. Hayner'.

Andrew T. Hayner
Senior Attorney – DT Midstream, Inc.
andrew.hayner@dtmidstream.com



April 28, 2022

Trust Termination Agreement

This Trust Termination Agreement (“Agreement”) is by and between Bluestone Gas Corporation of New York, Inc. (“Grantor”), the New York State Department of Public Service (“DPS”), the New York State Public Service Commission (“Commission”), and U.S. Bank National Association (“Trustee”) and is effective as of the date set forth above.

Grantor and Trustee are parties to that certain Irrevocable Trust Agreement dated as of May 12, 2012 (“Trust”).

Pursuant to Section 16 of the Trust, the Trust shall be in effect until terminated at the written agreement of the Grantor, the Trustee and either the DPS or the Commission. The Trust shall not be terminated until all \$400,000 has been received by the Trustee and distributed to benefit the public in the Town of Sanford and/or Broome County.

The parties agree that all \$400,000 has been received by the Trustee and the Trustee, DPS and the Commission agree that such funds have been distributed to benefit the public in the Town of Sanford and/or Broome County.

With the foregoing having been accomplished, the parties agree that the Trust shall be terminated effective as of the date first set forth above and the parties agree that they have fulfilled all of their duties and obligations set forth in the Trust.

Capitalized terms used but not defined herein shall have the respective meanings specified in the Trust.

This Agreement may be executed in any number of counterparts and via electronic means, each of which will be an original, but all of which together will constitute one instrument.

Each person who executes this Agreement on behalf of any party to the Agreement represents and warrants that he or she has been duly authorized by such party to execute the Agreement.

[Signature Page Follows]

The parties have executed this Trust Termination Agreement as of the date first set forth above.

**Bluestone Gas Corporation
of New York, Inc.**

New York State Department of Public Service

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

U.S. Bank National Association

New York State Public Service Commission

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

IRREVOCABLE TRUST AGREEMENT

THIS IRREVOCABLE TRUST AGREEMENT ("Agreement") entered into this 12 day of MAY, 2012, by and between Bluestone Gas Corporation of New York, Inc. a New York corporation having a business address at One Energy Plaza, WCB 2084, Detroit, MI 48168, ("Grantor") and U.S. Bank National Association, a national banking association, having a business address at 100 Wall Street, Suite 1600, New York, NY 10005 ("Trustee").

WHEREAS the Grantor has obligated itself to provide \$400,000 for a public benefit fund to benefit the public in the Town of Sanford and/or Broome County, New York ("Public Benefit Fund"); and

WHEREAS the Grantor has obligated itself to provide financial assurance for its obligation to provide the Public Benefit Fund; and

WHEREAS the New York State Department of Public Service ("DPS"), having a business address at 3 Empire State Plaza, Albany, New York, shall be involved in the implementation of this agreement in the manner stated herein; and

WHEREAS the New York State Public Service Commission ("Commission"), having a business address at 3 Empire State Plaza, Albany, New York, has accepted the commitment by Grantor to provide \$400,000 for the Public Benefit Fund to benefit the public in the Town of Sanford and/or Broome County as an appropriate resolution of certain matters under investigation in Commission Case 11-G-0221, subject to Grantor following through on its obligations in the manner proposed by Grantor; and

WHEREAS, the Grantor has elected to establish a trust into which funds or the proceeds from a letter of credit may be deposited to assure all or part of such financial responsibility to provide the Public Benefit Fund; and

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. *Definitions.* As used in this Agreement:

(a) The term "Grantor" means Bluestone Gas Corporation of New York, Inc. who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "DPS" means the New York State Department of Public Service or its duly appointed designee.

(d) The term "Commission" means the New York State Public Service Commission or its duly appointed designee.

Section 2. *Establishment of Fund.* The Grantor and the Trustee hereby establish a \$400,000 trust fund ("Fund") for the benefit of the Commission. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established consisting of funds, or the proceeds of a letter of credit, deposited into the Fund as follows:

(a) Upon the day of execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000.

2013

(b) On or before the day one year after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5-20-13

2014

(c) On or before the day two years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5-22-15

2015

(d) On or before the day three years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5-19-15

2016

(e) On or before the day four years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5-1-16 0392 GL 207250

2017

(f) On or before the day five years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5-26-17

2018

(g) On or before the day six years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5/24/18

2019

(h) On or before the day seven years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5/24/19

2020

(i) On or before the day eight years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5/29/20

2021

(j) On or before the day nine years after the execution of this Agreement, a deposit of funds by the Grantor in the amount of \$40,000. 5/20/21

(k) In the event the Grantor has failed to fulfill any of its obligations described in "(a)" through "(j)" above, a deposit by the Grantor's letter of credit provider into the Fund.

(l) In the event the Grantor has failed to fulfill its obligation to provide DPS with a replacement letter of credit in a form acceptable to DPS or the Commission at least thirty (30) days prior to the date of expiration of a previously accepted letter of credit, a deposit by the Grantor's letter of credit provider into the Fund.

Such proceeds and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible, nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Commission.

Section 3. Payments to Support Town of Sanford Food Bank. The Trustee shall make payment from the Fund as DPS or the Commission shall direct, in writing, to provide an allocation of 30% of the Fund to support the Town of Sanford Food Bank as secondary beneficiary of this Agreement provided that the Trustee can obtain an agreement from such secondary beneficiary that satisfactorily ensures that the monies will be used in the public interest for the benefit the public in the Town of Sanford and/or Broome County needing food assistance. Prior to executing the secondary beneficiary agreement, the Trustee shall serve a copy of its proposed secondary beneficiary agreement on the Grantor and DPS. If the Grantor and/or DPS are dissatisfied with the terms of the proposed secondary beneficiary agreement and the differences cannot be resolved among themselves, such disagreement shall be resolved in the following manner: (a) the Grantor and DPS shall promptly convene a conference and in good faith attempt to resolve any such disagreement; (b) if any disagreement cannot be resolved within 10 days from the date the dispute arises independently by the Grantor and DPS, the Grantor and DPS shall request that an Administrative Law Judge be made available within 10 days of such request to mediate any such dispute; and, (c) if any such disagreement cannot be resolved by the Grantor and DPS with the assistance of an Administrative Law Judge, either such party may petition the Commission for resolution of the disputed matter. If for any reason the public benefit fund is not used to support such secondary beneficiary, the Grantor and DPS will propose another beneficiary for Commission approval using the manner described above in this paragraph, if necessary, to resolve any differences.

Section 4. Payments to Support Broome Community College Environmental Science Program. The Trustee shall make payment from the Fund as DPS or the Commission shall direct, in writing, to provide an allocation of 70% of the Fund to support the Broome Community College Environmental Science Program as secondary beneficiary of this Agreement provided that the Trustee can obtain an agreement from such secondary beneficiary that satisfactorily ensures that the monies will be used in the public interest for the benefit the public in the Town of Sanford and/or Broome County in a manner in keeping with the mission of the program that students learn basic scientific concepts and understand the interrelationship of these concepts with the environment with a strong emphasis on sustainability and ecological impact. The monies should be used primarily to encourage field study in the Town of Sanford and/or Broome County to educate students and landowners about the value of long-range resource management and stewardship which helps create and sustain species diversity, protects water resources, and can enhance recreational opportunities while providing a long-term supply of quality forest products for the benefit of the local environment and economy. Prior to executing the secondary beneficiary agreement, the Trustee shall serve a copy of its proposed secondary beneficiary agreement on the Grantor and DPS. If the Grantor and/or DPS are dissatisfied with the terms of the proposed secondary beneficiary agreement and the differences cannot be resolved among themselves, such disagreement shall be resolved in the following manner: (a) the Grantor and DPS shall promptly convene a conference and in good faith attempt to resolve any such disagreement; (b) if any disagreement cannot be resolved within 10 days from the date the dispute arises independently by the Grantor and DPS, the Grantor and DPS shall request that an Administrative Law Judge be made available within 10 days of such request to mediate any such dispute; and, (c) if any such disagreement cannot be resolved by the Grantor and DPS with the assistance of an Administrative Law Judge, either such party may petition the Commission for resolution of the disputed matter. If for any reason the public benefit fund is not used to support such secondary beneficiary, the Grantor and DPS will propose another beneficiary for Commission approval using the manner described above in this paragraph, if necessary, to resolve any differences.

Section 5. *Payments Comprising the Fund.* Payments made to the Trustee for the Fund shall consist of cash, letters of credit or securities acceptable to the Trustee.

Section 6. *Trustee Management.* The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with the written instructions of the Grantor, such instructions to specify the particular investment to be made. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee shall discharge his or her duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, and diligence under the circumstances then prevailing which persons acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims, except that:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the Facility, or any of their affiliates as defined in the Investment Company Act of 1940, 15 USCA 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government, provided, however, that the Trustee shall have no obligation whatsoever to determine if such securities or obligations are so held;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee to the extent insured by an agency of the Federal or State government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon. Nor shall the Trustee be liable for any fees, taxes, losses or other charges in connection with any investment, reinvestment or liquidation of an investment hereunder.

Section 7. *Commingling and Investment.* The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USCA 80a-1 *et seq.*, including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. *Express Powers of Trustee.* Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered, but not obligated:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out

the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To accept additions to the Fund from sources other than the Grantor of the Trust; and

(f) To contest, compromise, or otherwise settle any claim in favor of the Fund or Trustee, or in favor of third persons and against the Fund or Trustee.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees and expenses for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund. The provisions of this section shall survive the termination of this Agreement.

Section 10. Quarterly Valuation. The Trustee shall provide to the Grantor and DPS quarterly reports, including financial reports, of the activity of the Fund until it is depleted. The reports shall include a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and to DPS shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Rights of the Trustee. (a) The Trustee may from time to time consult with counsel of its selection, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

(b) No provision of this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(c) The Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request,

direction, consent, order or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(d) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(e) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(f) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(g) The Trustee may request that the Grantor deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Agreement.

Section 12. *Trustee Compensation.* The Trustee shall be entitled to such compensation for its services as agreed upon in writing from time to time with the Grantor. The provisions in this section shall survive the termination of this Agreement.

Section 13. *Successor Trustee.* The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply at the expense of the Grantor, to a court of competent jurisdiction for the appointment of a successor trustee or for instruction. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Commission, and the present Trustee by certified mail, return receipt requested, 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. *Instructions to the Trustee.* All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by a designee of the Grantor. The Trustee shall be fully protected in acting without inquiry, in accordance with the Grantor's orders, requests and instructions. All orders, requests and instructions by DPS to the Trustee shall be in writing, signed by DPS, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. All orders, requests and instructions by the Commission to the Trustee shall be in writing, signed by the Commission, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor, DPS or the Commission hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or DPS or the

Commission except as provided for herein.

Section 15. *Amendment of Agreement.* This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and either DPS or the Commission, or by the Trustee and either DPS or the Commission if the Grantor ceases to exist.

Section 16. *Irrevocability and Termination.* Subject to the right of the parties to amend this Agreement as provided in Section 15, this Trust shall be irrevocable regardless of when the first deposit is made into the Fund and shall continue until terminated at the written agreement of the Grantor, the Trustee and either DPS or the Commission, or by the Trustee and either DPS or the Commission if the Grantor ceases to exist. Subject to the right of the parties to amend this Agreement as provided in Section 15, the Trust shall not be terminated until all \$400,000 has been received by the Trustee and distributed to benefit the public in the Town of Sanford and/or Broome County. In no event shall the Fund or any portion thereof be returned to the Grantor.

Section 17. *Immunity and Indemnification.* The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in the carrying out of any directions by the Grantor, DPS or the Commission issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense. The provisions of this section shall survive the termination of this Agreement.

Section 18. *Choice of Law.* This Agreement shall be administered, construed and enforced according to the laws of the State of New York, without regard to conflicts of laws provisions thereof.

Section 19. *Interpretation.* As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

Section 20. *Force Majeure.* In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 21. *U.S.A. Patriot Act.* The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.


Section 22. *Execution in Counterparts.* This Agreement may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized as of the date first above written.

BLUESTONE GAS CORPORATION
OF NEW YORK, INC.

GRANTOR

By:

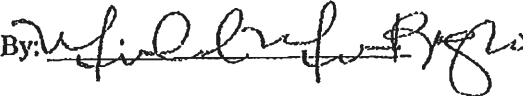

David R. Murphy, Assistant Treasurer

Signed and sealed

U.S. BANK NATIONAL ASSOCIATION, AS

TRUSTEE

By:



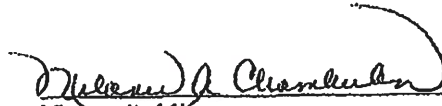
Print Name: Michelle Mena-Rosado
Vice President

Title: _____

ACKNOWLEDGEMENT OF GRANTOR

STATE OF MICHIGAN)
); ss
COUNTY OF WAYNE)

On the 24th day of MAY in the year 2012 before me, the undersigned, personally appeared David R. Murphy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public
State of Michigan
MELANIE A. CHAMBERLIN
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Aug 3, 2013
ACTING IN COUNTY OF