petition

GERIT F. HULL
202.274.2890 telephone
gerit.hull@troutmansanders.com

TROUTMAN SANDERS

TROUTMAN SANDERS LLP
Attorneys at Law
401 9th Street, N. W., Suite 1000
Washington, D.C. 20004-2134
202.274.2950 telephone
202.274.2994 facsimile
troutmansanders.com

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February 25, 2009

Honorable Jaclyn A. Brilling, Secretary
State of New York Department of Public Service
Three Empire State Plaza
Albany, New York 12223

RE: PSC Case No.________

Dear Secretary Brilling:

Enclosed pursuant to 16 N.Y.C.R.R. § 3.5(e), please find the signed original Complaint and Petition on behalf of AG-Energy, L.P., against St. Lawrence Gas Company, conformed copies of which were filed with the Commission on February 23, 2009.

Sincerely

Gerit F. Hull

cc: Howard L. Margulis

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of AG-Energy, LP Concerning Rates,	)	
Terms and Conditions for Gas Transportation	)	Case No. _____________
Service by St. Lawrence Gas Company, Inc.	)	

COMPLAINT AND PETITION

Howard L. Margulis, Esq.
Troutman Sanders LLP
405 Lexington Avenue
New York, NY 10174
(212) 704-6336

Counsel for Complainants

February 20, 2009

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of AG-Energy, LP Concerning Rates, Terms and Conditions for Gas Transportation Service by St. Lawrence Gas Company, Inc.	)))	Case No. ____________

COMPLAINT AND PETITION

AG-Energy, LP ("AG-Energy") through its undersigned counsel, hereby respectfully requests an order from the New York Public Service Commission (the "Commission"), relating to the rates, terms and conditions for gas transportation service provided by St. Lawrence Gas Company, Inc. ("St. Lawrence"). As fully explained herein, the rates, terms and conditions imposed by St. Lawrence are no longer just and reasonable, and may be unduly discriminatory. Accordingly, AG-Energy respectfully requests that the Commission issue an order establishing just and reasonable rates, terms and conditions for service, as described herein, pursuant to its authority under PSL § 66(5). To the extent necessary to resolve disputed facts, AG-Energy requests the initiation of hearing procedures, including discovery. 16 N.Y.C.R.R. §§ 4.1 and 5.1, *et seq.*

I. INTRODUCTION

a. Parties

Petitioner AG-Energy is a limited partnership organized under the laws of the State of Delaware and maintains its principal place of business at 21 Entrance Avenue, Ogdensburg, NY 13669. AG-Energy owns the Ogdensburg Power Plant, which generates steam to serve the heating, cooling, and certain hotel service needs of the St. Lawrence Psychiatric Center in Ogdensburg, New York under contract with the State of New York, Office of Mental Health.

AG-Energy holds a certificate of public convenience and necessity from the Commission in that regard.[1] Additionally, the Commission has established lightly regulated electric corporation status and lightly and incidentally regulated steam corporation status for AG-Energy.[2]

On information and belief, respondent St. Lawrence is a New York corporation having offices at 33 Stearns Street, Massena, NY 13662. St. Lawrence provides interruptible gas transportation service to AG-Energy to support the operation of the Ogdensburg Power Plant. This service is provided pursuant to St. Lawrence's rates and tariffs on file with the Commission and a Natural Gas Transportation Agreement dated April 20, 1992 (the "Agreement").[3]

b. Background

AG-Energy has provided steam service to the St. Lawrence Psychiatric Center for over fifteen years with near one-hundred percent reliability. The Ogdensburg Power Plant entered commercial operation on May 18, 1994. At that time, the facility was a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978 ("PURPA") and the electric output was sold to Niagara Mohawk.

Between the time the Master Restructuring Agreement ("MRA") terminated Niagara Mohawk's obligation to purchase the facility's output at avoided cost rates on June 30, 1998 and October 1, 2007, AG-Energy first sold electric energy and capacity pursuant to long-term power purchase agreements and then as an installed capacity supplier in the New York Independent System Operator ("NYISO") organized market. Over time, AG-Energy's participation in the NYISO market became uneconomic and on October 1, 2007, the two gas fired combustion

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1 *See Petition of AG-Energy, L.P. for an Order Granting Lightened Regulation as an Electric Corporation, Lightened and Incidental Regulation as a Steam Corporation and a Certificate of Public Convenience and Necessity to Sell Thermal Energy*, Order Providing for Lightened and Incidental Regulation and Granting a Certificate of Public Convenience and Necessity, Case No. 02-M-1034 (Nov. 25, 2002).

2 *Id.*

turbines at the Ogdensburg Power Plant were retired, leaving in place an approximate 26 megawatt capacity steam turbine and the auxiliary boiler facilities with which AG-Energy continues to supply steam to the St. Lawrence Psychiatric Center.[4]

AG-Energy is actively pursuing repowering the Ogdensburg Power Plant with carbon-neutral woody-biomass fueled boilers. These efforts are intended to ensure the long-term economic viability of the Ogdensburg Power Plant. To the extent these efforts are successful, this conversion could provide future jobs and tax revenue to the benefit of the Ogdensburg community. However, these efforts are hindered to the extent St. Lawrence's charges for gas transportation exceed a just and reasonable level.

Pursuant to the Agreement, St. Lawrence constructed a twelve and one-half mile eight inch diameter high pressure gas line to serve the Ogdensburg Power Plant (the "Lisbon-Ogdensburg Line").[5] The line extends from St. Lawrence's Lisbon point of interconnection with the Iroquois interstate pipeline, west to the Ogdensburg Power Plant, which is adjacent to the St. Lawrence Psychiatric Center and on the eastern end of the City of Ogdensburg. Charging under the Agreement is structured such that, over the life of the Agreement, AG-Energy will more than cover the costs of construction (approximately $2.2 million)[6] and operations and maintenance expenses associated with the Lisbon-Ogdensburg Line.

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[3] The Agreement is attached hereto as Exhibit A.

[4] AG-Energy filed its Notice Concerning GT Components of Ogdensburg Generating Facility with the Commission on April 18, 2007, pursuant to the requirements of the Commission's order in *Proceeding on Motion of the Commission to Establish Policies and Procedures Regarding Generating Unit Retirements,* Order Adopting Notice Requirements for Generating Unit Retirements, Case No. 05-E-0889 (Dec. 20, 2005).

[5] *See* Exhibit B, hereto, St. Lawrence Gas Service Territory map, as adapted. Inexplicably, St. Lawrence does not include the Lisbon-Ogdensburg Line on its publicly available service territory map. Accordingly, in Exhibit B, AG-Energy has hand-drawn the Lisbon-Ogdensburg Line in the general vicinity of its location, for illustrative purposes only.

[6] *See* Management Applications Consulting, Inc. Report ("MAC Report"), prepared in August 2006 for St. Lawrence, attached hereto as Exhibit C (including transmittal e-mail and supporting Excel spreadsheet).

Upon information and belief, sometime between completion of the Iroquois interstate pipeline in 1992 and the present, St. Lawrence connected its lower-pressure natural gas distribution system in the vicinity of Lisbon with the Iroquois interstate pipeline. As explained by St. Lawrence, St. Lawrence obtains gas to meet its system requirements primarily by way of its Massena-Cornwall interconnection with the TransCanada Pipeline, which is on the eastern end of the St. Lawrence system. However, during periods of high demand, St. Lawrence uses the Lisbon interconnection to move gas from the Iroquois pipeline to the western end of its distribution system, in the vicinity of Ogdensburg. St. Lawrence has procured transportation service on the Iroquois pipeline to move gas from the TransCanada Pipeline to the Lisbon point of interconnection. While St. Lawrence has provided this information, St. Lawrence has also represented that all use of the Lisbon-Ogdensburg Line other than that of AG-Energy is *de minimis*.[7] AG-Energy has been unable to independently verify that such use is in fact *de minimis*.

St. Lawrence is engaged in planning a major expansion on the eastern end of its system in Franklin County.[8] This expansion could only further tax St. Lawrence's 1960's era facilities. It seems likely that additional load on the St. Lawrence system will increase its utilization of the Lisbon point of interconnection for purposes that benefit all of its customers. It also seems possible that the Lisbon-Ogdensburg Line could continue to be utilized for other system purposes. The same increased utilization would likely arise in the event St. Lawrence is precluded from maintaining its interconnection with Niagara Gas Transmission Limited, because

7 *See i.d.*, at 6 ("The line initially built to serve AGE has subsequently been used to a limited degree to serve other firm customers.").

8 *See* Testimony of James P. Ward, Case No. 08-G-1392, at 14-17 (filed Nov. 26, 2008) ("Ward Testimony"), attached hereto as Exhibit D.

of uncertainty whether a pipeline can be constructed on the proposed new low-level North Channel Bridge.[9]

II. DISCUSSION

a. Commission Review of the Rates St. Lawrence Charges AG-Energy for Gas Transportation Service is Warranted

1. The Commission's Statutory Duty to Ensure Just and Reasonable Rates is not Eliminated by Contract

The Commission's review of the rates St. Lawrence charges AG-Energy for gas transportation service is warranted for several reasons. First, the Commission's statutory duty to ensure just and reasonable rates is not eliminated by the fact that the parties previously executed a contract. PSL § 66(5) states in relevant part:

> Whenever the commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the rates, charges or classifications or the acts or regulations of any such person, corporation or municipality are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of any provision of law, the commission shall determine and prescribe in the manner provided by and subject to the provisions of section seventy-two of this chapter the just and reasonable rates, charges and classifications thereafter to be in force for the service to be furnished **notwithstanding that a higher or lower rate or charge has heretofore been prescribed by** general or special statute, **contract**, grant, franchise condition, consent or other agreement, and the just and reasonable acts and regulations to be done and observed . . . .[10]

Case law dating back to the early twentieth century makes clear the Commission's power to adjust rates that have been previously prescribed by contract. In 1921, the Supreme Court, Appellate Division stated:

> The State through the Legislature may regulate rates and the means of service of public utilities and intervene in contracts for furnishing transportation, light, heat,

[9] *See i.d.* at 14 ("If however NGTL is not successful in its negotiations and they are not allowed to build the pipeline on the new bridge the Company would be forced to look at other options that may include major changes to its distribution system."). Presumably, these options would include increased utilization of the Iroquois pipeline to bring gas from the TransCanada pipeline to the St. Lawrence system.

[10] PSL § 66(5) (emphasis added).

> power or other public service. It may say whether the contract rate is unjust or unreasonable, and modify or adjust the terms of the contract in the public interest. The exercise of this power is an act of sovereignty and very largely this power by statute has been delegated to the Public Service Commissions. Such legislation does not violate the constitutional inhibition (U.S. Const. art. 1, § 10, subd. 1), that the obligation of contracts may not be impaired, for contracts of this nature are made ordinarily in contemplation that the State possesses the power to regulate rates and may at any time exercise it. These principles are so well known and established that it is no longer necessary to cite authority.[11]

Accordingly, one cannot reasonably argue that the Commission lacks authority to review this matter and prescribe just and reasonable charges for the relevant services.

2. St. Lawrence's Failure to Comply with the Commission's Filing Requirements Deprived AG-Energy and the Public of the Benefit of the Commission's Review

Service Classification No. 5 of the St. Lawrence Tariff requires St. Lawrence to append to the tariff "summaries of negotiated contract rates and pertinent information . . . ."[12] The tariff cites the Commission's order in Case No. 91-M-0927, for this requirement. This order required that:

> All gas utilities shall file addenda stating the rates and charges for service, plus service characteristics that affect the rate, including: (1) the town and county, but not the street address of the customer, (2) the daily and annual volumes to be tendered, (3) the delivery pressure in psig, (4) the distance of the customer's premises from the pipeline delivery point (city gate) and from the nearest alternative pipeline or source of gas available to the customer, (5) the term of service, (6) any interruptible features under the contract, (7) the anticipated load factor of the customer, and (8) the end use for which service is to be provided under the contract.[13]

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11 *Village of Warsaw, v. Pavilion Natural Gas Co.*, 195 A.D. 716, 719-20 (N.Y. App. Div. 1921).

12 St. Lawrence Gas Company, Inc., PSC NO. 3 GAS (the "Tariff"), leaf 289. Service Classification No. 5 of the St. Lawrence Tariff (leaves 289-91) is appended hereto as Exhibit E.

13 *Proceeding on Motion of the Commission as to the Administration of Utility Tariffs with Respect to Individually Negotiated Contracts between Customers and Utilities*, Order Concerning Tariffs Authorizing Individually Negotiated Contracts, Case No. 91-M-0927, at 17-18 (May 8, 1992) (hereinafter "Negotiated Contracts Order").

AG-Energy has been unable to locate any such addenda filed by St. Lawrence.[14] The purpose of this filing requirement is "to ensure that all rates and charges are open to the public and that customers and competitors are aware of all prices charged in such special contracts."[15] It appears that St. Lawrence has completely ignored this filing requirement.

Similarly, in its order dated August 12, 1991, in Case No. 90-G-3079, the Commission required that:

> "Contracts negotiated pursuant to the tariffs shall be filed with the Commission, along with complete cost estimates, assessment of impacts, and justification for the negotiated rates and terms. Supporting material should be in adequate detail to constitute the *prima facie* case in the event of challenges. All filed material shall be available for public inspection."[16]

This order was in effect at the time the Agreement was executed. AG-Energy has not been able to locate any such filing related to its agreement with St. Lawrence.

By failing to make such addenda available to AG-Energy, St. Lawrence has made it impossible for AG-Energy to determine whether the charges it pays under Service Classification No. 5 are unduly discriminatory in relation to charges that St. Lawrence's similarly situated customers pay. Moreover, St. Lawrence's failure to file addenda and failure to file the contract, cost estimates, assessment of impacts, and justification for the negotiated rates and terms has impeded any review of such rates Commission staff or that AG-Energy may have undertaken by failing to make those materials available to the Commission and AG-Energy. Accordingly, AG-Energy submits this Complaint and Petition in order that the Commission determine whether such rates are just, reasonable and not unduly discriminatory.

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14 A search in the Commission's tariff database produced results stating "no addenda" were associated with the St. Lawrence Gas tariff.

15 Negotiated Contracts Order, *supra* n.13, at 15.

16 *Proceeding on Motion of the Commission to Investigate the Impact of Bypass by Gas Cogeneration Projects*, Policy Statement, Case No. 90-G-0379, at 20 (Mar. 6, 1991).

3. Changed Circumstances

The Agreement was entered into at a time when the economics of cogeneration were substantially different than the economics faced by AG-Energy in the competitive electricity markets today. When the Agreement was entered into, ratemaking policy seems to have embraced charging rates for gas transportation service that exceeded the cost of service plus a reasonable rate of return. Additional contributions toward "system costs" were sought, effectively subsidizing service to other customer classes.

Whatever justification for extracting this subsidy from AG-Energy that might have existed then does not exist now. Conditions in the electric market are such that AG-Energy cannot expect to utilize an annual amount of gas transportation service anywhere close to the amount required to avoid massive minimum take charges under the Agreement. This reflects the fact that AG-Energy is not profitable, and is in fact operating at a loss. Yet AG-Energy has already made a contribution toward system costs of almost $1 million in the form of minimum take charges. Almost incredibly, St. Lawrence collects these charges even though, in its own words on file with the Commission, "St. Lawrence Gas no longer has significant ongoing costs to provide service under the Contract."[17] Under these circumstances, continued imposition of punitive minimum take charges is patently unjust and unreasonable and may be unduly discriminatory (AG-Energy has no way of knowing with any certainty what arrangements St. Lawrence may have made with similarly situated customers).[18]

b. The Commission Should set Just and Reasonable Charges

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[17] Comments of St. Lawrence Gas, Case Nos. 02-M-1034 and 07-M-1074, at 3 (dated Dec. 6, 2007).

[18] *See, e.g., Proceeding on Motion of Commission to Investigate the Impact of Bypass by Gas Cogeneration Projects*, Policy Statement, Case No. 90-G-0379 at 11 (Mar. 6, 1991) ("the statutory prohibition on undue discrimination would continue to apply, and comparable customers would have to be offered comparable terms.").

1. Minimum Take Provisions are Unreasonable under the Circumstances

The current Agreement provides St. Lawrence with the benefit of inequitable "minimum-take" provisions. AG-Energy respectfully submits that any useful life of such provisions has long since passed, and requests that the Commission reject St. Lawrence's continued demand for minimum-take charges.

The current Agreement initially required AG-Energy to pay to St. Lawrence for the transportation of all gas used by the facility at the rate of $0.05 per decatherm (the "Therm Rate"). The Agreement provides that the Therm Rate will be escalated annually in proportion to changes in the Gross National Product Implicit Price Deflator. In its most recent billing, St. Lawrence determined the adjusted rate to be $0.06778 per decatherm. Additionally, if AG-Energy fails in any contract year to transport at least 3,000,000 decatherms, then AG-Energy is required to make-up the difference—thereby assuring St. Lawrence a minimum-take equivalent to the use of 3,000,000 decatherms, or about $203,000 per year at the most recent billing rate.

Since the MRA was executed, however, AG-Energy has consistently transported substantially less than 3,000,000 decatherms annually. As a result, AG-Energy has been required to pay to St. Lawrence almost $1 million in minimum-take payments for gas transportation service AG-Energy did not receive and that St. Lawrence did not provide. These minimum-take charges are in addition to the monthly facilities charges and property tax charges that are designed to recoup the cost of the Lisbon-Ogdensburg Line, of which AG-Energy has been invoiced approximately $3.7 million and $1 million, respectively. Moreover, these minimum take charges are in excess of the $1.8 million in base transportation charges paid to St. Lawrence—for transportation service that uses no part of the St. Lawrence system other than the

Lisbon-Ogdensburg Line and the Lisbon interconnection (AG-Energy pays a separate charge for use of the Lisbon interconnection).

Minimum-take provisions have been permitted in limited circumstances by the PSC. The principal reason for such provisions is to allow a company to receive a guaranteed minimum payment to alleviate risk and to recoup costs. Neither rationale applies under the present circumstances.

First, and as set forth above, the costs St. Lawrence incurred in constructing the Lisbon-Ogdensburg Line have been more than recouped by St. Lawrence. The Commission has recognized and held that minimum-take provisions do not need to last for the duration of a constructed line's existence, for example, or for the duration of an agreement. In *In re Petition of New York State Electric & Gas Corp.*, for example, the Commission allowed NYSEG a minimum-take provision in relation to construction of gas plant.[19] It allowed the provision, however, for only five years, reasoning that after this time, "[w]e will require NYSEG to assume all risk, beyond the fifth year of operation, including the risk for gas plant investment costs related to non-core load and costs associated with the supply and pipeline capacity needed to serve that load, such that there will be no upward effect on core customers' rates."[20]

The St. Lawrence minimum-take provision has been in place now for over fifteen years, and despite requests from AG-Energy that it be rescinded,[21] St. Lawrence has refused to end its collection of this windfall. AG-Energy submits that these provisions are no longer appropriate

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19 *In re Petition of New York State Electric & Gas Corp.*, Order Granting Certificate of Public Convenience and Necessity (hereinafter "NYSEG Order"), Case No. 97-G-0924 (Aug. 21, 1997).

20 *Id.* at 5-6.

21 *See* Letter of Joseph Klimaszewksi, AG-Energy, to James Ward, St. Lawrence 2 (Sept. 19, 2006). This letter is attached hereto as Exhibit F.

and should be rescinded or modified by the Commission to account for the inequity described above.

Second, the claimed risk that accounted for the Commission allowing a minimum-take charge in *In re Petition of New York State Electric & Gas Corp.* is not present here. AG-Energy has been a customer of St. Lawrence for over fifteen years. Moreover, St. Lawrence is using the capacity of the Lisbon-Ogdensburg Line to serve third-parties. Thus, it is not the case that St. Lawrence is "at risk for recovering the cost of all incremental investment dedicated to serve non-core customers. . . ."[22] St. Lawrence's investment has been recouped, and the Lisbon-Ogdensburg Line will continue to provide benefits to St. Lawrence and its "core customers" for years to come.

2. Further Monthly Facilities Charges are Unreasonable under the Circumstances

As noted above, AG-Energy has been invoiced approximately $3.7 million and $1 million for the monthly facilities charges and property tax charges, respectively, that are designed to recoup the cost of the Lisbon-Ogdensburg Line. The original estimated cost of the line was approximately $2.2 million. The monthly facilities charge is determined by a three-part formula in Appendix II of the Agreement.[23] As discussed below, AG-Energy submits that St. Lawrence may already have been fully compensated for the reasonable costs of constructing the Lisbon-Ogdensburg Line.

AG-Energy's concerns with the monthly facilities charges are two-fold. First, St. Lawrence has not provided AG-Energy with work papers or other documentation demonstrating that the calculations behind the monthly facilities charges have been performed correctly.

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22 NYSEG Order, *supra* n.18., at 4.

23 *See* Agreement at App. II (Exhibit A hereto).

Second, as discussed below, AG-Energy believes that a number of components within the rate are not just and reasonable and may be unduly discriminatory. For these reasons, AG-Energy respectfully requests that the Commission conduct a thorough investigation into St. Lawrence's billing practices under the Agreement and allow AG-Energy discovery rights in relation to those practices.

As indicated above, St. Lawrence has provided AG-Energy with very little backup for the substantial monthly facilities charges invoiced. Accordingly, AG-Energy cannot at this time catalog every potential objectionable aspect of the rate formula. However, several stand out.

For example, Step 2 of the rate formula, by its terms, "employs the concept of 'present value' which calculates the value today of a stream of payments discounted at an appropriate discount rate." On the one hand, the narrative states that "an appropriate discount rate" will be used. On the other hand, the formula includes a 10 percent annual discount rate, but at the same time, St. Lawrence has represented in negotiations over the Agreement that its cost of capital is 6.67% (other, lower rates may be appropriate). Using a fixed 10 percent discount rate under such circumstances would lead to a gross over-recovery.

Similarly, the formula includes a five-percent annual book depreciation rate, which is used to generate the monthly revenue requirement in Step 1. In contrast, St. Lawrence has indicated that its mains have an average service life of 65 years.[24] It seems unreasonable to collect full book depreciation over the term of the Agreement, when at the end of its term, St. Lawrence will enjoy ownership and beneficial use of the Lisbon-Ogdensburg Line for an additional forty-five years.

3. AG-Energy is Eligible for Service Under Service Classification Nos. 3, 4 or 4A, at its Election

[24] MAC Report, *supra* n.6., at 4.

The Commission should clarify that AG-Energy may elect between service under St. Lawrence's Service Classification Nos. 3, 4, or 4A. These service classifications are, respectively, "Large General Firm Service," "Interruptible Service," and "Interruptible Service – Monthly Average Day." Under present operating conditions, AG-Energy cannot expect to meet the Service Classification No. 5 minimum load requirement of 2 billion cubic feet per year. Further, AG-Energy is not currently operating as a cogeneration facility, which is a prerequisite to service under Service Classification No. 5. AG-Energy should be able to elect a Maximum Daily Transportation Quantity that reflects usage under prevailing operating conditions. To the extent any minimum annual quantity is required, it too should be reasonably related to prevailing operating conditions.

4. St. Lawrence Gas has not Provided AG-Energy with Credit for Third-party use of the Lisbon-Ogdensburg Line

The Agreement does not expressly address rate adjustments due in the event St. Lawrence provides service to third-parties using the Lisbon-Ogdensburg Line. Accordingly, the provisions of St. Lawrence's filed tariff govern. These provisions prescribe a substantial crediting mechanism toward the rate AG-Energy pays St. Lawrence for gas transportation service. St. Lawrence has failed to provide AG-Energy with this credit.

Section 24(D) of the Agreement states:

> The general terms and conditions of the provisions of **Service Classification No. 5** contained in St. Lawrence Gas's PSC No.2-GAS tariff, as filed with and approved by the New York State Public Service Commission, as same may be amended and so approved from time to time, **except were such terms, conditions and provisions are inconsistent with this Agreement, are hereby declared to be and to form a part of this Agreement**. The parties acknowledge and agree that, as of the date of this Agreement, this Agreement is consistent with and conforms to such tariff provisions. If, after the date of this Agreement, inconsistencies or conflicts between such tariff provisions and this Agreement

arise, this Agreement shall govern. This Agreement shall be interpreted, performed and enforced in accordance with the laws of the State of New York.[25]

As noted above, rate adjustments due in the event St. Lawrence provides service to third-parties using the Lisbon-Ogdensburg Line are not expressly addressed in the Agreement. However, the language of Section 24(D) incorporates the terms of Service Classification No. 5, to the extent its terms are not inconsistent with the Agreement. Accordingly, we turn to the terms, conditions and other provisions of Service Classification No. 5.

Service Classification No. 5 does not expressly address rate adjustments due in the event St. Lawrence provides service to third-parties using the Lisbon-Ogdensburg Line. However, Service Classification No. 5 provides that: "Service under this Service Classification is subject to company's rules and regulations set forth in the section entitled General Information."[26] The "General Information" section includes provisions pertaining to Main Extensions.[27]

The Main Extensions provisions expressly address rate adjustments due in situations such as are present here, where St. Lawrence uses the Lisbon-Ogdensburg Line to provide service to third-parties. The Main Extensions provisions state:

> Whenever more than one customer is connected to a main extension, the surcharge shall be so adjusted that the company shall not receive in any one calendar year a greater percentage from all customers served from the main extension than that applicable to such extension. The surcharge will be reasonably allocated among the customers being served from the main extension, taking into account the portion of mains and appurtenant facilities which the company is required to provide without charge to each customer served from such facilities.[28]

St. Lawrence has provided no such credit.

The Main Extensions provisions state further:

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25 Emphasis added.

26 St. Lawrence Gas Co., PSC No.3 Gas tariff ("Tariff"), Leaf No. 291, effective Jun. 4, 2004.

27 *See* Tariff, Section 2.II.K.

28 Tariff, Section 2.II.K.3.

Each surcharge shall cease:

a. Whenever the length of a main extension required to be provided without charge to all customers served from such extension shall equal or exceed the total length of such extension;

b. Whenever the total adjusted gas revenue from all customers served from a main extension equals or exceeds 40 percent of the cost of such extension in excess of that required to be provided without charge, in each of any two consecutive calendar years; or

c. After a period of ten years following its commencement.[29]

St. Lawrence has denied AG-Energy the benefit of any information that could allow AG-Energy to determine the scope of credits due under (a) or (b). However, (c) provides that main extension surcharges shall cease no later than ten years after commencement of service, to the extent third parties are served from the extension. Accordingly, such charges under the Agreement should have ceased on the later of November 1, 2003 (the passage of ten years), or the date other parties were first served from the Lisbon-Ogdensburg Line. Additional credits may have been due during prior periods.

d. Failure to Provide Proper Credit for use of the Lisbon-Ogdensburg Line is Grounds for Breach of the Agreement

St. Lawrence has denied AG-Energy this credit. As demonstrated above, St. Lawrence is obligated under the Agreement to provide credits against, or terminate, the main extension surcharges, and is therefore in breach of the Agreement. Moreover, St. Lawrence has breached its obligation under the public service laws to provide service only under the terms and conditions of its filed tariffs.

e. The Agreement is Terminable as of March 22, 2009, Unless the Breach is Cured Sooner

[29] Tariff, Section 2.II.K.4.

On February 20, 2009, AG-energy provided St. Lawrence notice that its failure to provide proper credits for third-party use of the main extension constitutes a material breach of the Agreement. Section 23 of the Agreement states: "If the breaching party fails to remedy its default within thirty (30) days from receipt of such notice . . . the non-breaching party, at its sole option, may declare this Agreement terminated." To the extent that St. Lawrence has not cured its breach by March 22, 2009, AG-Energy may avail itself of this contractual remedy and declare the Agreement terminated.

f. The Commission Should Order Refunds with Interest

As noted above, St. Lawrence has failed to comply with the Commission's filing requirements and therefore deprived AG-Energy and the public of the benefit of Commission review of these charges. Accordingly, the Commission should order refunds of any principal amounts previously paid by AG-Energy that, upon review informed with hindsight, the Commission determines not to be just and reasonable. Further, the Commission should require St. Lawrence to refund the time value of all prior payments (*i.e.*, interest) made by AG-Energy to St. Lawrence under the Agreement. This is the approach taken by the Federal Energy Regulatory Commission when utilities choose to ignore their responsibilities under its Prior Notice policies.[30] This approach would demonstrate that the Commission is serious in upholding the requirements of the Appellate Division's *MCI* holding.[31] This approach would provide a

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[30] *See, e.g., Prior Notice and Filing Requirements Under Part II of the Federal Power Act ("Prior Notice")*, 64 FERC ¶ 61,139 at 61, 979 (1993) ("we will require the utility to refund to its customers the time value of the revenues collected, calculated pursuant to . . . 18 C.F.R. § 35.19a . . . for the entire period that the rate was collected without Commission authorization.").

[31] *MCI Telecommunications Corp. v. Public Service Commission*, 169 A.D.2d 143 (N.Y. App. 1991) ("AT&T's proposed amendments to its tariff simply obligated it to notify customers that individualized pricing arrangements were obtainable. Contrary to the statutory mandate, the rates that would apply in these special contracts are tellingly absent from the tariff.").

reasonable deterrent to utilities like St. Lawrence that might otherwise choose to flout their responsibilities to the Commission, their customers and the general public.

g. Renegotiation; Termination of Service

AG-Energy has made repeated good-faith efforts to renegotiate objectionable terms of the Agreement. Unfortunately, AG-Energy's efforts to engage St. Lawrence have been futile and St. Lawrence has repeatedly misrepresented AG-Energy's performance under the Agreement in pleadings filed before the Commission.

In testimony filed in St. Lawrence's most recent rate case, St. Lawrence states that it will not negotiate with AG-Energy to eliminate minimum take provisions or reduce fixed monthly fees until its monthly invoices are paid on time.[32] Additionally, St. Lawrence recently filed commentary in Case No. 08-E-1488, stating that "AG-Energy has consistently made payments late and is currently past due on nearly $300,000 owed under the Contract."[33] Of course, St. Lawrence failed to mention that St. Lawrence had agreed to accept defined monthly payments from AG-Energy with respect to the annual windfall of minimum take charges for 2008, along with ongoing 2009 charges. A copy of St. Lawrence's confirmation of these arrangements is attached hereto as Exhibit G. As of the date of this Complaint, AG-Energy was, and has been in all material respects, current with respect to this payment plan.

St. Lawrence's bad faith in prior attempts to renegotiate the Agreement is demonstrated by its work papers from 2006, which responded to AG-Energy's entreaties to negotiate restructured rates with a demand for an exorbitant lump sum buy-out payment. Review of these materials demonstrates that rather than negotiate, St. Lawrence merely conducted a net-present value exercise with respect to the maximum amount of punitive minimum take charges other

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[32] Ward Testimony, *supra* n.8, at 18 (Exhibit D hereto).

charges it could imagine receiving going forward.[34] (It would be interesting to know the accounting treatment St. Lawrence intended for this lump sum, given its previous failure to acknowledge certain monthly revenue under the Agreement as an offset to its revenue requirement in the rate case context.)[35] In all of this, St. Lawrence brazenly disregards Commission guidance to be reasonable with respect to negotiated rates for transportation service.[36]

In an effort to head off further bad faith behavior by St. Lawrence, AG-Energy respectfully requests that the Commission remind St. Lawrence of its obligations to follow the provisions in its tariff pertaining to disputed charges. Specifically, Section 2.III.X.1.b.iv states "A final notice of termination shall not be sent while a complaint is pending before the company or the Commission for non-payment of the disputed charges or for any other reason that is the subject of the complaint as provided in 16 NYCRR 12.3."[37] On February 20, 2009 AG-Energy provided St. Lawrence with notice of the disputed portion of the most recent invoiced amounts. Accordingly, until the Commission resolves this matter, St. Lawrence would be in violation of its tariff and the Commission's regulations, to the extent St. Lawrence attempted to terminate service to AG-Energy for non-payment of disputed amounts. Moreover, such rash action would

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33 Letter from Eric Krathwohl to Hon. Jaclyn A. Brilling, Secretary, Case No. 08-E-1488, at 1 (Jan. 7, 2009).

34 *See* MAC Report, *supra* n.6, at 1 (Exhibit C hereto).

35 *Minor Rate Filing of St. Lawrence Gas Company, Inc. to Increase its Annual Gas Revenues by $ 695,700 or 2.49%*, Order Approving Recommendation, Case No. 94-G-0686 at 51 (Oct. 10, 1995) ("Adj. No. 1-c Increase cogeneration revenues to reflect the revenues associated with the property taxes relating to the Ag-Energy facility. The company failed to include these revenues in the rate case. $ 71,479").

36 *E.g., Proceeding on Motion of the Commission to Investigate the Impact of Bypass by Gas Cogeneration Projects*, Clarification of Statement of Policy Regarding Bypass of Local Distribution Companies by Large Volume Users, Case No. 90-G-0379, at 1(Aug. 12, 1991) ("The Policy Statement expressed our intent that local distribution companies (LDCs) be free to **negotiate reasonable gas transportation contracts** to preclude uneconomic bypass, provided the contracts benefit the general body of ratepayers and no undue discrimination results.") (emphasis added).

37 Tariff, Leaf No. 94.

jeopardize the welfare of the clients of the St. Lawrence Psychiatric Center and its employees, along with the other state facilities on site, including the Department of Corrections, its employees and inmates.

AG-Energy has paid in full the current monthly amount due under the agreed payment plan with St. Lawrence. However, AG-Energy reserves its rights with respect to future non-payment of disputed amounts.

* * *

III. REQUESTED RELIEF

FOR ALL THE FOREGOING REASONS, AG-Energy respectfully requests that the Commission grant its Petition and issue an order:

a. initiating hearing procedures, including discovery, with respect to main extension cost recovery under the Natural Gas Transportation Agreement;

b. requiring St. Lawrence to refund amounts previously recovered in excess of costs of the main extension;

c. permanently precluding St. Lawrence Gas from charging AG-Energy additional main extension costs for the existing extension;

d. precluding St. Lawrence from imposing minimum take charges;

e. initiating hearing procedures, including discovery, with respect to the extent other customers are served over the main extension;

f. requiring further refunds to the extent such hearing procedures establish that St. Lawrence has improperly failed to account for other customers' use of the main extension.

g. precluding St. Lawrence from unlawfully threatening termination of service.

Dated February 20, 2009

Respectfully submitted,

Troutman Sanders LLP
Counsel for AG-Energy, LP

By: ______________________

Howard L. Margulis, Esq.
Troutman Sanders LLP
405 Lexington Avenue
New York, NY 10174

List of Exhibits:

Exhibit A
Natural Gas Transportation Agreement dated April 20, 1992

Exhibit B
St. Lawrence Gas Service Territory Map
(including hand drawn Lisbon-Ogdensburg Line)

Exhibit C
Management Applications Consulting, Inc. Report ("MAC Report")
Prepared in August 2006 for St. Lawrence
(including transmittal e-mail and supporting Excel spreadsheet)

Exhibit D
Testimony of James P. Ward
Case No. 08-G-1392
(filed Nov. 26, 2008)

Exhibit E
St. Lawrence Gas Company, Inc., PSC NO. 3 GAS (the "Tariff")
Service Classification No. 5
(leaves 289-91)

Exhibit F
Letter of Joseph Klimaszewksi, AG-Energy, to James Ward, St. Lawrence
(dated Sept. 19, 2006)

Exhibit G
St. Lawrence's Confirmation of Payment Plan

CERTIFICATE OF SERVICE

I, Howard L. Margulis, hereby certify that on this 20th day of February 20, 2009, I caused to be served a copy of the foregoing Complaint and Petition upon the following parties by overnight delivery:

Eric J. Krathwohl, Esq.
Rich May, A Professional Corporation
176 Federal Street
Boston, MA 02110-2223

Sharon A. Gaines, Treasurer
St. Lawrence Gas Company, Inc.
33 Stearns Street, PO Box 270
Massena, NY 13662

Howard L. Margulis, Esq.

Exhibit A
Natural Gas Transportation Agreement dated April 20, 1992

NATURAL GAS TRANSPORTATION AGREEMENT

BY AND BETWEEN

ST. LAWRENCE GAS COMPANY, INC.

AND

AG - ENERGY, L. P.

DATED:

April 20, 1992

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NATURAL GAS TRANSPORTATION AGREEMENT
BY AND BETWEEN
ST. LAWRENCE GAS COMPANY, INC.
AND
AG - ENERGY, L.P.

THIS TRANSPORTATION AGREEMENT, made this 20th day of April, 1992, by and between St. Lawrence Gas Company, Inc. ("St. Lawrence Gas" or "Company"), a New York corporation, having offices at 56-58 Main Street, Massena, New York, and AG - Energy, L.P, ("Customer"), a Delaware Limited Partnership, having offices at 135 East 57th Street, 23rd Floor, New York, New York.

WITNESSETH:

WHEREAS Customer is planning to construct, own and operate a 79 megawatt (MW) (approximate net) natural gas fired cogeneration facility on the site of the NYS Psychiatric Cente~ in the City of Ogdensburg, New York (the "Project") and expects to commence testing and operation of said Project around June, 1993, and

WHEREAS Customer has access to available quantities of natural gas, which quantities have been purchased by Customer for use in its Project facilities, and

WHEREAS Customer desires to have certain quantities of natural gas transported to the Project by St. Lawrence Gas, and

WHEREAS St. Lawrence Gas is willing to construct, own and operate incremental facilities, if any, required to serve the Project.

WHEREAS St. Lawrence Gas is willing to receive such quantities of natural gas at Lisbon, New York where the Company's facilities interconnect or will interconnect with those of Iroquois Gas Transmission System, and

WHEREAS St. Lawrence Gas is willing to transport and deliver on an interruptible basis equivalent quantities (less UFG) from the interconnection with IGTS to a point of delivery at the Project all on the terms and conditions set forth hereinafter and in the Company's Tariff - PSC No. 2-GAS, and

NOW, THEREFORE, pursuant to the terms and provisions of Company's Service Classification No.5, PSC No. 2-GAS, as filed with and approved by the New York State Public Service Commission, as same may be amended and so approved from time to time, which by reference are hereby incorporated into this Agreement and made a part hereof and in consideration of the premises and the mutual convenants and agreements herein contained, and intending to be legally bound, the parties hereto agree as follows:

1. Definitions

When used in this Agreement, including the recitals and any appendices, the following words and terms shall have the following meanings:

A. "Agreement" means this agreement between the parties hereto, including all appendices and all amendments hereto that may be made from time to time.

B. "Btu" means the amount of heat required to raise the temperature of one (1) pound of distilled water from a temperature of fifty-nine degrees Fahrenheit (59^0F) to sixty degrees Fahrenheit (60^0) at a constant pressure of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 psia).

C. "Commencement of Term Deliveries" means the date which the Customer designates in writing to the Company as the date on which the Company is to commence the transportation and delivery of the Customer's gas, excluding start-up or test gas, from the Receipt Point to the Delivery Point hereunder, as provided in Section 2 hereof.

D. "Contract Year" with respect to the first "Contract Year", means the period commencing on the Commencement of Term Deliveries and ending at 8:00 a.m. Eastern standard time on the following November 1; with respect to any succeeding "Contract Year" (except the last "Contract Year" in the case where the First "Contract Year" commenced on a Day other than November 1) means the period of twelve (12) consecutive Months from the end of the preceding Contract Year to 8:00 a.m. Eastern standard time on the next succeeding November 1; and with respect to the last "Contract Year" (in the case where the first "Contract Year" commenced on a Day other than November 1) means the period from the end of the preceding "Contract Year" to 8:00 a.m. Eastern standard time on the twentieth (20th) anniversary of the Commencement of Term Deliveries.

E. "Cubic Foot of Gas" means the volume of natural gas contained in one (1) cubic foot of space at a pressure of fourteen and seventy-three hundredths (14.73) psia, at a temperature of sixty degrees Fahrenheit (60^0F).

F. "Day" shall mean a period of 24 consecutive hours during a Contract Year beginning and ending at 8:00 A.M. EST. The reference date for any Day shall be the calendar date upon which the 24 hour period shall commence.

G. "Facilities" shall have the meaning set forth in Section 21.B of this Agreement.

H. "Force Majeure" shall have the meaning set forth in Section 18 of this Agreement.

I. "Gross Heating Value" means, for the Month in question, the average amount of heat, expressed in therms, contained in each cubic foot of natural gas at the Receipt Point near Lisbon, New York, where Company receives the gas from or on behalf of Customer. The Gross Heating Value shall be as determined by IGTS in accordance with its filed tariffs and reported to Customer and Company.

J. "Iroquois" or "IGTS" means Iroquois Gas Transmission System L.P.

K. "Mcf" means one thousand (1,000) cubic feet of natural gas.

L. "MMBtu" means one million (1,000,000) Btu.

M. "MMcf" means one million (1,000,000) cubic feet of natural gas.

N. "Maximum Daily Transportation Volume" means 17.4 million cubic feet (MMcf) of natural gas, the maximum volume of natural gas the Company is required to receive from or on behalf of the Customer at the Receipt Point in any Day. The maximum volume the Company is required to receive from or on behalf of the Customer at the Receipt Point in any hour is one-twentieth of the Maximum Daily Transportation Volume.

O. "Minimum Annual Transportation Quantity" shall have the meaning set forth in Section 7 of this Agreement.

P. "Month" shall mean the period beginning at 8:00 A.M. EST on the first Day of a calendar month and continuing through to 8:00 A.M. EST on the first Day of the next succeeding calendar month.

Q. "Monthly Transportation Quantity" means the quantity of natural gas, in therms, actually received by the Company at the Receipt Point from or on behalf of the Customer in a given Month. The volume of natural gas actually received by the Company from or on behalf of Customer at the Receipt Point shall be determined by the measurements of Iroquois at the Receipt Point reported to Customer and Company by Iroquois. Company shall calculate the Monthly Transportation Quantity by applying the Gross Heating Value for the Month in question to the volume of natural gas received that Month as measured by Iroquois as described above.

R. "Monthly Delivery Quantity" means the quantity of natural gas, in therms, actually delivered by Company to the Delivery Point in a Month. Company shall determine the Monthly Delivery Quantity by measuring the volume of natural gas delivered to the Delivery Point and by then calculating the therms contained therein by use of the Gross Heating Value for the Month in question.

S. "psia" means pounds per square inch absolute.

T. "Project" shall have the meaning set forth in the first WHEREAS clause of this Agreement.

U. "Receipt Point" means the interconnection of the Company's natural gas transportation facilities with those of Iroquois, near Lisbon, New York.

V. "Supplemental Gas" shall have the meaning set forth in the Section 10B of this Agreement.

W. "Surplus Gas" shall have the meaning set forth in Section 12 of this Agreement.

X. " Unaccounted for Gas" or "UFG" shall have meaning set forth in Section 9G of this Agreement.

Y. "Underrun Gas" shall have the meaning set forth in Section 10A of this Agreement.

2. <u>Term of Agreement and Commencement of Service</u>

This Agreement shall be and is effective as of the date first set forth above and shall continue through a date twenty years after the Commencement of Term Deliveries, subject to the contingencies set forth in this Section and Section 21 hereof.

Company shall, within fifteen (15) Days after the date hereof, file with the New York State Public Service Commission a copy of this agreement.

Company agrees to have completed any required construction and to have all necessary facilities in place to commence transportation service as provided for in this Agreement with the first delivery of the Customer's gas to the Receipt Point, which is expected to take place on or about June 1, 1993. The Customer shall notify St. Lawrence Gas not later than 12:00 noon two Days before the Commencement of Term Deliveries. Such notice of Commencement of Term Deliveries shall be given no earlier than May 29, 1993, and if not given by November 30, 1993, shall be deemed to have been given on such date. The term Commencement of Term Deliveries does not include start-up or test gas which, upon customer's request, Company agrees to transport to the Delivery Point for Customer prior to the receipt of Customer's notice of Commencement of Term Deliveries; provided however, such request shall be made no earlier than May 29, 1993. In the alternative, Company agrees to sell gas to Customer for start-up or test purposes on an interruptible basis, if available, under the Company's Service Classification No. 4-A or any superseding rate schedule. The Company agrees to waive any usage requirement specified in its tariffs which otherwise would apply to such sales service.

3. <u>Character of Service</u>

Except to the extent that natural gas transportation and delivery service may be curtailed or interrupted as provided in this Agreement, Company shall receive all of Customer's natural gas, up to the Maximum Daily Transportation Volume, at the Receipt Point, and shall transport and deliver all of such natural gas, less the allowance for UFG, to Customer at the Delivery Point.

The Company will curtail or interrupt its transportation service to Customer only if a curtailment or interruption of service to Customer is necessary to provide sufficient capacity on Company's distribution system to maintain essential services to Company's customers under its Service Classification Nos. 1, 2, 3 and 6. In the event that such a situation does arise, Company will endeavor to give Customer as much advance notice as possible prior to any interruption or curtailment of service.

or the facilities

Notwithstanding anything in this Agreement to the contrary, from and after the date of this Agreement, the Company may utilize the IGTS Interconnect and the Facilities (both as defined in Section 21.B of this Agreement) to provide natural gas sales and transportation service that the Company is not obligated to provide as of the date of this Agreement only if such utilization does not result in the curtailment or interruption of service to the Customer under this Agreement. In the event that service to the Customer under this Agreement is curtailed or interrupted as a result of the Company's utilization of the IGTS Interconnect to provide natural gas sales or transportation service to customers of the Company existing as of the date of this Agreement, the Company shall construct, at its sole cost and expense, such pipeline and appurtenant facilities to enable the Company to receive all of Customer's natural gas, up to the Maximum Transportation Volume, at the interconnection of such facilities with the natural gas transmission facilities of IGTS, and transport and deliver all of such natural gas, less UFG, to Customer at the Delivery Point.

4. Basis of Measurement

The volume of natural gas received by Company from Customer (or its designee) at the Receipt Point shall be determined by the measurements of Iroquois reported, as appropriate, to Customer and Company. The volume of all natural gas delivered to Customer pursuant to this Agreement shall be measured at the Delivery Point by the Company in accordance with the specifications contained in Gas Committee Report No. 3 of the American Gas Association published in April 1955 and as amended from time to time. The measurement unit shall be 1,000 cubic feet (1 Mcf) of gas at a pressure of 14.73 pounds per square inch absolute and at a temperature of 60 degrees Fahrenheit. Volume measurements shall be converted to therms by applying the Gross Heating value; provided, however, that if the St. Lawrence Gas system begins to receive natural gas deliveries on behalf of Customer from sources other than Iroquois, the parties shall meet to decide whether there is a need to determine heat content at the Delivery Point in some manner other than use of the Gross Heating Value reported by Iroquois.

5. Delivery Pressure

The Company shall transport and deliver gas to the Delivery Point at a pressure which shall be no less than 700 pounds per square inch gauge (psig) on the outlet side of the Company's meter.

6. Quality

The gas received from or on behalf of the Customer at the Receipt Point and the gas to be delivered to the Customer at the Delivery Point must comply with the gas quality standards promulgated by the Public Service Commission of the State of New York in its General Regulations for Gas Corporations. In no event shall the gas received by the Company or the gas delivered to the Customer contain less than 950 Btu's per cubic foot.

7. Volumes

A. The Maximum Daily Transportation Volume shall be 17,400 Mcf of natural gas delivered to the Receipt Point during a Day.

B. The Minimum Annual Transportation Quantity shall be 30 x 10^6 therms.

8. Cost of Company Facilities

The costs of the Facilities (as defined in Section 21 B hereof) required to be constructed by the Company to provide service to the Customer ("Incremental Investment") are estimated to be $2,400,000 as shown in Appendix I hereto, "Cost of Facilities". No later than ninety (90) days following Commencement of Term Deliveries of gas to Customer, the Company will provide a detailed statement to the Customer showing the actual amount of the Incremental Investment incurred by the Company in constructing the Facilities. The Customer shall have right to access Company books for the purposes of auditing such statement. The Customer agrees to guarantee payment to the Company for the cost of the Company's Incremental Investment as follows:

On or after the date that Company issues a purchase order for pipe and materials necessary to construct the Facilities, but not before October 1, 1992, the Company may demand that Customer provide Company with security acceptable to the Company in the amount of $1,000,000, which Customer shall provide in the form of an irrevocable letter of credit issued by a domestic bank, guarantee, cash, performance bond or surety bond, the form of which security shall be in Customer's sole discretion.

On or after the date that the Company executes a contract with a contractor to actually construct the Facilities, the Company may demand that Customer provide Company with additional security acceptable to the Company in the amount of $1,400,000, which Customer shall provide in the form of an irrevocable letter of credit issued by a domestic bank, guarantee, cash, performance bond or surety bond, the form of which security shall be in Customer's sole discretion.

Company may draw upon or otherwise enforce the letter(s) of credit, guarantee(s), cash, performance bond(s) or surety bond(s) at any time after issuing notice of a default hereunder, in accordance with Section 23 hereof, provided, however, that Company may draw upon or otherwise enforce the letter(s) of credit, guarantee(s), cash, performance bond(s) or surety bond(s) only to the extent of the costs incurred by the Company in constructing the Facilities as of the date of the default; and provided further that following Customer's cure of the default, Company will refund to Customer, within five business days, all amounts so obtained and Customer will provide Company with a new letter of credit, guarantee, cash, performance bond or surety bond in an amount sufficient to provide security in the amount in effect immediately prior to the notice of default.

The security described in this Section 8, if demanded by the Company, shall remain in effect until 6 months after the date of Commencement of Term Deliveries and shall be eliminated thereafter.

In the event that Company is ordered by any applicable regulatory authority or obligated by any agreement granting Company an easement upon which the Facilities are placed to move the Facilities, Customer agrees to reimburse Company for the costs actually and necessarily incurred by Company to relocate the Facilities (the "Relocation Cost") by, at Customer's option either (i) reimbursing Company within thirty (30) days for the undisputed amount of the Relocation Cost or (ii) incorporating the Relocation Cost into the rate paid by Customer under this Agreement.

9. Price

The price for the transportation service to be performed by the Company hereunder shall consist of a Monthly Facilities Charge ("MFC"), a Property Tax Demand Charge ("PTDC"), plus a rate per therm for each therm actually delivered by the Company to Customer at the Delivery Point (the "Therm Rate").

If any curtailment or interruption of service hereunder continues for any period in excess of twenty four (24) hours, the Monthly Facilities Charge payable by the Customer shall be the product resulting from multiplying the MFC otherwise payable for such Month by a fraction, the numerator of which shall be the number of Days in such Month during which Customer received 24 hours of Continuous Service and the denominator of which is the number of Days in that Month. All

Monthly Facilities Charges otherwise payable by the Customer which the Customer is excused from paying, and which the Customer does not pay, during any Contract Year pursuant to the preceding sentence, plus interest, shall be payable by the Customer, beginning with November of the immediately succeeding Contract Year, in equal monthly installments in the amount necessary to amortize the sum of such unpaid Monthly Facilities Charges plus interest, over the then-remaining term of this Agreement. The interest rate used to accrue interest on such unpaid Monthly Facilities Charges and to calculate the amount of such equal monthly installments shall be (i) the publicly announced prime interest rate of Chase Manhattan Bank, N.A. (New York), or its successor bank, in effect for the first Business Day of the Month immediately succeeding the date of the first such curtailment or interruption of service during such Contract Year or, if such rate is not announced, the rate published as the "prime rate" in The Wall Street Journal for the first Business Day of such Month, plus (ii) one (1) percent per annum, but in no event shall such interest rate be greater than the maximum interest rate allowed by law. Each such monthly installment shall be separately identified in the Company's statement to the Customer for the billing period for which such installment is payable, and paid by the Customer in accordance with Section 13 hereof. Notwithstanding any provision of this Section 9 to the contrary, Customer shall have the right at any time to prepay the unamortized balance of any and all unpaid Monthly Facilities Charges plus any interest accrued thereon to the date of such prepayment.

A. <u>Monthly Facilities Charge</u>

The Monthly Facilities Charge shall be determined for each Month according to the formula set forth in Appendix II attached hereto and made a part of this Agreement. Appendix II calculates the MFC using the estimate of $2,400,000 as the cost of the Incremental Investment. The calculation shown on Appendix II will be appropriately adjusted if the actual cost of the Incremental Investsment is other than $2.4 million. Customer shall first become obligated to pay an MFC for the Month in which the Commencement of Term Deliveries occurs or is deemed to have occurred; provided, however, that the Customer shall not be obligated to pay any portion of the MFC until construction of all Incremental Investment shall have been completed. In the event that Commencement of Term Deliveries occurs on any Day other than the first Day of a Month, then the MFC payable for such Month shall be the product resulting from multiplying the MFC otherwise payable for such Month by a fraction, the numerator of which shall be the number of Days in such Month subsequent to and including the Commencement of Term Deliveries and the denominator of which is the average number of Days (30.42) in a Month.

The parties agree that in the event of any disagreement regarding the MFC under this Agreement, they will submit the disagreement for review and settlement by the New York State Public Service Commission, provided, however, that neither party shall be deemed to have waived any other further right (a) to judicial review and settlement of the dispute if such submittal is rejected by the New York State Public Service Commission or (b) to judical review if the submittal is accepted by the New York State Public Service Commission and resolved in a manner unsatisfactory to the party. Notwithstanding any such disagreement, Company may bill the Customer for the MFC as calculated by the Company, provided, however, that such MFC shall be subject to refund with interest at (i) the publicly announced prime interest rate of Chase Manhattan Bank, N.A. (New York) or its successor bank in effect for the first Business Day of the Month for which interest is being calculated or, if such rate is not announced, the rate published as the "prime rate" in The Wall Street Journal for the first Business Day of the Month for which interest is being calculated, plus (ii) one (1) percent per annum, but in no event greater than the maximum interest rate allowed by law.

B. <u>Property Tax Demand Charge</u>

The Property Tax Demand Charge shall be payable by Customer after the Commencement of Term Deliveries in accordance with Section 13 hereof. The Property Tax Demand Charge shall be equal to one-twelfth (1/12) of the estimated annual property taxes or payments in lieu thereof payable by Company with respect to the Facilities ("Estimated Taxes"). If Company utilizes the Facilities for any purpose other than the provision of services to Customer hereunder, then the Property Tax Demand Charge shall be equal to one-twelfth (1/12) of Customer's pro rata portion (calculated on the basis of the ratio of the maximum daily use of the capacity of the Facilities for the provision of services hereunder to the maximum daily use of the capacity of the Facilities for all purposes) of the Estimated Taxes. On November 1 of each Contract Year Company shall determine the actual property taxes or payments in lieu thereof paid by Company with respect to the Facilities for the preceding Contract Year ("Actual Taxes") and Company shall charge or refund, as applicable, to Customer the difference between the Actual Taxes and the Estimated Taxes of the prior Contract Year, or Customer's pro rata portion thereof, as the case may be.

C. Therm Rate

The rate per therm for each therm actually delivered by Company to Customer at the Delivery Point, up to the Maximum Daily Transportation Volume, shall be $.005.

The Therm Rate shall be adjusted April 1, 1995 and each succeeding April 1 during the term hereof according to the following formula:

$$ATR = PETR + \left(PETR \times \frac{GNP\ I - GNP\ II}{GNP\ I}\right)$$

Where:

ATR = The adjusted Therm Rate.

PETR = The Therm Rate in effect on the March 31 immediately preceding the date of adjustment.

GNP I = The Gross National Product Implicit Price Deflator as first published by the United States Department of Commerce for the calendar year immediately preceding the date of adjustment.

GNPII = The Gross National Product Implicit Price Deflator as first published by the United States Department of Commerce for the calendar year immediately preceding the calendar year for which GNP I was published.

An additional charge shall be payable hereunder to provide for recovery by Company of Customer's allocated share of the costs incurred by the Company associated with Company's interconnecting with Iroquois and with reinforcing Company's system to permit delivery of natural gas to all of Company 's Customers through that connection. This additional charge shall be such amount as is approved by the New York State Public Service Commission in a rate proceeding filed by the Company and shall be effective as of the date ordered by the Commission.

D. Minimum Monthly Charge

Subject to the other provisions of this Section 9, the Customer shall pay the Company a minimum monthly charge which shall consist of the Monthly

Facilities Charge, the Property Tax Demand Charge, and the monthly installment, if any, for unpaid Monthly Facilities Charges calculated in accordance with this Section 9 (the "Minimum Monthly Charge").

E. Total Monthly Charge

Subject to the other provisions of this Section 9, the Customer shall pay monthly to the Company the Minimum Monthly Charge and the cost calculated in respect of the Monthly Delivery Quantity and the balance of any Underrun Gas, Supplemental Gas and Unauthorized Gas usage pursuant to Section 13 or, if no transportation service is rendered by Company to Customer during a Month, the Minimum Monthly Charge required by Section 9.D.

F. Minimum Annual Charge

In each Contract Year, Customer shall pay an annual minimum bill which shall be the aggregate of the Minimum Monthly Charges for such year and an amount calculated by multiplying the product of the Minimum Annual Transportation Quantity multiplied by the applicable Therm Rate referred to in Section 9.C by a fraction, the numerator of which is the number of Days in such Contract Year and the denominator of which is 365, whether or not such therms were actually transported during such year. The annual minimum bill amount will be determined by the Company at the conclusion of each Contract Year and included in the invoice for last Month of such Contract Year to the extent not theretofore paid. Customer's obligation to pay the annual minimum bill shall be secured by a performance guaranty from AG - Energy, Inc.

G. Unaccounted for Gas

Company shall receive Customer's volumes of natural gas, up to the Maximum Daily Transportation Volume, at the Receipt Point. A percentage of such volume shall be retained by Company as an allowance for Unaccounted for Gas ("UFG"). Such percentage shall be determined annually (currently for the twelve (12) month period ending in August) and shall be equal to the UFG percentage utilized in determining the Factor of Adjustment specified in Company's Tariff - PSC No. 2-GAS.

10. Imbalance Provisions

By the 15th day of each Month, the Monthly Transportation Quantity and the Monthly Delivery Quantity for the preceding Month shall be compared by the parties. For such preceeding Month:

A. Underrun Gas

To the extent that the Monthly Delivery Quantity for a Month is less than the Monthly Transportation Quantity for such Month, after consideration of UFG, the difference ("Underrun Gas") shall be considered as the first gas delivered in the immediately succeeding Month, or if not all delivered in such succeeding Month, in succeeding Months, and shall be billed for delivery in such succeeding Month(s). The charges, if any, applicable to the holding of Underrun Gas quantities shall be governed by the Company's applicable tariff provisions as the same may be in effect from time to time.

B. Supplemental Gas

To the extent that the Monthly Delivery Quantity is greater than the Monthly Transportation Quantity, after consideration of UFG, the difference, to the extent that such difference is not Unauthorized Overrun Gas for which the Company's tariff makes provision, shall be considered to be Supplemental Gas. Supplemental Gas, to a maximum of 5% of the Monthly Transportation Quantity, shall be carried forward to the Month following the Month in which such usage is identified, at which time any of such quantity remaining after set off for Underrun Gas shall be considered to be normal tariff sales and will be billed under the Company's Service Classification No. 4-A or any superseding rate schedule, giving appropriate credit for all charges previously paid for such quantities as transport gas under Section 13 of this Agreement. Supplemental Gas delivered in excess of 5% of the Monthly Transportation Quantity shall be considered to be normal tariff sales in the Month of delivery and will be billed under the Company's Service Classification No. 4-A or any superseding rate schedule, giving appropriate credit for all charges previously paid for such quantities as transport gas under Section 13 of this Agreement. The Company agrees to waive any usage requirements specified in its tariffs which otherwise would apply to such sales.

11. Unauthorized Overrun Gas

The determination and treatment of Unauthorized Overrun Gas shall be governed by the Company's applicable tariff provisions as the same may be in effect from time to time.

12. Company Surplus Gas

The parties acknowledge that the gas demands of the Company's distribution system ratepayers are, by and large, seasonal, thereby creating an operational likelihood for Company to have gas available for sale from April 1 to November 30 each year ("Surplus Gas"). If available, the Company shall offer to the Customer all or a portion of such Surplus Gas and the Customer, at Customer's sole discretion, may purchase and use such Surplus Gas. The price to be paid to the Company by the Customer for the Surplus Gas shall be (1) the rate applicable under Service Classification No. 4-A or any superseding rate schedule, or (2) such lower price as the parties may negotiate. The Company agrees to waive any usage requirement specified in its tariffs which otherwise would apply to such sales.

13. Billing And Payment

The Company will render monthly to the Customer a statement of the Monthly Facilities Charge, the Property Tax Demand Charge, the monthly installment for any unpaid Monthly Facilities Charges calculated in accordance with Section 9 hereof, the Monthly Delivery Quantity, the Monthly Transportation Quantity, and the balance of any Underrun Gas, Supplemental Gas and Unauthorized Gas Usage. The total charges due in respect to the Monthly Delivery Quantity shall be calculated using the "Price" factors specified in Section 9, above. The rates which shall apply to Supplemental Gas, Unauthorized Overrun Gas and Underrun Gas shall be governed by the Company's applicable tariff provisions as the same may be in effect from time to time, as provided in Sections 10 and 11, above. The terms of payment are net cash. The Customer shall pay all bills within twenty (20) days after the bill is received by Customer. If Customer disputes any amounts due under any statement from Company, Customer shall pay to Company the undisputed amount. Interest on any undisputed amount which Customer shall fail to pay within twenty (20) days after a bill is received by Customer shall be governed by the Company's applicable tariff provisions as the same may be in effect from time to time. With respect to disputed amounts, interest shall accrue from the date such amount was otherwise due and payable until the date actually paid, at (i) the publicly announced prime interest rate of Chase Manhattan Bank, N.A. (New York) or its successor bank in effect for the first business day of the Month for which interest is being calculated or, if such rate is not announced, the rate published as the "prime rate" in The Wall Street Journal for the first business day of the Month for which interest is being calculated, plus (ii) one (1) percent, but in no event greater than the maximum interest rate allowed by law.

14. Delivery Point

The Delivery Point of all gas delivered or sold pursuant to this Agreement shall be at the outlet of the Company meter installed adjacent to or on the Customer's premises at which the Project will be located. The Customer shall, at its own cost and expense, provide a suitable site for the Company's metering equipment and shall provide all facilities required on Customer's side of the Delivery Point. Customer shall be in full control of its facilities and of the gas on Customer's side of the Delivery Point and shall be solely responsible for its own facilities and for the handling of gas on Customer's side of the Delivery Point. Company shall be in full control of its facilities and of the gas on Company's side of the Delivery Point and shall be solely responsible for its own facilities and for the handling of gas on Company's side of the Delivery Point.

15. Indemnification And Save Harmless

Each party shall use reasonable diligence in maintaining its facilities in proper and serviceable condition, and shall take all reasonable steps and precautions for maintaining the service herein agreed to be performed and received. Company shall indemnify and save harmless Customer from and against any and all claims for damages in favor of any person(s) or entity(ies) founded upon or arising from natural gas from its side of the Receipt Point to its side of the Delivery Point or from improper or negligent construction, installation, maintenance or operation of Company's facilities during the term of this Agreement provided that Customer shall promptly in each case notify Company in writing of any claim against Customer on account thereof and shall afford Company the opportunity to defend against said claim. Customer shall indemnify and save harmless Company from and against any and all claims for damages in favor of any person(s) or entity(ies) founded upon or arising from natural gas on its side of the Delivery Point or from improper or negligent construction, installation, maintenance or operation of Customer's facilities during the term of this Agreement provided that Company shall promptly in each case notify Customer in writing of any claim against Company on account thereof and shall afford Customer the opportunity to defend against said claim. Such indemnification shall not, however, apply to workers' compensation paid by either party to its own employees, and each party agrees to secure and maintain adequate workers' compensation insurance for all of its employees, and to secure and maintain adequate public liability insurance of not less than $10,000,000 and, upon request, to provide proof of such insurance coverages.

The Company will not be liable for any injury, casualty or damage resulting in any way from the supply or use of gas, or from the presence or operation of the Company's structures, equipment, pipes, appliances or devices on the Customer's premises, except injuries or damages resulting from the negligence of the Company.

This indemnification is solely for the benefit of the parties to this Agreement including successors and assigns of the Company and the Customer.

16. Changes in Conditions and Dispatch

The Customer shall advise the Company of the volume of gas that Company shall be required to receive on Customer's behalf at the Receipt Point each Day by a nomination delivered to the Company's designated representative by telephone, telegraph, telecopy or otherwise no later than 11:00 am EST of the immediately preceding Day. It is the intent of parties that any volume of gas nominated by Customer for receipt by Company under this Agreement on a Day shall remain the standing nomination of Customer for receipt by Company hereunder on subsequent Days until such nomination is changed by Customer in accordance with the preceding sentence. Customer shall also advise the Company's designated representative of any anticipated material changes from its established load pattern as far in advance as operating conditions will permit. In addition, on or about the 15th day of each Month, Customer and Company representatives will communicate and cooperate with one another with respect to current monthly and daily consumption levels, deliveries to the Company and transportation to the Customer, so as to permit dispatch adjustments to eliminate or limit to the extent reasonably possible any Underrun or Supplemental Gas amounts.

17. Metering and Other Equipment

Company's metering equipment shall be sealed and the seals shall be broken only upon occasions when the meters are to be inspected, tested or adjusted, and representatives of Customer shall be afforded at least one (1) day's notice and reasonable opportunity to be present upon such occasions. Such inspections, tests or adjustments shall not unreasonably interfere with the operation of the Project except with Customer's consent. The accuracy of its metering equipment shall be verified by Company at reasonable intervals. In addition, periodic tests of such metering equipment, not to exceed six times per year, shall be made at any reasonable time upon request therefor by Customer. If, as a result of any such test, the metering equipment is found to be defective or inaccurate, it will be restored to comply with all New York State Public Service Commission requirements or replaced. In carrying out this Agreement, Company shall comply with New York

State Public Service Commission Rules and Regualtions 16 NYCRR Parts 226 and 228.

If any of the metering equipment tests or verifications provided for herein disclose that the error for such equipment exceeds two percent (2%) plus or minus of one hundred percent (100%) accuracy, the meter records for the period of inaccuracy shall be adjusted and the adjustment in billing resulting from such adjustment in meter records shall be made in the next monthly invoice rendered by Company after the inaccuracy is discovered. If the period of inaccuracy cannot be reasonably ascertained, then the period of inaccuracy will be assumed to have begun at the midpoint in time between the discovery of the inaccuracy and the previous meter test. If either party disputes adjustments resulting from this procedure, the dispute shall be settled in accordance with the procedures of the New York State Public Service Commission then in effect, and presently set forth in 16 NYCRR Part 12, for the resolution of disputes.

Should any metering equipment fail to register the gas delivered or received during any period of time, the amount of gas delivered or received during such period will be estimated by the parties according to the amounts previously delivered or received during similar periods under substantially similar conditions, and upon mutual agreement of the parties shall be used as the basis for billing for that period. In lieu of making such estimates, the parties may also agree to use the information from Customer's meters described below in this Section 17 as the basis for billing for that period. If either party disputes adjustments resulting from these procedures, the dispute shall be settled in accordance with the procedures of the New York State Public Service Commission then in effect, and presently set forth in 16 NYCRR Part 12, for the resolution of disputes.

Customer shall have the right to install and maintain at the Project, at its own cost and expense, its own meters for the purpose of measuring the flow of gas; provided, however, that the Company meters are the official meters for billing purposes and that any such installations or activities shall not interfere with Company's ability to carry out any of its obligations or exercise any of its rights under this Agreement.

The title of all service pipes, meters, regulators, attachments and equipment placed on the premises at which the Project will be located and not sold to the Customer shall remain with the Company, together with right of removal. No charge shall be payable by the Company for use of premises occupied thereby and the Customer shall be responsible for any loss or damage thereto resulting from negligent acts of the Customer or its agents or employees.

The Customer shall provide, at its own expense, any and all housing required by the Company for meter stations now or hereafter necessary for the furnishing of gas hereunder. All necessary metering equipment shall be furnished by the Company and shall be included in the Incremental Investment amount.

18. Force Majeure

In the event that either party is rendered unable to perform any obligation under this Agreement by reason of an event of Force Majeure, each party shall be relieved of its obligations hereunder for the duration and to the extent of such Force Majeure, except with regard to service already rendered, so long as the party experiencing the difficulty complies with this Section. Force Majeure means any act or omission not within the control of the party claiming Force Majeure, which by the exercise of due diligence such party is unable to prevent or overcome, including, without limitation, acts of God, wars, riots, epidemics, invasion, acts of a public enemy, blockades, insurrections, military or usurped power, landslides, lightning, earthquakes, ice, fire, storms, floods, freeze, washouts, explosions, sabotage, breakage or accident to machinery or lines of pipe, freezing of pipelines, delays in obtaining easements or rights-of-way caused by the Company having to exercise its right of eminent domain, failure of facilities or equipment, shutting-in facilities for the making of emergency repairs, strikes, lockouts, work stoppages or industrial disputes or disturbances, civil disturbances or disobediences, interruptions due to any order or failure to act of any governmental authority directly affecting the subject of this Agreement, and labor or material shortages. Force Majeure also includes any act or omission by entities not controlled by the party claiming Force Majeure, and any other similar cause not within the control of the party claiming Force Majeure, which by the exercise of due diligence the party claiming Force Majeure is unable to prevent or overcome. Force Majeure shall include depletion, failure or shortage of gas supply only if such depletion, failure or shortage has resulted from a Force Majeure event and shall include a reduction in flow pressure in the Company's system during periods of high demand only if such reduction in flow pressure has resulted from a Force Majeure event.

Company and Customer hereby agree that any Force Majeure event precluding in whole or in part Customer's ability to operate or use natural gas at the Project, including without limitation Force Majeure affecting the steam or electricity customers of the Project, shall relieve Customer of its obligations hereunder, in whole or in part as the case may be, for the duration and to the extent of the Force Majeure.

Neither party shall be entitled to the benefit of the provisions regarding Force Majeure hereunder if any of the following circumstances exist: the failure resulting in a condition of Force Majeure was caused by the negligence of the party claiming suspension; the failure was caused by the party claiming suspension where such party failed to remedy the condition by making all reasonable efforts (short of litigation, if such remedy would require litigation); the party claiming suspension failed to resume the performance of its obligations with reasonable dispatch; the failure was caused by lack of funds; or the party claiming suspension did not give to the other party the notice required hereunder after determining that the occurrence was in the nature of Force Majeure and would affect its ability to observe or perform any of its conditions or obligations under this Agreement .

In the event of Force Majeure, the party claiming such event must provide immediate notice to the other party by telephone or electronic or other communication device. Within seven (7) business days after such notice, the notifying party must provide written explanation to the other party describing, to the best of its understanding, the nature, cause, extent and estimated length of the Force Majeure. The party claiming Force Majeure shall use all reasonable efforts to eliminate or mitigate the event with all reasonable dispatch, except that settlement of strikes and lockouts shall be entirely within the sole discretion of the party affected. A party claiming Force Majeure shall likewise give notice to the other party, as soon as possible after the Force Majeure has been remedied, stating that the Force Majeure has been remedied and that the party is resuming the performance of its obligations under this Agreement.

Notwithstanding the above, a Force Majeure event shall not affect the obligation of the company and the Customer to meet their respective contingencies under Section 21 hereof.

19. Custody, Control, Risk of Loss and Warranties

As between Company and Customer, custody, control and risk of loss with respect to the natural gas transported hereunder shall pass from Customer (or its designee) to Company at the Receipt Point and shall remain with Company until such time as Company delivers such natural gas to Customer at the Delivery Point, where custody, control and risk of loss shall pass from Company to Customer. Customer and Company shall each indemnify and hold the other harmless against any and all claims, actions or damages caused by or resulting from its custody and control of the natural gas transported hereunder unless caused by the negligence or willful misconduct of the other party.

The Customer warrants that it will, at the time it delivers gas to the Company at the Receipt Point for transportation, have the right to so deliver the gas to Company and have good and merchantable title to all such gas free and clear of all liens, encumbrances and claims whatsoever. The Customer shall indemnify the Company and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses (including attorney's fees) relating to adverse claims of any and all third parties arising with respect to such gas while such gas is under the control of the Customer (or its designee) and prior to delivery to Company.

The Company will have the right to commingle gas delivered to the Company by or for the Customer at the Receipt Point with gas owned by the Company or others and the Company shall have the right and full and absolute authority to deal in any manner with gas so delivered. The Company warrants that it will, at the time it delivers or sells gas to the Customer at the Delivery Point, have the right to so deliver or sell such gas to Customer or have good and merchantable title to all such gas, free and clear of all liens, encumbrances and claims whatsoever. The Company shall indemnify the Customer and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses (including attorney's fees) relating to adverse claims of any and all persons arising with respect to such gas while under the custody and control of the Company. Notice with respect to the indemnification contained in this Section 19 shall be the same as that required by Section 15 of this Agreement.

20. Notices

All notices, invoices and other correspondence sent pursuant to this Agreement to a party hereto shall be addressed and mailed to such party at the address provided below or telecopied to such party at the telecopier number of such party provided below:

Company:	Customer:
St. Lawrence Gas Company, Inc.	AG - Energy, L.P.
56-58 Main Street	135 East 57th Street
P.O. Box 270	23rd Floor
Massena, NY 13662	New York, New York 10022
Telecopier: (315) 764-9226	Telecopier: (212) 755-7211
Telephone: (315) 769-3516	Telephone: (212) 755-7600

Either party may change its address from time to time by giving written notice of such change to the other party. Any notice, invoice or other correspondence given or delivered under this Agreement by mail shall be deemed received by the addressee at the end of the fifth Day after the date of mailing by prepaid registered or certified mail in the U.S. mail; provided, however, at any time when there is a strike affecting delivery of U.S. mail, all such deliveries shall be made by telecopier. If any such notice, invoice or other correspondence is delivered by telecopier to the addressee, it shall be deemed to have been received by the addressee as soon as such transmission has been effected.

21. Contingencies

A. Customer

This Agreement shall be expressly contingent upon the receipt by Customer of all Canadian and USA regulatory approvals, permits and authorizations and the execution of all gas supply and upstream transportation arrangements as may be required. Both parties agree to make good faith efforts and to cooperate to obtain all such required approvals, permits, authorizations and executed arrangements. In addition, the parties acknowledge that the Customer's ability to perform its obligations hereunder is wholly dependent upon the execution of agreements with financial lenders or investors acceptable to the Customer for the construction and permanent financing of the Customer's Project. The Customer will use all reasonable best efforts to close such financing on terms and conditions which the Customer deems to be acceptable in Customer's sole discretion and to obtain necessary approval, permits and authorizations, and necessary gas supply and upstream transportation arrangements at the earliest practicable time.

Should the Customer be unable to:

(1) Secure financing on terms and conditions which the Customer deems acceptable in Customer's sole discretion, or

(2) Obtain such approvals, permits and authorizations as stated above, including any permit required by any USA or Canadian federal, state, provincial, local law, rule or regulation, or

(3) Execute all required gas supply and upstream transportation arrangements

within twelve (12) months after the date of submittal to the New York State Public Service Commission of this Agreement (whether or not modified by such Commission), thereafter either party may give notice to the other of its intention to cancel the Agreement thirty (30) days after such notice is received. Closing of the financing, receipt of such approvals, permits and authorizations, and execution of the necessary arrangements within such thirty (30) day period shall void said notice, failing which the Agreement will terminate automatically at the end of said thirty

(30) day period and Customer shall, within sixty (60) days of receiving an invoice from the Company, pay Company the reasonable costs incurred by Company as of the date of termination hereof which are directly related to the Company's preparing to provide service hereunder, including, but not limited to, costs for engineering, environmental assessment, regulatory assessment and construction of facilities; provided, however, such costs shall not include attorney's fees. Except for the foregoing, Customer shall have no obligation to the Company.

Upon written request of the Company, the Customer will provide periodic written status reports to the Company as to its progress on satisfaction of the above stated contingencies. Each party shall provide to the other copies of such items as the other party reasonably may need to confirm that the contingencies referred to above have been satisfied.

B. Company

Subject to the Company obtaining the Required Approvals (as defined below) the Company agrees to construct (i) facilities which would interconnect the facilities of Iroquois with the Company's facilities (the "IGTS Interconnection") and (ii) pipeline and appurtenant facilities from such point of interconnection to the Project (the "Facilities"), to enable the Company to receive all of the Customer's natural gas, up to the Maximum Transportation Volume, at the Receipt Point, and transport and deliver all of such natural gas, less the allowance for UFG, to Customer at the Delivery Point. Notwithstanding any other provision contained in this Agreement the Commencement of Term Deliveries shall not be earlier than the second Day immediately succeeding the Day on which such facilities are available for use by the Company. The Company hereby agrees to use reasonable best efforts to secure all contracts, approvals, permits and authorizations required for it to make use of the facilities described above no later than June 1, 1993.

The parties also acknowledge that the Company's ability to perform its obligations hereunder is dependent upon its ability to obtain approvals, permits and authorizations from all federal, state and local agencies having jurisdiction over the facilities required to be constructed by the Company to provide service to the Customer ("Required Approvals"), and the Company agrees to use all reasonable efforts to secure such approvals, permits and authorizations at the earliest practicable time.

Should the Company be unable to secure the Required Approvals within twelve (12) Months from the date of execution of this Agreement, Customer may thereafter cancel this Agreement upon thirty (30) Days' notice to the Company, unless such approvals, permits and authorizations are received within such 30 day period. In the event of such termination, Customer shall, within sixty (60) Days of receiving an invoice from the Company, pay Company the reasonable costs incurred by Company as of the date of termination hereof which are directly related to the Company's preparing to provide service hereunder, including,but not limited to, costs for engineering, environmental assessment, regulatory assessment and construction of facilities, provided, however, such costs shall not include attorney's fees. Except for the foregoing, Customer shall have no obligation to the Company.

Upon written request of the Customer, the Company will provide periodic written status reports to the Customer as to its progress on satisfaction of the above stated contingencies. Each party shall provide to the other copies of such items as the other party reasonably may need to confirm that the contingencies referred to above have been satisfied.

22. Assignment

The terms, covenants and conditions hereof shall be binding on the parties hereto and on their successors and assigns. The parties hereby agree that any company which shall succeed, by purchase, merger, foreclosure, consolidation or other transfer, to substantially all of the properties and assets of either the Customer or Company as the case may be shall be entitled to all of the rights and shall be subject to all of the obligations of its predecessor in title under this Agreement provided that such company becomes entitled to such rights and subject to such obligations by operation of law or by reason of an agreement or instrument enforceable against it. In the event of such a transfer, the transferor shall be released and discharged from all obligations to the other party hereunder thereafter arising, and the transferee shall be substituted in place of the transferor herein. Except as provided above, neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. In the event of any such assignment, the party assigning its interest shall not, without a specific written agreement, be released from any of its obligations by the other party.

Nothing herein contained shall prevent or restrict either party from pledging or granting a security interest in, or assigning as collateral all or any portion of such party's interest in, this Agreement to secure any debt or obligation of such party under any mortgage, deed of trust, security agreement or similar instrument, provided that the rights of the secured party shall be subject to the terms of this Agreement. Each party agrees to execute promptly upon request by the other party one or more consents to assignment for financing purposes reasonably acceptable to the party providing the consent and to the party or parties providing such financing and at the expense of the requesting party for any reasonable amounts which exceed $5,000. Each party further agrees to notify the other within thirty (30) days of granting a security interest in or executing an assignment as collateral of any portion of its interest in this Agreement.

23. Default and Termination

In the event that any act or omission by either party to this Agreement results in a material breach of any provision of the Agreement, and such breach is not excused by any provision of the Agreement or waived by the the non-breaching party, the non-breaching party may give written notice to the breaching party requiring it to remedy such default. If the breaching party fails to remedy its default within thirty (30) days from receipt of such notice or if, where the default is not capable of being remedied within such thirty (30) day period, the breaching party has not commenced and is not diligently pursuing a remedy of such default, the non-breaching party, at its sole op*ion, may declare this Agreement terminated. Such declaration by the non-breaching party shall render this Agreement terminated and null and void for all purposes other than with regard to any liability of the breaching party incurred before and existing at the time of the Agreement's termination. The right conferred upon each party under this provision shall be in addition to, and not in derogation of or in substitution for, any other right or remedy that the parties shall or may possess.

24. Miscellaneous

A. This Agreement , subject to compliance with Section 22, shall be binding upon, and inure to the benefit of, the successors and the assigns of the Company and the Customer respectively.

B. No waiver by the Company or the Customer of any one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or a different character.

C. This Agreement supersedes any and all oral or written agreements and understandings made heretofore relating to the subject matter hereof, and embodies the entire agreement and understanding of the Company and the customer relating to the subject matter hereof. No amendment or modification to this Agreement may be made or given any effect whatsoever unless reduced to writing and signed by both parties.

D. The general terms and conditions and the provisions of Service Classification No. 5 contained in St. Lawrence Gas' PSC No.2-GAS tariff, as filed with and approved by the New York State Public Service Commission, as same may be amended and so approved from time to time, except where such terms, conditions and provisions are inconsistent with this Agreement, are hereby declared to be and to form a part of this Agreement. The parties acknowledge and agree that, as of the date of this Agreement, this Agreement is consistent with and conforms to such tariff provisions. If, after the date of this Agreement, inconsistencies or conflicts between such tariff provisions and this Agreement arise, this Agreement shall govern. This Agreement shall be interpreted, performed and enforced in accordance with the laws of the State of New York.

E. Each of the parties hereto covenants and agrees to give such further assurances and to execute and deliver such further documents and instruments as may be reasonably required by the other party in order to give full effect to this Agreement.

F. The captions of the sections of this Agreement are solely for convenience and shall not be deemed a part of this Agreement for the purpose of construing the meaning thereof or for any other purpose.

G. The invalidity of any one or more of the covenants, phrases, clauses, sections, sentences or paragraphs of this Agreement shall not affect the validity of the remaining provisions of this Agreement; and in the case of such invalidity, there shall be substituted a provision of similar import reflecting the original intent of the parties hereto to the extent permissible under law.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the day and year first above written.

ST. LAWRENCE GAS COMPANY, INC.

ATTEST: ______________ BY: ______________
PRESIDENT & GENERAL MGR

AG - ENERGY, L.P.

BY: AG - ENERGY, INC.
Its: General Partner

ATTEST: ______________ BY: ______________
SR. VP FINANCE

APPENDIX I

NATURAL GAS TRANSPORTATION AGREEMENT
BY AND BETWEEN
ST. LAWRENCE GAS COMPANY, INC. AND AG - ENERGY, L.P.

INCREMENTAL INVESTMENT ($000's)

Materials - pipe and appurtenances	715
Contractors - welding, x-ray, pipelaying	600
Meter, Meter Station, Telemetry	100
Engineering, Planning, Permits	125
Inspection, Testing	40
Public Meetings, Environmental Planning	50
	1,630
Regulation to 800#, 8" pig launcher	370
	2,000
Administrative overhead, capitalized interest, municipal taxes, and other costs incurred prior to Date of Commencement of Firm Deliveries	200
	2,200
Escalation	100
	2,300
Contingencies	100
TOTAL	$ 2,400

APPENDIX II

Calculation of Monthly Facilities Charge (Fixed)

The calculation of the Monthly Facilities Charge (Fixed) consists of three steps:

(1) calculation of the monthly pre-tax revenue requirement based on the outstanding incremental investment at the beginning of each month;

(2) calculation of the value of those monthly pre-tax revenue requirements using an appropriate discount rate (10%);

(3) calculation of the fixed Monthly Facilities Charge (MFC) which, when discounted at the appropriate discount rate, will equal the cumulative present value determined in Step 2.

Step 1

The calculation of the monthly pre-tax revenue requirement is based on the following formula:

$$CF = \frac{(ROI*INV)-(INV*INT*TAX)-(INV2*DEP*TAX)+BDEP}{(1-TAX)}$$

where:

CF	=	Monthly pre-tax revenue requirement sufficient to provide St. Lawrence with a rate of return (after-tax) equal to that allowed by the New York State P.S.C.
ROI	=	St. Lawrence after -tax rate of return as allowed by New York P.S.C. Currently at 12.07%.
INV	=	Average depreciated investment for each month. Declines each month by that month's book depreciation (BDEP).
INV2	=	Initial investment, used to calculate tax depreciation.
INT	=	Weighted average interest rate to be applied to total INV to be used to calculate the interest tax shield. Currently at 6.85%.
TAX	=	Federal income tax rate. Currently 34.00%.
DEP	=	Tax depreciation rate to be used to calculate the depreciation tax shield.
BDEP	=	Book depreciation, based on a rate of 5% per year (.417% per month).

Example (1st Month):

$$INV = \$2,400,000$$

$$CF = \frac{(\$2.395mm*.1207/12)-(\$2.395mm*.0057*.34)-\$2.4mm*.003125*.34)+\$10,000}{.66}$$

$$= \$40,745$$

Step 2

This step employs the concept of "present value" which calculates the value today of a stream of payments discounted at an appropriate discount rate. The formula for discounting a cash flow is:

$$PV = \frac{CF}{(1+DR)^{**}n}$$

where;

CF = Cash flow (ie. Monthly pre-tax revenue requirement) being discounted

DR = Discount rate (10% annual, .79741% effective monthly rate)

n = Number of periods since beginning of project, adjusted for mid-month.

Example (1st Month):

$$PV = \frac{\$40,745}{(1+.0079741)^{**}0.5}$$

$$= \$40,584$$

The present values of all the monthly pre-tax revenue requirements for the length of the payment period are then accumulated.

Step 3

Based on the cumulative present value of the monthy pre-tax revenue requirements, a fixed Monthly Facilities Charge (MFC) is then calculated. The following is the formula incorporating mid-month discounting:

$$MFC = \frac{NPV}{PVIF} * \frac{1}{(1+DR)^{**}.5}$$

where:

MFC	=	Fixed Monthly Facilities Charge.
NPV	=	Cumulative net present value of the monthly pre-tax revenue requirements less remaining tax depreciation effects at the end of the payment schedule.
PVIF	=	Present value interest factor, which the formula is:

$$\frac{1 - \frac{1}{(1+DR)^{**}n}}{DR}$$

n	=	Number of periods over which payments are to be made.
DR	=	Monthly discount rate (.79741%).

Example:

$$MFC = \frac{\$3{,}100{,}681 - \$3{,}911}{106.75} * \frac{1}{1.003979}$$

$$= \$28{,}988$$

Exhibit B
St. Lawrence Gas Service Territory Map
(including hand drawn Lisbon-Ogdensburg Line)

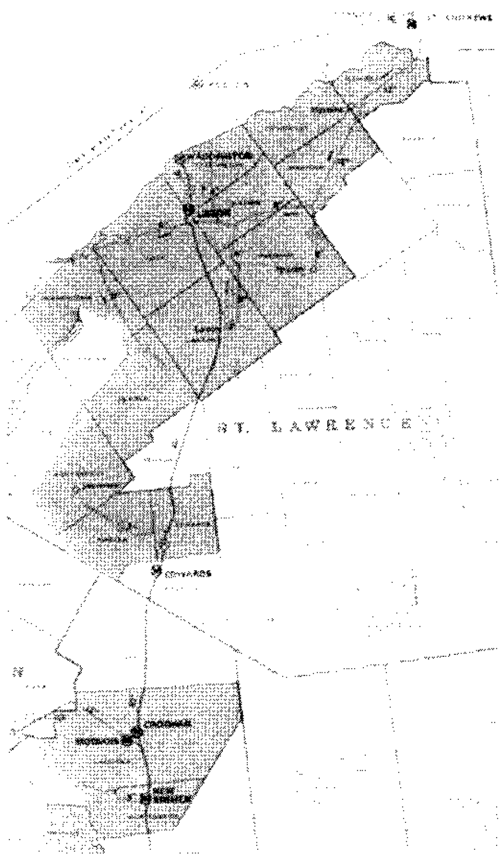
ST. LAWRENCE
EDWARDS

Exhibit C
Management Applications Consulting, Inc. Report ("MAC Report")
Prepared in August 2006 for St. Lawrence
(including transmittal e-mail and supporting Excel spreadsheet)

From: Joseph Klimaszewski [jklimaszewski@aeny.us]
Sent: Wednesday, February 04, 2009 8:42 PM
To: Hull, Gerit F.
Subject: FW: Contract analysis

Attachments: SLG Summary of Cogen Contracts Report.doc; Contract Analysis - MAC.xls

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From: Jim Ward [mailto:jpward@stlawrencegas.com]
Sent: Tuesday, August 29, 2006 3:36 PM
To: Joseph Klimaszewski; Greg Sharland
Cc: Bernie; Sharon; Kathy
Subject: Contract analysis

Joe,

Please see the attached analysis of the Ag-Energy and PCP transportation contracts. This preliminary report summarizes the analysis completed to date and is provided as a discussion document only. The analysis summarizes the estimated present value of the transportation agreements and a November 1, 2006 buy out price based on this estimate. SLG can not however change any aspect of the transportation agreements or agree to accept any buyout of the contracts without prior approval of its Senior Management, Board of Directors and the New York State Department of Public Service.

Please contact me to set up a phone conference or meeting to discuss this analysis.

James P. Ward
St. Lawrence Gas Company, Inc.
Manager, Strategic Accounts & Planning
Phone: 315-769-3516 Extension 192
Fax: 315-764-9226

ST. LAWRENCE GAS COMPANY, INC.

SUMMARY OF ALLIANCE COGENERATION PROJECTS

Preliminary Report – August, 2006

EXECUTIVE SUMMARY

St. Lawrence Gas Company, Inc. ("SLG" or "the Company") entered into interruptible gas transportation agreements for 20 years with two base loaded cogeneration facilities.

Name	MW	Location	Initial Contract Date
Power City Partners (PCP)	79	Massena, NY	1/31/91
Ag-Energy (AGE)	79	Ogdensburg, NY	4/20/92

These facilities required substantial investments by SLG as follows:

	Investment
PCP	$577,383
AGE	$2,174,526

In order to recover these fixed costs, the contracts were structured to include a monthly facilities charge, a Property Tax Demand charge (AGE only) and a volumetric charge, the latter including a minimum bill provision based on 3 million Dt per year. Management Applications Consulting, Inc. (MAC) was retained by SLG to investigate pricing alternatives including buy-out terms and subsequent rate design.

In recent years, the plants have not been operating as base load units, resulting in very high costs when expressed on a unit-cost basis. The plants now have a common owner, Alliance Energy ("Alliance") who has requested to restructure the rate to eliminate fixed costs and, instead, base most charges on a volumetric basis.

In analyzing the net present worth of these existing contracts and their expected level of usage, the following buy-out costs should be considered for the existing contract:

	PCP	AGE
Buy-Out Price @ 11/01/2006	$1,685,130	$3,324,364

ST. LAWRENCE GAS COMPANY, INC.
SUMMARY OF ALLIANCE COGENERATION PROJECTS

Preliminary Report – August, 2006

INTRODUCTION

This preliminary report summarizes MAC's analysis to date and is provided as a discussion document only.

St. Lawrence Gas Company, Inc. ("SLG") entered into interruptible gas transportation agreements with two cogenerators, Power City Partners, L.P. ("PCP") and Ag-Energy, L.P. ("AGE"). Both facilities are cogenerating facilities producing both heating energy and electric energy. PCP owns and operates a 79 MW electric and steam generating facility located in Massena, NY. AGE owns and operates a 79 MW electric and steam generating facility located in Ogdensburg, NY. The units are primarily gas fired but employ an alternative source allowing for an interruptible supply of gas. Both customers secured their own gas supplies and entered into interruptible transportation contracts with SLG for 20 years to provide delivery services from point of receipt from the interstate gas pipelines to the customer's meter. The PCP contract was dated January 31, 1991 for deliver expected on or about August 1, 1992. The AGE contract was dated April 20, 1992 for an expected first delivery on or about June 1, 1993. A summary of the significant parameters of the two contracts are tabulated on Exhibit 1.

For planning purposes and when the facilities first began operation, the units ran continuously producing a substantial amount of electric energy. However, as the prices for electricity and gas changed over time, the facilities were operated less as base load and more as peaking facilities. Usage for PCP peaked in 1993, when over 7 million dekatherms of gas were consumed. Usage varied from 1994 until 1998 with a low of 4.3 million dekatherms. Subsequently, the facility's consumption has ranged from 40,000 to 500,000 dekatherms per year. AGE's usage pattern was similar, operating initially as a base load plant with annual usage ranging from 3.5 to 4.2 million dekatherms in the period 1994 to 1998. Since then, usage has declined to roughly 1 million dekatherms per year with the low occurring in 2005 at 500,000 dekatherms. On June 17, 2005, PCP and AGE petitioned the New York Public Service Commission ("PSC") for approval to transfer the ownership of the two facilities to Alliance Energy New York, L.L.C. ("Alliance"). This approval was granted September 7, 2005, and both facilities are currently being operated by Alliance. Alliance has requested that the existing special contracts be renegotiated with the goal of eliminating minimum take provisions and reducing fixed monthly fees. The resulting rate they desire would only include a variable price for the transportation of any gas. In order to address the questions raised by Alliance, SLG has retained the assistance of Management Applications Consulting, Inc. ("MAC") to assist in the computation of appropriate rates and charges.

St. Lawrence Gas Company, Inc.
Early Termination of Cogeneration Projects

MAC Preliminary Report – August, 2006

CONTRACT PROVISIONS

SLG filed its proposed interruptible gas transportation contract for PCP with the PSC and received approval on September 11, 1991. The contract provides for transportation of customer-owned gas under the Company's SC No. 5 gas transportation tariff which allows the Company to negotiate rates and other conditions of service for individual customers for the transportation of gas to be used in their cogeneration facilities. In the case of PCP, the Company's existing distribution system was sufficient to carry the "Maximum Daily Transportation Volume" of 20,000 MCF per day on an interruptible basis. The only incremental investment required was local to the customer for a meter, service and some station equipment totaling $577,382.90. The basic contract has a 20-year term and calls for a fixed and variable charge for gas. The fixed cost, identified as the Monthly Facilities Charge ("MFC"), recovers the investments for the dedicated facilities necessary to serve the customer. The MFC computation includes the annual carrying costs for the incremental investment, the annual depreciation expense attributable to the incremental investment and the tax adjustment necessary to provide for the recovery of taxes incurred by SLG in connection with its collection of the MFC. The variable charge is a declining block rate; the first block is applicable to the first 50,000 therms delivered each day and is priced at 9 mills per therm subject to an annual price escalation adjustment, which is based on the Gross Domestic Product – Implicit Price Deflator (GDP-IPD). The tail block rate was initially established at 7 mills per therm and is subject to the same price escalator. In addition, the pricing provisions include a minimum annual charge which is computed on the current tail block rate applied to 3 million dekatherms. This minimum charge is in addition to the MFC charges.

The AGE contract MFC recovers all fixed costs so it was similar to the PCP contract but required far more investments by SLG. In order to serve AGE, SLG constructed a 12.5 mile, 8" steel main connecting the facility to the Company's existing take station with the Iroquois Gas Transmission System. A total investment of $2,174,526.41 was required, the large majority being the main investment with smaller investments for measuring and regulating station equipment, structures and improvements and metering. Pricing provisions included two fixed charges and one variable charge. In addition to a Monthly Facilities Charge to recover the costs of dedicated investments, a separate Property Tax Demand Charge ("PTDC") was established to collect the fixed property taxes associated with the dedicated facilities required to serve AGE. Unlike the PCP's MFC charge, which was established once each year, the AGE contract developed a levelized monthly MFC applicable every month for the entire 20-year contract term, subject only to revision when input parameters change over the life of the contract. The volumetric charge was established at 5 mills per therm, again using the Implicit Price Deflator as a price escalator. The minimum annual charge was specified as the sum of the minimum monthly charges (the MFC and PTDC) and the Minimum Annual Transportation Quantity of 3 million dekatherms multiplied by the current year's therm rate, adjusted for the number of days interrupted during the year.

Both contracts include substantial fixed charges to recover the dedicated investment over a 20-year period required to serve them. Since the plants were initially designed to be operated as base load facilities, the minimum annual contract quantity was not expected to come into play. In fact, a review of historical sales data shows that in the first four years of operation, the minimum annual contract quantities were exceeded by a wide margin. Neither contract anticipated the degree of supply price volatility experienced in the 1990s.

BASIS FOR REVIEW

In approving the PCP contract, the PSC Staff stated, "the expected revenues are adequate to ensure that St. Lawrence will recover the plant investment and operating costs associated with the contract, plus a benefit to the system". This same requirement is included within the SC-5 tariff under which the special contracts were authorized. This requirement is typical of most utility regulators. Special contracts should provide not only for the full recovery of the costs they incur but also provide a benefit to the existing firm customers. If there were no benefit to existing customers, why should the utility or existing customers be exposed to the potential risks associated with a new contract? This requirement has significant implications in the computation of a buy-out rate and/or the design of a renegotiated interruptible contract.

As an example, consider a hypothetical cogenerating facility with dedicated mains investment wishing to shut its doors and prematurely end its transportation contract. Unless the facilities formerly used by the cogenerator can be retired and taken off the books, they will remain in place and continue to require upkeep, not the least which will be property taxes. Mains investment has an average service life of 65 years based on the Company's most recent depreciation study. Thus, barring unforeseen circumstances, the facilities will remain on the tax roles for 65 years, well beyond the 20-year contract term. If the cogenerator is no longer paying transportation fees to recover these property taxes, they must either be placed as a burden on the existing rate payers or recovered as part of the customer's buy-out provisions. Since the contract was premised by the fact that the system must benefit from the existence of the contract, it is certainly unacceptable to expect that existing sales customers should incur all of the continuing costs for the line initially built solely for the customer's benefit. As a result, the present value of the property taxes for this facility beyond the contract term may be recovered from the special contract customer as part of the contract buy-out provisions.

BUY-OUT PROVISIONS

The first step in establishing the provisions required for a buy-out or renegotiation is to identify the investments dedicated to serve the customers and the associated depreciation to date. This information is shown on Exhibit 2 based on SLG's records. The next step is to identify the revenues anticipated from the contract if it were to remain in effect through its original contract term. Using this data, the present value of the revenue stream can be established. For the purpose of all present value calculations, MAC has conservatively employed the Company's after-tax cost of capital resulting from its recent rate case of 7.77%.

For the PCP contract, the future revenue stream stems from two factors, the MFC and the minimum annual contract charges. Based on the customer's current forecast of loads for the remainder of the contract term, the minimum annual charge provision will generate greater revenues than will be generated through application of the volumetric charge. Therefore, the volumetric charge can be ignored and only the minimum annual charge considered. Exhibit 3 shows the historical billing data for both PCP and AGE. This historical data is shown on a fiscal year basis for SLG. Until 2004, the Company employed a fiscal year ending September 30 and then beginning with 2004 used a calendar year ending December 31. In contrast, both the PCP and AGE contracts employ a contract-year concept which ends October 31 of each year. Consequently, the fiscal year data shown in Exhibit 3 cannot be directly compared with the contract year requirements.

Exhibit 4 presents the MFC calculation for PCP. In its first year of operation, the contract year included only 10 months. Consequently, the 20-year term will encompass 21 contract years with the last year including only two months.

The calculation of the present value of PCP's future MFC charges is shown on Exhibit 5. Assuming that the existing contract is terminated October 31, 2006, the MFC charges for contract years 15 through 21 would still be outstanding. The lower half of this exhibit shows the total MFC charges are $238,604, and the present value of those charges is $220,938.

The calculation of AGE's MFC is much more complex. Exhibit 6 shows this calculation. The MFC is computed by establishing the revenue requirements associated with the dedicated facilities over their life and then computing a levelized charge applicable to the entire period. The calculation is defined in Appendix II of the contract and reproduced in this exhibit. The original contract spelled out adjustments for federal income taxes and gross receipts tax. However, the state phased out gross receipts taxes and replaced them with a state income tax. MAC modified the income tax rate to reflect the composite state and federal income tax rate. Pending a legal opinion and in order to provide some preliminary estimates and ensure conservatism, MAC has assumed that the income tax rate reflects only the federal income tax rate, and the repealed gross receipts tax has been eliminated. This approach provides the lowest MFC charges and probably underestimates the appropriate charge to be employed.

Based on MAC's assumptions, the present value of the expected future MFC charges are shown on Exhibit 7. The sum of the MFC charges payable in contract years 14 through 21 are shown as just under $1.8 million with a present worth of approximately $1.6.

Following the MFC, MAC computed the present value for property taxes. Recall that property taxes are not separately segregated in the PCP rates, so only AGE's PTDC was computed. Exhibit 8 shows the computation of property tax demand charges. For the purpose of estimating property taxes, MAC employed the current annual figure of $70,184 and escalated it using the Company's estimates of future property tax escalation of 4.12%. For all other costs, MAC employed the Company's forecast of general escalation as follows:

Year	Forecast Escalation Rate
2007	2.5%
2008	2.4%
2009	2.3%
2010	2.2%
2011	2.1%
All subsequent years	2.1%

These escalation factors were consistently applied throughout MAC's analysis. While no future forecast can be judged accurate, MAC notes that these escalation factors coming at a time of extremely low interest rates are low in comparison to observed results over the past 50 years. MAC concludes that these factors will provide conservative estimates of future costs and may downwardly bias the resulting buy-out costs.

The future PTDC charges for contract years 14 through 21 are shown simply as the current level escalated. However, as discussed previously, property taxes will continue to be assessed on this property for its entire life. Exhibit 9 shows the investment made specifically for AGE as well as the average service life anticipated in accordance with the current depreciation study. In the case of Meters, property taxes are expected to continue for 37 years. For Structures and Improvements and Measuring and Regulating Equipment, the taxes are expected to continue for 40 years, and in the case of Mains, the majority of the investment, property taxes will continue for 65 years. Therefore, the property taxes were adjusted in years 37, 40 and 65, commensurate with the retirement of the investment.

The line initially built to serve AGE has subsequently been used to a limited degree to serve other firm customers. Exhibit 10 tabulates the monthly sales volumes and heating degree days for those firm customers served on the AGE main for the 12-month period ending March 2006. Using regression techniques, the design day demand for these customers was estimate at 175 MCF. The AGE contract demand is 17,400 MCF. Therefore, the non-AGE load comprises 1% of the load on the line. Beginning in contract year 21, the property taxes attributable to AGE are reduced to reflect the portion of load employed by SLG to serve other firm loads. In summary,

Exhibit 8 shows that the total property taxes attributable to AGE are approximately $13.4 million, and the present worth of this revenue stream is approximately $2.3 million. However, beginning in year 22, there is some possibility that AGE will be served on a new rate that will provide recovery of property taxes. Based on that assumption, the sum of the PTDC, stopping at year 21, is $0.8 million. Exhibit 8 also shows a total present value to year 21 of $0.6 million.

The last present value calculations address the minimum annual bill requirements. These calculations are shown on Exhibit 11 for both PCP and AGE. The pricing provisions for both contracts call for an annual GDP-IPD adjustment beginning April 1 of each year. Therefore, the contract year which begins November 1 includes prior year prices through March 31 and current year prices from April through October. The minimum annual bill calculations show the weighted average volumetric charge applied to the minimum annual transportation quantity. The present value of the minimum annual bills for the remaining contract years of each contract are shown as approximately $1.5 million for PCP and $1.1 million for AGE.

St. Lawrence Gas Exhibit 1

Cogen Contract Buyout

<u>Contract Summaries</u>

Introduction

SLG entered into separate Gas Transportation Agreements to provide interruptible transportation for two cogenerators:

Customer	Acronym
Power City Partners, LP	PCP
Ag-Energy, LP and	AGE

The general parameters for the contracts were as follows:

			PCP	AGE
Contract Date			1/31/1992	4/20/1992
Estimated Date of First Delivery			8/1/1992	6/1/1993
Actual Date of First Delivery			1/1/1993	12/1/1993
Contract Start Date			11/1/1992	12/1/1993
Contract Term, Years			20	20
Maximum Daily Quantity, MDQ (MCF)			20,000	17,400
Minimum Annual Transportatgion Quantity, DT (MATQ)			3,000,000	3,000,000
Minimum Delivery Pressure, psig			380	700
Gas Quality, Min BTU/cf			950	
Estimated Investment Required			<$500,000	2,400,000
Actual Investment			$ 577,382.90	$ 2,174,526.41
New Mains Required			None	12.5 mi. 8" CS
Security			$ 200,000	$ 2,400,000
Security Term			until written waiver	Ends 6 Mo after del.
Unaccounted For Gas (UFG) retained by SLG			Factor of Adjmt per PSC Filing	Factor of Adjmt per PSC Filing
PRICE:				
	Therm Rate, $/Th	First 50,000 per day	$ 0.0090	
		Excess	$ 0.0070	
		All Therms		$ 0.0050
		Escalation Factor	GDP IPD	GDP IPD
	Additonal Charges		Iroquois Interconnec Iroquois IT Costs MFC	Iroquois Interconnection PTDC MFC
Monthly Minimum Charge			MFC	MFC PTDC Unpaid Prior MFC
Minimum Annual Charge				
	Amount		Annual MFC + MATQ X current Excess Therm Rate	Annual MFC + MATQ X current Therm Rate
	Timing		Last Month of Contract Year	Last Month of Contract Year
	Security		see above Line of Credit (per SC-5 tariff)	Performace guarantee Line of Credit (per SC-5 tariff)

Exhibit D
Testimony of James P. Ward
Case No. 08-G-1392
(filed Nov. 26, 2008)

Q. Please state your name, profession and place of business.

A. My name is James P. Ward. I am the Manager, Strategic Accounts & Planning at St. Lawrence Gas Company, Inc. which has its main office at 33 Stearns St., Massena, New York.

Q. What is your education and professional background which might be relevant to this proceeding?

A. I graduated from the State University of New York at Canton with an Associates of Applied Science Degree in Business Administration in 1980. In 1982, I graduated from the State University of New York at Plattsburgh with a Bachelors of Science Degree in Business Administration. I have been employed by the Company for more than 24 years in a variety of positions. From January 1993 to August 2001, I held the position of Assistant to the Treasurer. In this position my duties included gas cost accounting, Gas Adjustment Clause ("GAC") calculations and gas cost and revenue forecasting for budgeting and rate case purposes. I also worked with the Treasurer on various regulatory issues.

On August 1, 2001, I was promoted to the position of Manager Gas Supply and on May 14, 2002, I assumed additional responsibilities and my job title changed to Manager, Strategic Accounts and Planning. On October 1, 2004, my responsibilities were increased to include the management of the Utility Sales and Customer Relations functions.

Q. Have you previously submitted testimony before the Public Service Commission?

A. Yes, I submitted testimony relating to gas supply, aggregation, interruptible incentive sharing revenues and the requirement of a new billing system as part of Case 02-G-1275.

In 2005, I submitted testimony relating to gas supply, the status of the Three Nations Bridge replacement, the Company's Service Quality Performance Mechanism, the status of the Franklin County expansion project and the status of residential and commercial aggregation as part of Case 05-G-1635.

Q. What is the purpose of your testimony?

A. My testimony will address the following topics:

a. Gas Purchasing Practices

b. Three Nations Bridge

c. Expansion into Franklin County

d. AG-Energy Cogeneration Facility

e. Energy Efficiency Program

f. Billing System

Gas Purchasing Practices

Q. Can you please describe the gas supply arrangements of the Company?

A. The Company currently holds Firm Transportation Service ("Firm Service") contracts on the TransCanada Pipeline System ("TCPL") with a capacity of 11,246 Gigajoules/day. This Firm Service capacity has a receipt point of Empress Alberta and delivery point at the Niagara Gas Transmission Limited ("Niagara Gas") interconnection at Cornwall, Ontario. Three transportation customers have reserved a portion of this Firm Service capacity equal to 907 Gigajoules/day. The balance of 10,339 Gigajoules/day Firm Service capacity is filled through short term commodity contracts with various suppliers.

Q. How does the Company purchase its commodity requirements?

A. The Company relies on the expertise of Enbridge Gas Services Inc. ("EGSI") for assistance with commodity purchases. When commodity purchases are required the Company informs EGSI of the necessary information required to develop an RFP for the commodity purchase. EGSI then submits an RFP to approved commodity suppliers. Once all offers are received, the Company and EGSI mutually agree on the best offer. Commodity pricing, available credit, level of service and other considerations are reviewed and discussed before a final determination is made.

Q. What other supply arrangements does the Company utilize?

A. The Company holds 1 billion cubic feet of storage capacity ("Storage"). Firm supplies are injected into Storage during periods of low demand and withdrawn from Storage during periods of high demand. Storage is obtained through an RFP process and is designed to align with the daily base load commodity purchases. Storage is currently split evenly between Union Gas Limited located in Southern Ontario and Bluewater Gas Storage LLC located in Michigan. Both Storage contracts will expire on March 31, 2010.

The Company contracts for winter firm service through an RFP process with the assistance of EGSI. Winter firm service is defined as a supply of natural gas including the delivery, via firm transportation capacity on TCPL, to the Niagara Gas interconnection at Cornwall, Ontario or to the Iroquois Gas Transmission System interconnection near Waddington, N.Y. The use of winter firm service contracts provides a secure supply for the winter period only and as a result reduces the total amount of TCPL capacity the Company is required to purchase on a year-round basis.

Short term firm capacity ("STFT") on TCPL is also used for the winter period only. STFT is long haul firm capacity contracted for individual winter months and allows the Company to purchase additional supplies, priced at the monthly AECO C/N.I.T (7A) index ("AECO"), to cover peak winter demand. STFT is not always available.

The Company uses a combination of winter firm service, STFT, peaking contracts, pipeline balancing accounts and interruptible curtailment to supply the system during periods of high demand when its base load firm service and storage deliveries are not adequate to meet total system requirements.

The St. Lawrence Gas system is also connected to the Iroquois Gas Transmission System ("IGTS") at three locations; the Lisbon Gate, the Edwards Gate, and the New Bremen Gate. Gas supply on the IGTS pipeline is primarily delivered by transportation customers including two cogeneration customers, AG-Energy which has gas delivered at the Lisbon Gate and WPS Energy which has gas delivered at the New Bremen Gate.

The goal of the Company's purchasing strategy is to provide a reliable source of natural gas to its customers at an affordable cost. The current supply portfolio as discussed above is diversified and provides a reliable source of firm supply for its sales customers and also provides the required supply for the load balancing service provided to both sales and transportation customers.

Q. Can you explain how the Company limits price volatility for its customers?

A. To limit the price volatility associated with winter natural gas prices the Company uses financial hedges for a portion of its base load supply contracts. Financial hedges are based on supply contracts in place and their associated monthly index pricing. The Company's base load supply, for example, is contracted at the monthly AECO index. Hedges are then based on a portion of the contracted supply and the hedge price is based on the monthly AECO index.

The hedging strategy utilized by the Company requires hedging for prices associated with commodity contracts in place for the period beginning November 1 and continuing through March 31 each year. Hedge frequency is limited however due to the relatively small size of the Company's supply portfolio. The typical minimum requirement to complete a financial hedge is 1,250 Gj's per day, or 20% of the Company's planned daily hedged volume.

The Company mitigates market volatility by spreading hedge transactions over the period beginning April 1 through September 30th to be effective for the following winter period.

To remove speculation one hedge must be completed each month from April through July with one final hedge completed by September 30th.

For the 2008-2009 winter season the Company has hedged commodity contracts in place for approximately 30% of its firm supply requirements. Storage accounts for an additional 37% of the winter supply requirements. The combination of hedged commodity contracts and storage provides a level of price protection for 68% of the Company's winter supply portfolio. The remaining balance of base load supply floats on monthly index pricing.

Q. Does St. Lawrence Gas rely on Enbridge for assistance with hedge transactions?

A. Yes, the Company utilizes the expertise of Enbridge Risk Management (US) LLC ("Enbridge Risk Management") to complete financial hedge transactions. Transactions are based on the terms of an ISDA Master Agreement between the Company and Enbridge Risk Management and each transaction is confirmed by a written confirmation signed by two officers of both the Company and Enbridge Risk Management.

Before each scheduled hedge transaction the Manager of Strategic Accounts & Planning and Enbridge Risk Management discuss current market conditions and review pricing options under different hedging instruments (e.g. swap, call, collar). A mutual decision is made as to the preferred instrument based on current market pricing, instrument premium costs and market intelligence.

The un-hedged portion of the base load supply floats on the monthly AECO index. Monthly index pricing also tends to limit price volatility by reducing the large price swings associated with daily market pricing. This portion of supply represents approximately 20% of the 2008-2009 winter requirements.

The balance of winter supply is made up of winter firm service, typically based on the monthly New York Mercantile Exchange ("NYMEX") rate and supply purchased to fill STFT based on the monthly AECO rate. Winter firm and STFT supplies account for approximately 12% of the 2008-2009 winter supply and are not hedged. In total 30% of the 2008-2009 winter supply is hedged, 37% comes from storage and 33% floats on monthly index pricing.

The Company's plan to mitigate price volatility has continued to evolve over the last several years and is reviewed annually as system requirements and market conditions change.

Three Nations Bridge

Q. Mr. Ward, can you please describe the status of the Three Nations Bridge replacement?

A. St. Lawrence Gas receives 93% of its throughput (excluding cogeneration throughput) via the Niagara Gas pipeline which is owned and operated by Niagara Gas Transmission Limited ("Niagara Gas"), a wholly owned subsidiary of Enbridge Energy Distribution Inc. The Niagara Gas pipeline connects TransCanada Pipeline with the St. Lawrence Gas distribution system. A section of the pipeline is suspended from the two bridges that span the St. Lawrence River near Cornwall, Ontario. The North Channel Bridge links Cornwall, Ontario to

Cornwall Island, and the South Channel Bridge links Cornwall Island to the State of New York. The Federal Bridge Corporation Limited ("FBCL") of Canada manages the right-of-way for both bridges. The right-of-way crosses through the Akwesasne, Mohawk Reservation.

In April 2002 the FBCL notified Niagara Gas that the license to operate the pipeline on the North and South Channel Bridge was terminated. This termination was due to a plan to construct a new low-level bridge as a replacement for the North Channel Bridge. A North Channel Bridge replacement will necessitate the removal of the Niagara Gas Pipeline before the bridge can be demolished.

Soon after the termination notification was received, Niagara Gas began discussions with key stakeholders, including St. Lawrence Gas, as to the possible ramifications of relocating the pipeline. St. Lawrence Gas met with its largest customers to discuss the situation and to gather data to be used in various reports to be presented to the FBCL by Niagara Gas.

In April 2003 Niagara Gas issued a Preliminary Assessment which restated its desire to maintain the existing crossing location but also discussed options for relocating the pipeline.

Since 2003 representatives of NGTL, the FBCL and the Mohawk Council of Akwesasne ("MCA") have met several times to work out issues related to the existing pipeline and the location of the new pipeline. Safety and security issues were discussed relating to the existing pipeline and have been addressed.

As of the date of this filing, the FBCL has renewed NGTL's license to be on the existing North Channel Bridge and has also indicated their willingness to accept and consider an application by NGTL to install a new gas pipeline on the proposed new low-level North Channel Bridge.

As part of the agreement to allow NGTL to place the pipeline on the new low-level North Channel Bridge, FBCL has insisted that NGTL reach an agreement with the MCA on a memorandum of understanding to ensure NGTL's ability to continue to operate the existing pipeline on the Cornwall Island

Dialogue continues in an effort to reach a compromise among all parties directly involved in the negotiations including the FBCL, the MCA & NGTL.

Q. Can you explain how costs incurred by NGTL for work done in relation to the Three Nations Bridge replacement are recovered?

A. Yes, NGTL bills the Company a fixed charge each month. Costs and revenue are reconciled on an annual basis and a one time adjustment is invoiced or credited to the Company. All expenses and capital costs are recovered by NGTL through the monthly invoices.

The NGTL charges are recovered by the Company through the Company's GAC calculation and are part of the Gas Interconnection charge. The Gas Interconnection charge is a per therm rate charged to all firm customers.

Q. How will the cost of the new pipeline be recovered?

A. If a new pipeline is built on the new North Channel Bridge the costs incurred by NGTL will be capitalized and recovered through the monthly invoice to the Company. The Company will recover these costs through the Gas Interconnection GAC charge.

Q. Does the Company expect major changes to its existing distribution system if the new bridge is built?

A. No, if the new pipeline is built on the new North Channel Bridge, as expected, there will not be any major changes required to the existing Company distribution system. If however NGTL is not successful in its negotiations and they are not allowed to build the pipeline on the new bridge the Company would be forced to look at other options that may include major changes to its distribution system.

Expansion into Franklin County

Q. Can you please explain the status of the Company's expansion plans into Franklin County?

A. Franklin County is a rural county located in northern New York State about 180 miles north of Albany. The economy of Northern Franklin County is largely dependent on the employment provided by the dairy industry and the New York State Department of Corrections facilities located in Malone and Chateaugay. The introduction of natural gas to Franklin County will not only provide significant economic and environmental benefits to the immediate area but the estimated savings generated from the conversion to natural gas by the state facilities will also benefit the entire State of New York.

The Company has been looking to expand its distribution system into Northern Franklin County since the late 1990's. However, the projected revenues generated from the project are not sufficient to produce the allowed rate of return (currently 7.77%) by the fifth year of development as directed under the State of New York Public Service Commission Policy Statement (Case 89-G-078). The current estimated capital costs of $19.6 million produce a revenue shortfall of approximately $7.5 million. The Company has requested that the Franklin County IDA and the St. Lawrence County IDA ("IDA's") assist the Company in its acquisition and construction of the natural gas pipeline and distribution system. It was determined that IDA assistance can provide the funding necessary to cover the revenue shortfall through a funding mechanism that will include a $7.5 million allocation from state and federal agencies that will be paid directly to the IDA's. The IDA's will disperse the funds to pay for a portion of the mains located in the expansion area. St. Lawrence Gas will operate and maintain but not own those facilities paid by IDA funding. This mechanism has been used successfully in other New York Article VII/Section 68 cases (Case 04-G-0537 & Case 98-G-1024).

Discussions with local, state and federal officials began in 2005 and have been ongoing with very significant progress. All parties to the discussions agree that the project is worthwhile and that funding should be made available. As of the date of this testimony the following sources of funds have been secured for the project. A $300,000 grant from the Franklin County Legislature was announced on February 21, 2008. This grant will be used to assist the Company in preparing portions of the work required to complete an Article VII filing. A $2 million allocation in the 2008 state budget through Senator Betty Little was announced on April 9, 2008.

The Company is committed to this project and is preparing to undertake the necessary steps to move forward with an Article VII filing with the Public Service Commission. The Company has recently made a commitment to proceed with an aerial survey of the expansion area during the fall of 2008. The formal Article VII filing can not be completed, however, until all funding sources have been identified. The Company has set a goal of January 1, 2009 to clearly identify the remaining funding sources.

AG-Energy Cogeneration Facility

Q. Can you please explain the status of the AG-Energy Cogen?

A. AG-Energy, L.P. ("AGE") owns and operates a 79 MW electric and steam generating facility located in Ogdensburg, NY. The Company entered into a 20 year interruptible gas transportation agreement with AGE dated April 20, 1992 with an expected first delivery on or about June 1, 1993.

The facility was designed and built as a base load facility and during the first years of operation the unit ran as designed. However, as prices for electricity and gas changed over time, the facility changed its mode of operation, generating electricity as a peaking facility only and providing a small amount of steam required by its host facilities. AGE's annual usage pattern ranged from 3.5 to 4.2 million Mcf's in the period 1994 to 1998. Since then, usage has declined with the low occurring in 2007 at 206,000 Mcf's.

On June 17, 2005, AGE petitioned the New York Public Service Commission ("PSC") for approval to transfer the ownership to Alliance Energy New York, L.L.C. ("Alliance"). This approval was granted September 7, 2005. Alliance immediately began a routine of paying its monthly invoices to the Company on a 60 to 90 day plus lag and requested that the existing transportation contract be renegotiated with the goal of eliminating minimum take provisions and reducing fixed monthly fees. The Company has refused to negotiate the terms of the agreement unless monthly invoices are paid on time which has not happened.

In order to serve AGE, SLG constructed a 12.5 mile, 8" steel main connecting the facility to the Company's interconnection with the Iroquois Gas Transmission System at Lisbon, New York. A total capital investment of $2,174,526 was required. To recover the cost of investment and to earn a reasonable return the interruptible transportation contract was designed to include two fixed charges and one variable charge. The Monthly Facilities Charge ("MFC") was designed to recover the costs of dedicated investments and a Property Tax Demand Charge ("PTDC") was established to collect the fixed property taxes associated with the dedicated facilities required to serve AGE. A volumetric charge was established at $0.005 per therm, using the Implicit Price Deflator as a price escalator.

The contract also included a minimum annual charge ("MAC"). The MAC was defined as the sum of the minimum monthly charges (the MFC and PTDC) and a minimum annual transportation quantity of 3 million Mcf's multiplied by the current year's therm rate, adjusted for the number of days interrupted during the year. Since the plant was initially designed to be operated as base load facility, the minimum annual charge was not expected to come into play as the facility would not fall below the minimum annual quantity of 3 million Mcf's.

On August 30, 2007, AGE filed a letter with the New York State Public Service Commission ("PSC") giving notice of its intent to cease its provision of steam service to its host facility, the St. Lawrence Psychiatric Center, and to relinquish its certificate of public convenience and necessity to provide steam service. On December 6, 2007, the Company filed comments in response to AGE's proposal. As of November 26, 2008, the Company is not aware of any decision on AGE's request.

The facility has recently removed its two generating turbines but continues to provide steam to the St. Lawrence Psychiatric Center. Local news articles and the Alliance website indicate that the facility hopes to produce electricity through biomass fuel. Payments of SLG's invoices continue on a 30 to 60 day lag.

Energy Efficiency Program

Q. Can you please explain the status of the Company's Energy Efficiency Program?

A. On May 16, 2007, the Commission issued an Order Instituting Proceeding, establishing the goals to facilitate the design of an energy efficiency portfolio standard in New York State. On June 23, 2008 the Commission issued an Order Establishing Energy Efficiency Portfolio Standard and Approving Programs. In this order the Commission authorized gas utilities serving more than 14,000 customers to establish surcharges to collect revenue to cover costs associated with energy efficiency programs. These costs were summarized in Appendix 1, Table 18 of the Order. On July 3, 2008 an Errata Notice was issued in which Appendix 1, Table 18 was revised to include both Corning Natural Gas Corporation and St. Lawrence Gas Company, Inc. The Company did not participate in and was not included in the proceeding until the June 23, 2008 Order was clarified through the July 3, 2008 Errata Notice.

To comply with the Commission Order the Company has collaborated with other utilities, NYSERDA and other parties and has developed a preliminary Energy Efficiency Plan ("EEP"). The EEP was filed with the New York State Public Service Commission on August 22, 2008 and later revised on September 23, 2008.

The Company's EEP has been developed to promote the efficient use of energy, including natural gas. The EEP has two major components: (1) incentive rebates on high efficiency appliances and controls, and (2) customer outreach and education.

The Company began charging a System Benefits Charge ("SBC") effective October 1, 2008 for all Residential customer accounts. The SBC is billed as a separate line item "System Benefits Charge" on all residential gas bills. Revenue collected through the SBC will be used specifically for EEP costs.

The Company will hire one part-time employee, who will administer the EEP. The part-time employee will report to the

Manager of Strategic Accounts & Planning. Together, those two employees will have responsibility for the entire program. Costs associated with the part-time position and costs of implementing the programs will be recovered through the SBC.

Billing System

Q. Can you please explain the status of the Company's billing system?

A. On August 30, 2005 the Company purchased a new billing system from Optiron Corporation ("Optiron"). A new billing system was deemed necessary to provide the Company with a solution to accommodate a single bill for both the Company's charges and charges associated with ESCO aggregation of small commercial and residential customers. A new system was also intended to provide additional functionality and productivity to the billing process. The Readi System ("Readi"), distributed by Optiron was selected through an RFP process as the best solution for the Company as Readi could provide everyday billing functionality, the ability to account for and bill ESCO charges, EDI capability, bill frequency calculations and additional functionality.

In June 2006 the Company went live with the Readi system. After more than two years the system is not working as envisioned and there are still components of the system that have not been put into production. Billing errors, unexpected results, bill print problems and a very small available workforce at Optiron have created difficulties for the Company. The Company has been forced to increase resources to work through everyday billing problems. The Supervisor of Billing has been reassigned to deal with billing corrections and testing. The duties performed by the Supervisor of Billing have been transferred to the Supervisor of Collections. This move has helped the Company deal with billing system issues but has also put a strain on the billing department. To combat this loss the Company has incorporated a new full time position in the rate year. This new position is a direct result of the additional workload required to handle billing system issues and system testing.

Certain components of the system including the retail access component, on-line functionality and large volume billing have been put on hold until the main billing system is stabilized.

Q. How does the Company propose to solve the issues related to the billing system?

A. The Company continues to work with Optiron to solve outstanding billing and operational issues. Weekly conference calls are held with Optiron and Company management to prioritize issues and work schedules. While some progress has been made there are many issues that have not yet been resolved. The Company is therefore reluctant to move forward with any of the remaining functionality including the retail access component. It is the Company's opinion that the Readi system may never meet the every day billing needs of the Company.

If the remaining billing system issues can not be resolved in the short term, the Company will look to replace the Readi system with a different billing solution. Preparation for a possible replacement solution will include the following actions. First the Company is proposing to reduce the length of depreciation for the Readi system from 10 years to 5 years. This depreciation change has been incorporated into the rate year (See Exhibit 7, Schedule 16).

The second step required to prepare for a new billing solution is to seek a permanent exemption from the requirement to offer a single bill to retail access customers (Case 99-M-0631). The Readi system was chosen, in part, based on its ability to bill and account for Retail Access customers. If the single bill requirement had not been in place the Company would have most likely stayed with its existing billing system vendor. In the event that a new system or solution is needed, the fact that the Company is not required to bill and account for ESCO charges will create more vendor choices and reduce the complexity required under the new billing solution. The Company proposes that it could still offer customers a choice of suppliers but the supplier would bear the responsibility for providing an invoice for commodity separately from the Company's invoice for distribution.

The requirement to offer a single bill to retail access customers has not yet become an issue as the Company does not have any ESCOs who are currently aggregating customers within its service territory. ESCO's who are not currently operating in the St. Lawrence Gas service territory also do not appear too eager to provide aggregation service. In fact the Company has completed two separate surveys of all New York State ESCOs. These surveys were designed to determine the level of interest in providing aggregation to customers within the Company's service territory as ordered in Case 05-G-1635. The first survey was completed in April 2007 and the second survey was completed in July 2008. Both surveys showed a very low interest in participating in an aggregation program. With low interest on the part of ESCO's and the increased complexity required to bill and account for ESCO charges an exemption from the requirement to offer the single bill option seems appropriate.

Q. Does this conclude your testimony?

A. Yes, it does.

Exhibit E
St. Lawrence Gas Company, Inc., PSC NO. 3 GAS (the "Tariff")
Service Classification No. 5
(leaves 289-91)

Received: 04/28/2004

Status: EFFECTIVE
Effective Date: 06/04/2004

SERVICE CLASSIFICATION NO. 5

INTERRUPTIBLE TRANSPORTATION SERVICE –
INDIVIDUALLY NEGOTIATED AGREEMENTS

Applicable to Use of Service For:
Interruptible transportation of customer-owned gas to customers operating cogeneration facilities as that term is defined in the Public Utility Regulatory Policies Act or the Public Service Law, or for any other customer who qualifies for an individually negotiated agreement, when company has facilities available and adequate for the load. To qualify under this service classification a customer must have a load in excess of 2 billion cubic feet per year. A customer requesting service under this Service Classification must have contracted to purchase gas from an alternate source and must have complete standby equipment and a supply of fuel for such equipment available to use in the event of curtailment or interruption of service. Company, in its sole discretion, shall determine the volume of interruptible gas which it will be able to transport each day.

By order dated May 8, 1992 in Case 91-M-0927, summaries of negotiated contract rates and pertinent information will be appended to the tariff.

Character of Service:
Transportation of customer-owned, pipeline quality, natural gas will be on an interruptible basis from the Point of Receipt to the existing facilities at customer's Point of Delivery. Company will control the dispatch of such gas, and dispatch will be provided as requested by customer, if company can do so without adversely affecting service to customers with a higher service priority.

Company has no obligation to secure gas supplies on behalf of customer or make gas supplies available to customer, and customer will be permitted to draw upon company's system supply only to the extent that service to customers under other Service Classifications having a higher priority of service is not jeopardized or impaired. A customer's request for sales service upon termination of the Transportation Service Agreement will be subject to the availability of sufficient system supplies.

Natural gas with not less than 950 Btu per cubic foot, at pressures to be agreed upon, but not less than four inches water column, shall be received and supplied hereunder, and shall be subject to such curtailment or interruptions as company, in its sole judgment, shall deem necessary.

Received: 04/28/2004

Status: EFFECTIVE
Effective Date: 06/04/2004

SERVICE CLASSIFICATION NO. 5

INTERRUPTIBLE TRANSPORTATION SERVICE –
INDIVIDUALLY NEGOTIATED AGREEMENTS (Cont'd)

Service Agreement:
Company and customer will execute a Transportation Service Agreement prior to the commencement of service hereunder. The Transportation Service Agreement will contain all necessary information for company to supply service to customer including, but not limited to:

1. the term of agreement, options for continuing service and options for canceling service;
2. the exact character of service including volumes, pressures and customer's equipment to be served;
3. receipt and delivery points, intervening pipelines and suppliers;
4. a listing of all charges to be made for services rendered.

Rate:
The rate for service shall be as negotiated in the Transportation Service Agreement. Such rate shall recover all incremental costs company incurs in serving customer and shall provide a reasonable contribution to system costs.

Each month the volume of gas received by company for transportation to customer (Monthly Transportation Volume) and the volume delivered to customer (Monthly Delivery Volume) shall be reconciled. The charges for these Imbalance Provisions are outlined in 2.XI.K.

Iroquois Surcharge:
The rate for service herein will be subject to a surcharge for the Iroquois / Lisbon Interconnection at a unit rate of $0.0013636/therm for those customers who are capable of deriving benefit from the interconnection.

Minimum Charge:
The customer and company will negotiate an annual minimum bill which will be the greater of:
1. an amount which will cover the annual level premium carrying charges related to the capital cost, and operating expenses, and keep all other ratepayers from paying any costs related to the cogeneration project, and
2. an amount based on fifty percent of annual contract volumes.

Where a customer fails to pay the required amount of revenue during the contract year, customer will pay to company the amount deficient. The deficiency will be billed with the last monthly invoice in each contract year.

Received: 04/28/2004

Status: EFFECTIVE
Effective Date: 06/04/2004

SERVICE CLASSIFICATION NO. 5

INTERRUPTIBLE TRANSPORTATION SERVICE –
INDIVIDUALLY NEGOTIATED AGREEMENTS (Cont'd)

The amount of this minimum charge shall be guaranteed for the life of the agreement by a letter of credit from a responsible financial institution or by other security.

Increases in Rates and Charges:
The rates and charges are subject to the tax factor as explained in 2.XIV.

In the event that the provision for transportation service to customer requires company to incur related charges, an amount reflecting the costs incurred by company will be added to the rate.

Terms of Payment:
Net cash – interest will be charged at the rate of 0.06% per day on all amounts due and owing on accounts within this Service Classification, except to State agencies, starting twenty days after the bill is rendered.

Service to State agencies will be rendered in accordance with the requirements of Article XI-A of the State Finance Law (Chapter 153 of the Laws of 1984, effective July 1, 1984).

Term:
The term of each Transportation Service Agreement shall be the subject of negotiation between company and customer, but will not be less than five years.

Special Provisions:
Service under this Service Classification is subject to company's rules and regulations set forth in the section entitled General Information.

All transportation service provided hereunder will be subject to interruption, due to insufficient capacity on company's distribution system, before interruption to Service Classification Nos. 1, 2, and 3. At any time that customer's dual fuel equipment becomes inoperable and would present a hardship to the interruption of gas service, customer must notify company immediately of that condition and of any other condition that would present a hardship to immediate interruption. The customer must take immediate action to correct the condition and notify company when such condition has been corrected. Company shall not be in any way liable for any failure in whole or in part, temporary or permanent, to deliver gas under this service classification.

Exhibit F
Letter of Joseph Klimaszewksi, AG-Energy, to James Ward, St. Lawrence
(dated Sept. 19, 2006)

Alliance

Regional Office
21 Entrance Avenue
P.O. Box 585, Ogdensburg, NY 13669

Tel: 315-393-9048
Fax: 315-393-0959

September 19, 2006

VIA ELECTRONIC MAIL

Mr. James Ward
Manager, Strategic Accounts and Planning
St. Lawrence Gas
P. O. Box 270
Massena, NY 13662

Re: Renegotiation of AG Energy, L. P. and Power City Partners, L. P. Gas Transportation Agreements

Dear Jim:

The purpose of this letter is to provide your organization with a specific proposal with the intent of reaching a mutually acceptable conclusion to our negotiations regarding the termination of the above referenced contracts and the provision of service during subsequent periods. In an effort to simplify the discussion, this communication focuses exclusively on the termination of the natural gas transportation agreement between St. Lawrence Gas ("SLG") and AG Energy, L. P. ("AG"). We will address the essentials of the contract in three distinct parts; the recovery of the costs associated with the Incremental Investment, the minimum take transportation provision, and the property tax recovery provision.

Incremental Investment Recovery

In your recent communication containing the summary of the subject facility contract, you state that the original cost of construction for the facilities used to supply the Ogdensburg project was $2,174,536. In accordance with the terms of the contract, specifically paragraph one of Section 8, we are hereby requesting a detailed statement showing the actual amount of the Incremental Investment incurred by SLG in constructing the required facilities.

As a function of the contract, a Monthly Facilities Charge was defined to allow SLG to recover the cost of this construction. Your analysis further represents that AG Energy has paid the sum of $3,271,492 in Monthly Facility Charges since the beginning of the contract term. We disagree with the value expressed. In fact, after a review of our records, we find that AG has paid SLG the aggregate sum of $3,555,510.71 since the beginning of the contract in Monthly Facility Charges alone. However, even setting aside this disparity, it is evident that SLG has fully recovered more than the costs associated with the Incremental Investment through the collection of the Monthly Facility Charges to date.

We propose that this portion of the contract obligation has been fully satisfied. For the period after contract termination, AG agrees to pay SLG a fixed monthly charge equal to the Contract administration Charge as defined in SLG's SC4 tariff.

Minimum Take Transportation Provision

As discussed in your summary, the contract requires AG is to pay SLG for the transportation of all fuel used by the facility at an approximate rate of $0.05 per mmbtu of fuel. Further, to the extent AG consumes less than 3,000,000 mmbtu of fuel in any contract year, AG is required to pay SLG an amount equal to the transportation rate multiplied by the difference between 3,000,000 mmbtu and the amount of fuel actually transported during the contract year. The reason for this provision in the contract is not immediately clear. However, for the purposes of a mutually agreeable negotiation, AG is willing to acknowledge that this provision in the contract has a specific value over the remainder of the contract life.

Given the most recent historical consumption rates, it is reasonable to assume that AG will not consume more than 3,000,000 mmbtu of fuel in any upcoming contract year and, as a result, would be liable for a min-take payment to SLG in association with this min-take volume. Therefore, using a transportation rate of $0.05 per mmbtu multiplied by the min take volume and the remaining 7 years of the contract, SLG would be entitled to a total of $1,050,000 over the remaining life. Using an after-tax rate of return to SLG of 7.7% as identified in your summary documents, AG is willing to pay the equivalent of the net present value of this obligation, or $789,000 at contract termination.

For the period after contract termination, AG agrees to pay SLG a rate equal to twice the transportation rate posted in SLG SC4 tariff, with no minimum take provision.

Property Tax Recovery Provision

Under the contract terms, AG is required to reimburse SLG for any property taxes owed on the pipeline on a pro-rata basis. The pro-rata basis is derived by comparing AG's maximum daily use allowable under the contract with the maximum daily use of all users served by the pipeline.

For the period after contract termination, AG is willing to continue to reimburse SLG for property taxes on the pipeline on a pro-rata basis to the extent the maximum daily quantity actually used by AG during any billing month is compared to the actual maximum daily quantity used for all users served by the pipeline.

We recognize that some additional details relating to specific minor provisions of any subsequent agreement, such as unaccounted for gas and balancing provisions will need to be discussed as we draw closer to a final agreement. However, we believe this proposal represents a fair and equitable resolution for all parties involved to this long outstanding issue. It allows SLG to continue to receive a substantial revenue stream at above tariff derived rates and, concurrent with the other changes being made by the project, will allow AG to better compete in today's deregulated electricity marketplace. We remain available to discuss this matter further at your earliest convenience.

Yours truly,

Joseph Klimaszewski, Jr.
Regional Director

Exhibit G
St. Lawrence's Confirmation of Payment Plan

Hull, Gerit F.

From: J. Matthew Grubka [grubkajm@aol.com]
Sent: Thursday, January 08, 2009 2:31 PM
To: Amerilink1@aol.com; Hull, Gerit F.; Margulis, Howard L.
Subject: FW: AG Energy

All:

I am forwarding SLG's confirmation of payment arrangement. Note December was late as Jim mentions, but I did inform him that payment would be received before December, due to Holidays. He was fine with that and we are current with the our payments...

J. Matthew Grubka
Director of Accounting
Alliance Energy
PO Box 876
East Aurora, NY 14052
Phone: (716) 805-1469 ext. 104
Fax: (716) 805-1473
Primary Email: grubkajm@yahoo.com
Secondary Email: grubkajm@aol.com

From: James Ward [mailto:jpward@stlawrencegas.com]
Sent: Thursday, January 08, 2009 2:09 PM

To: 'J. Matthew Grubka'
Subject: RE: AG Energy

Matt, the payment arrangements made were as follows:

November - $60,000
December - $55,000
January - $60,000
February - $65,000
March - $70,000
April - $75,000
May - $80,000
June – current bill plus balance of arrears

Payments are to be made on the 20th of each month or the first business day after the 20th. The payment schedule is designed to pay your anticipated monthly charges (November through June) which include your Monthly Facilities Charge, Property Tax Demand Charge, Iroquois Surcharge, your per therm distribution charge and interest on you arrears balance. The portion of your monthly payment that is in addition to the amount of the monthly charges will go towards your arrears balance each month.

You paid the $60,000 on time in November but you were late on your December payment as it wasn't paid until 12/31/08.

Please let me know if you need anything more.

Please note my new phone number:

James P. Ward
Manager, Strategic Accounts & Planning
St. Lawrence Gas Company, Inc.
Phone: 315-842-3616
Fax: 315-764-9226

From: J. Matthew Grubka [mailto:grubkajm@aol.com]
Sent: Wednesday, January 07, 2009 6:06 PM
To: Jim Ward
Subject: AG Energy

Jim:

As part of this quarters review of AG Energy, I need to verify our payment arrangement established November 25th, 2008 as following:

Nov $50k paid
Dec $55k paid
Jan $60k
Feb $65k
Mar $70k
Apr $75k

May $80k
June $85k

Please confirm this understanding.

Thank you

Alliance

J. Matthew Grubka
Director of Accounting
Alliance Energy
PO Box 876
East Aurora, NY 14052
Phone: (716) 805-1469 ext. 104
Fax: (716) 805-1473
Primary Email: grubkajm@yahoo.com
Secondary Email: grubkajm@aol.com