

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”), dated as of the 4 day of November, 2014, is by and between the Public Service Commission of the State of the New York (“PSC” or “the Commission”) and Orange and Rockland Utilities, Inc. (“ORU” or “the Company”) as each is further defined herein. The Commission and the Company are each sometimes referred to individually as a “Party” and collectively as the “Parties.”

WITNESSETH

WHEREAS, in lieu of the Commission initiating a proceeding, relating to its ongoing investigation in Cases 14-G-0186 and 14-G-0175, which would have required ORU to show cause as to why a penalty action should not be commenced pursuant to Public Service Law (“PSL”) §25 for alleged violations of the PSL and its associated gas safety regulations stemming from a natural gas incident occurring in January 2012 in West Haverstraw, New York (“Natural Gas Incident”), the Parties elect to enter into this Agreement;

WHEREAS, ORU contends that a penalty action pursuant to PSL §25 is not warranted; and

WHEREAS, the Parties agree to resolve Cases 14-G-0186 and 14-G-0175 and all issues, claims and allegations relating to the Natural Gas Incident by this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, the Parties, intending to be legally bound hereby, agree as follows:

1. **Definitions**

The Commission and ORU are defined as follows:

- a. The Commission, as used in this Agreement, shall include the Commission and its Chair, as defined in PSL §§4(1) and 12, and the individual Commissioners thereof. The Commission is within the Department of Public Service (“Department”), PSL §§4(1), and Counsel to the Commission, subject to the direction of the Commission Chair, represents the People of the State of New York (PSL §12).
- b. ORU, as used in this Agreement, is a New York corporation with a principal place of business at One Blue Hill Plaza, Pearl River, New York 10965, and shall include its predecessors, successors and/or assigns.

2. **Settlement Consideration**

a. **Location of Underground Facilities/ One Call System Procedure**

i. Within 30 days of the Effective Date (as defined below), ORU will submit an amendment for Department staff review and approval, pursuant to 16 NYCRR §255.603(b), to its Procedure Number 202- Location of Underground Facilities/ One Call System (“Amended Procedure Number 202”).

ii. ORU agrees that within 30 days following Department staff’s review and approval of Amended Procedure Number 202, ORU will begin training on such procedure (i) all ORU gas operations employees, both union and management, including those ORU employees who are involved in the location and protection of ORU’s underground facilities, and (ii) those contractors, who are under the direct oversight of ORU, and who are involved in the location and protection of ORU’s underground facilities. At the conclusion of this 60-day training period, only those ORU employees and contractors who have been trained in Amended Procedure Number 202 will either perform or provide oversight for work covered by such procedure.

iii. The Company agrees to provide a work plan documenting its current inspection program and any proposed enhancements in order to meet the objectives of 16 NYCRR §255.614(b). ORU will submit its work plan to Department staff for review and approval within 30 days of the Effective Date of this Agreement.

b. **First Responder Training**

The Company will propose a detailed program for enhanced First Responder training, damage prevention awareness and gas odor awareness to Department staff for review and approval within 30 days of the Effective Date of this Agreement. This program will describe how the contribution, referred to in Paragraph 4 below, will be allocated.

3. **Effectiveness and Enforcement of this Agreement**

Approval by the Commission is a condition precedent to the effectiveness of this Agreement. The Effective Date of this Agreement will be the effective date of a Commission order approving this Agreement without modification. In the event that ORU fails to complete the requirements set forth in this Agreement, the Commission reserves the right to seek enforcement of this Agreement. Nothing herein shall prevent the Commission from seeking legal or equitable relief

to enforce the terms of this Agreement and the Commission order approving this Agreement once it becomes effective.

4. **Contribution**

ORU will provide, at shareholders' expense, \$150,000 to fund the First Responder Training, damage prevention awareness and gas odor awareness, as described in Paragraph 2b above. This contribution does not resolve or address any future violations of the PSL or its associated regulations, nor does this contribution resolve or address any potential violation that is not within the subject matter of this Agreement. This contribution does not constitute a penalty of any kind.

5. **Release and Waiver**

The Commission agrees, except as provided in Paragraph 3 above, upon Commission approval of this Agreement, that it shall fully and finally waive any right to seek penalties or to seek any other remedy at law or equity from ORU, its affiliates, subsidiaries, shareholders, employees, officers, directors, agents, contractors and /or subcontractors for any alleged penalty or liability arising out of or related to Cases 14-G-0175 and 14-G-0186 and/or the Natural Gas Incident.

6. **Counsel Fees**

Each Party will bear its own counsel fees incurred in connection with the Natural Gas Incident, including the negotiation and execution of this Agreement, and the subject matter underlying same, including the costs associated with the preparation of this Agreement.

7. **Other Proceedings**

The Parties represent and warrant that, other than Cases 14-G-0175 and 14-G-0186, they have filed no claims against each other and know of no claims filed by them, and, as applicable, their affiliates, subsidiaries, shareholders, employees, officers, directors, agents, contractors, contractors and/or subcontractors, on their behalf against another Party hereto in any court, arbitration, or in any other forum relating to the Natural Gas Incident.

8. **Authority**

The execution, delivery and performance of this Agreement by each Party hereto are within its corporate or statutory powers, as appropriate, have been duly authorized by all necessary corporate or statutory action, and do not and will not (a) require any governing or governmental consent or approval, which has not been obtained, except for Commission approval of this settlement, (b) contravene its organizational documents or enabling legislation, or (c) violate applicable law.

9. **Further Assurances**

The Parties hereto agree to cooperate in executing such other documents and to take such other action as may be reasonably necessary to further the purposes of this Agreement.

10. **No Admission of Liability**

The Parties agree that the consideration and other terms of this Agreement, or the execution of this Agreement, do not constitute an admission of liability by ORU, its affiliates, subsidiaries, shareholders, employees, officers, directors, agents, contractors, contractors and/or subcontractors, that any violation of law is expressly denied, that any liability is expressly denied, and that this Agreement is a full and final settlement of all disputed claims.

11. **Governing Law and Jurisdiction**

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York without giving effect to doctrines relating to conflicts of laws. Any action seeking enforcement of this Agreement and any claims alleging the breach of any terms and/or conditions of this Agreement or arising out of or relating to this Agreement shall be commenced in the Supreme Court of the State of New York, Albany County.

12. **Amendments; Waivers**

This Agreement may not be modified, amended, or terminated except by an instrument in writing signed by both Parties. No failure to exercise, and no delay in exercising, any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

13. **Document Headings**

The titles of paragraphs in this Agreement are for convenience only, are not definitive, and shall not be considered or referred to in resolving questions of interpretation or construction.

14. **Remedies**

The Parties acknowledge and agree that nothing in this Agreement shall be construed to prevent either Party from commencing an action to enforce the terms of this Agreement including Commission commencement of an enforcement proceeding to enforce this Agreement.

15. **Construction**

This Agreement will be binding upon and inure to the benefit of the Parties and their respective partners, successors (whether by consolidation, merger or otherwise) and assigns. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the Party causing this Agreement to be drafted. All terms and words used in this Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.

16. **Counterparts**

If this Agreement is executed in counterparts, each counterpart shall be deemed an original and all counterparts so executed shall constitute one Agreement binding on both Parties, notwithstanding that both of the Parties are not signatories to the same counterpart. This Agreement may be executed by original, facsimile or electronic signature, each of which shall be equally binding.

17. **Entire Agreement**

All agreements, covenants, representations and warranties, express or implied, oral or written, of the Parties hereto concerning the subject matter hereof are contained herein. No other

agreements, covenants, representations or warranties, express or implied, oral or written, have been made by either of the Parties to the other concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged herein. This is an integrated Agreement.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement as of the day and year first written above.

PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK

By Kimberly A. Harriman
Kimberly A. Harriman

General Counsel

ORANGE AND ROCKLAND UTILITIES, INC.

By John L. Carley
John L. Carley

Assistant General Counsel