

BEFORE THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION

-----X  
In the Matter of Central Hudson Gas & Electric :  
Corporation's Plans for Electric Rate/ :  
Restructuring Pursuant to Opinion No. 96-12 : Case 96-E-0909  
-----X

-----X  
In the Matter of Consolidated Edison Company of :  
New York, Inc.'s Plans for (1) Electric Rate/ :  
Restructuring Pursuant to Opinion No. 96-12; : Case 96-E-0897  
And (2) the Formation of a Holding Company :  
Pursuant to PSL §§ 70, 108 and 110, and :  
Certain Related Transactions :  
-----X

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In the Matter of Niagara Mohawk Power :  
Corporation's Proceeding on Motion :  
Of the Commission as to the Rates, Charges, : Cases 94-E-0098 and  
Rules and Regulations and for Electric Service : 94-E-0099  
Electric Street Lighting Service :  
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JOINT PETITION OF  
CENTRAL HUDSON GAS & ELECTRIC CORPORATION,  
NIAGARA MOHAWK POWER CORPORATION,  
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., AND  
DYNEGY POWER CORP./ON BEHALF OF DYNEGY DANSKAMMER, L.L.C.  
AND DYNEGY ROSETON, L.L.C., FOR AUTHORITY UNDER  
SECTION 70 OF THE PUBLIC SERVICE LAW  
TO TRANSFER CERTAIN GENERATING AND RELATED  
ASSETS TO DYNEGY DANSKAMMER AND DYNEGY ROSETON  
AND FOR RELATED RELIEF

Volume IV of IV

(Exhibit D Cont. - Roseton Asset Purchase and Sale Agreement, Purchase Price  
Agreement, Guarantee Agreement, Retained Facilities Assignment and  
Assumption Agreement, Roseton Tax Agreement, Exhibit E)

September 21, 2000

ASSET PURCHASE AND SALE AGREEMENT

FOR

THE ROSETON GENERATING STATION AND RELATED ASSETS

BY AND AMONG

CENTRAL HUDSON GAS & ELECTRIC CORPORATION,  
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.,  
NIAGARA MOHAWK POWER CORPORATION

and

DYNEGY POWER CORP.

Dated August 7, 2000

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## ASSET PURCHASE AND SALE AGREEMENT

THIS ASSET PURCHASE AND SALE AGREEMENT (including the Appendices, Exhibits and Schedules hereto, this "Agreement"), dated August 7, 2000, by and among CENTRAL HUDSON GAS & ELECTRIC CORPORATION, a New York corporation ("Central Hudson"), CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a New York corporation ("Con Edison"), NIAGARA MOHAWK POWER CORPORATION, a New York corporation ("Niagara Mohawk") (Central Hudson, Niagara Mohawk and Con Edison sometimes referred to herein individually as "Seller" and collectively as "Sellers"), and DYNEGY POWER CORP., a Delaware corporation ("Buyer," collectively with Sellers, the "Parties").

WHEREAS, Central Hudson holds a thirty-five percent (35%) undivided ownership interest (the "Central Hudson Interest"), Con Edison holds a forty percent (40%) undivided ownership interest (the "Con Edison Interest") and Niagara Mohawk holds a twenty-five percent (25%) undivided ownership interest (the "Niagara Mohawk Interest") (the Central Hudson Interest, the Niagara Mohawk Interest and the Con Edison Interest sometimes referred to herein each as an "Ownership Interest" and collectively as the "Ownership Interests") as tenants-in-common in the approximately 1,200 MW Roseton Generating Station located in Newburgh, New York (described herein as the "Roseton Station") and other assets associated therewith; and

WHEREAS, Buyer desires to purchase and assume, and Sellers desire to sell and assign, the Auctioned Assets (as defined in Section 2.2 below) and certain related liabilities, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

### ARTICLE I

#### Definitions

Section 1.1 Definitions. Capitalized terms used but not otherwise defined in this Agreement shall have the respective meanings given to such terms in Appendix A hereto.

Section 1.2 Accounting Terms. Any accounting terms used in this Agreement or the Ancillary Agreements shall, unless otherwise specifically provided, have the meanings customarily given them in accordance with United States generally accepted accounting principles (“GAAP”) and all financial computations hereunder or thereunder shall, unless otherwise specifically provided, be computed in accordance with GAAP consistently applied.

Section 1.3 Ownership Interests. The Parties acknowledge and agree that Sellers own and hold their respective undivided Ownership Interests as tenants-in-common in the Roseton Station (the “Co-Tenancy”). All references in this Agreement to each Seller’s right, title and interest in, to and under the Auctioned Assets, and the rights, liabilities and obligations, in connection therewith, shall be construed in this context.

## ARTICLE II

### Purchase and Sale; Assumption of Certain Liabilities

Section 2.1 Purchase and Sale. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at the Closing, each Seller agrees to sell, assign, convey, transfer and deliver to Buyer, and Buyer agrees to purchase, assume and acquire from each Seller all of such Seller’s right, title and interest in the Auctioned Assets. In the case of any Auctioned Assets not located at the Roseton Station (including supplies, materials and spare parts inventory), Buyer agrees that following the Closing, Buyer will bear all risk of casualty or loss with regard to such Auctioned Assets (regardless of whether they remain on Seller Real Estate or otherwise in any Seller’s possession).

### Section 2.2 Auctioned Assets and Retained Assets.

(a) Auctioned Assets. The term “Auctioned Assets” means all of the assets, real and personal property, goodwill and rights of Sellers of whatever kind and nature, whether tangible or intangible, in each case, primarily relating to the power generation operations of the Generating Facilities, other than the Retained Assets, including the following:

(i) all real property and leaseholds and other interests in real property of Sellers described on Schedule 2.2(a)(i) hereto, together with all buildings, improvements, structures and fixtures thereon, subject to all Permitted Exceptions (the “Buyer Real Estate”);

(ii) subject to Section 2.4, all inventories of fuels, supplies, materials and spare parts, including Capital Spare Parts, together with and subject to (A) all Permitted Exceptions and (B) all warranties against and guarantees by manufacturers and vendors relating thereto, in each case, other than assets that become obsolete or that are used, consumed, replaced or disposed in the ordinary course of business consistent with past practice or as permitted by this Agreement;

(iii) (A) the machinery (mobile or otherwise), equipment, facilities, vehicles, tools, furniture and other tangible personal property located on Buyer Real Estate, or temporarily removed from Buyer Real Estate for repairs, servicing or maintenance, including the items of tangible personal property listed on Schedule 2.2(a)(iii)(A), (B) the machinery (mobile or otherwise), equipment, facilities and other tangible personal property located on Seller Real Estate, or temporarily removed from Seller Real Estate for repairs, servicing or maintenance, to the extent listed on Schedule 2.2(a)(iii)(B), and (C) all Interchange Meters located at the Point of Interconnection for the Roseton Station, in each case, together with and subject to (1) all Permitted Exceptions, and (2) subject to Section 2.4, all warranties against and guarantees by manufacturers or vendors relating thereto, in each case, other than assets that become obsolete or that are used, consumed, replaced or disposed of in the ordinary course of business consistent with past practice or as permitted by this Agreement;

(iv) subject to Section 2.4, all right, title and interest of Sellers in, to and under all contracts, agreements, personal property leases (whether as a lessor or lessee thereunder), commitments and all other legally binding arrangements, whether oral or written, (A) set forth on Schedule 2.2(a)(iv), (B) if not listed on Schedule 2.2(a)(iv) would not affect the accuracy of the representation and warranty made by any Seller in Section 5.7(a) hereof, or (C) otherwise entered into by Sellers in accordance with Section 7.1 (collectively, the “Contracts”), in each case, to the extent in full force and effect on the Closing Date;

(v) subject to Section 7.3(c), the Permits and Environmental Permits that are transferred or transferable by Sellers to Buyer (collectively, the “Transferable Permits”), including the Transferable Permits set forth on Schedule 2.2(a)(v), in each case, to the extent in full force and effect on the Closing Date;

(vi) the SO<sub>2</sub> Allowances listed on Schedule 2.2(a)(vi) (“Transferred SO<sub>2</sub> Allowances”);

(vii) the NO<sub>x</sub> Allowances listed on Schedule 2.2(a)(vii) (“Transferred NO<sub>x</sub> Allowances”);

(viii) (A) all data, information, books, operating records, operating, safety and maintenance manuals, engineering and design plans, blueprints and as-built plans, specifications, drawings, reports, procedures, facility compliance plans, test records and results (including tests performed in accordance with NYISO and NYSRC rules), other records and filings made with regulatory agencies regarding operations at the Generating Facilities, environmental procedures and similar records of Sellers necessary for the operation of the Auctioned Assets, to the extent in any Seller's possession or readily available, other than such items that are proprietary to third parties and accounting records (collectively, the "Operating Records"), and (B) to the extent permitted under applicable law, all personnel files relating to the Transferred Employees, to the extent in Central Hudson's possession and readily available and to the extent such files pertain to (1) skill and development training and resumes, (2) seniority histories, (3) salary and benefit information, (4) active Occupational Safety and Health Act medical reports, and (5) active medical restriction forms, but not including any performance evaluations or disciplinary records (collectively, the "Transferred Employee Records"); provided, however, that Sellers shall be permitted to retain copies, or originals to the extent it provides Buyer with copies of same, of all Operating Records and Transferred Employee Records; and

(ix) (A) except as excluded by Section 2.2(b)(iv), software (provided, however, that Buyer acknowledges that it will require licenses from third parties in order to be legally entitled to use such software), and (B) a non-exclusive, perpetual, royalty-free license to use solely in connection with the Auctioned Assets the software or other copyrighted material owned by Sellers located at Buyer Real Estate.

(b) Retained Assets. The term "Retained Assets" means:

(i) the electric and gas transmission and distribution facilities owned, controlled or operated by any Seller or Sellers for purposes of providing point-to-point transmission service, network integration service and distribution service and other related purposes, including the real property and equipment located at the Roseton Switchyard, used in controlling continuity between the Generating Facilities and the transmission and distribution facilities and for other purposes, including those described on Schedule 2.2(b)(i) hereto (the "Transmission System");

(ii) (A) except as set forth in Section 2.2(a)(iii), all Interconnection Facilities and other transmission, distribution and substation machinery, equipment and facilities and related support equipment located on Buyer Real Estate or Seller Real Estate or temporarily removed from Buyer Real Estate or Seller Real Estate for repairs, servicing or maintenance, including items listed on

Schedule 2.2(b)(ii)(A); (B) Communications Equipment and related support equipment (1) located on Buyer Real Estate or temporarily removed from Buyer Real Estate for repairs, servicing or maintenance and listed on Schedule 2.2(b)(ii)(B) or acquired by Sellers after the date of this Agreement and designated by Sellers as a Retained Asset or (2) located on Seller Real Estate or temporarily removed from Seller Real Estate for repairs, servicing or maintenance; and (C) all Protective Relaying Systems not located on Buyer Real Estate;

(iii) (A) all cash, cash equivalents, bank deposits and accounts receivable, and any income, sales, payroll or other tax receivables; and (B) certificates of deposit, shares of stock, securities, bonds, debentures, evidence of indebtedness, interests in joint ventures, partnerships, limited liability companies and other entities;

(iv) (A) all mainframe computer systems of Sellers, (B) the code to all software described in Section 2.2(a)(ix)(B) and (C) all software, copyrights, know-how or other proprietary information not primarily relating to the power generation operations of the Generating Facilities, including software, copyrights, know-how or other proprietary information licensed to Buyer pursuant to Section 2.2(a)(ix)(B);

(v) the names "Central Hudson Gas & Electric Corporation," "Central Hudson," "Consolidated Edison," "Con Edison," "Con Ed," "Consolidated Edison Company of New York, Inc.," "Consolidated Edison Company," "Consolidated Edison, Inc.," "New York Edison," "Brooklyn Edison," "Staten Island Edison," "Edison," "Niagara Mohawk Power Corporation" and "Niagara Mohawk" and any related or similar trade names, trademarks, service marks or logos (and any rights to and in the same, including any right to use the same);

(vi) (A) any refund, credit, adjustment or reconciliation arising out of or relating to the activities of any Seller prior to or on the Closing Date (including any refund, credit, adjustment or reconciliation from the NYISO), and (B) subject to Section 7.6(c), any refund or credit related to Taxes attributable to taxable periods (or portions thereof) prior to or on the Closing Date, and sewer rents or water charges or any other liabilities or obligations paid prior to or on the Closing Date in respect of the Auctioned Assets;

(vii) personnel records (other than Transferred Employee Records) and all other records (other than Operating Records);

(viii) (A) all Emission Reduction Credits or Greenhouse Gas Emission Reduction Credits that are attributable to (1) any emission reduction activities of any Seller or Sellers which occurred prior to or on the Closing Date, and (2) any emission reduction activities of any Seller or Sellers which occur following the Closing Date at any locations (other than the Generating Facilities), (B) any SO<sub>2</sub> Allowances that are not Transferred SO<sub>2</sub> Allowances, and (C) any NO<sub>x</sub> Allowances that are not Transferred NO<sub>x</sub> Allowances;

(ix) the Seller Real Estate;

(x) all of Sellers' rights and interests in any intercompany transaction between Sellers or any intracompany transaction involving any Seller and its Affiliates including any ownership or operating agreements, whether or not such transaction relates to the provision of goods and services, payment arrangements, charges or balances, or the like unless specifically included in the Auctioned Assets.

(xi) all claims, causes of action, choses in action, rights of recovery and rights of set-off of any kind in favor of any Seller or Sellers arising out of or relating to activities of any Seller or Sellers prior to or on the Closing Date other than those pertaining to the Assumed Obligations; and

(xii) any other asset that is not described with particularity in this Agreement as an Auctioned Asset.

### Section 2.3 Assumed Obligations and Retained Liabilities.

(a) Assumed Obligations. At the Closing, Buyer shall assume, and following the Closing, shall discharge, all of the liabilities and obligations, direct or indirect, known or unknown, absolute or contingent, which relate to the Auctioned Assets or are otherwise specified below, other than the Retained Liabilities (collectively, the "Assumed Obligations"), including:

(i) except as set forth in Section 2.3(b)(ii), any liabilities and obligations under the Contracts;

(ii) any liabilities and obligations for goods and fuels delivered or services rendered following the Closing Date relating to the Auctioned Assets;

(iii) except as set forth in Section 2.3(b)(iii) or (iv), any Environmental Liability, including but not limited to any Environmental Liability arising out of or in connection with: (i) any actual or alleged violation of, noncompliance with, or failure to act in accordance with any standard of conduct of,

any Environmental Law prior to, on or after the Closing with respect or relating to the ownership or operation of the Auctioned Assets; (ii) the condition of any Auctioned Assets prior to, on or after the Closing, including any actual or alleged presence, discharge, disposal, Release or threatened Release of any Hazardous Substance at, on, in, under or migrating onto or from the Auctioned Assets prior to, on or after the Closing; (iii) any alleged or actual personal or bodily injury or property damage of any kind (including but not limited to wrongful death, loss of consortium, diminution of value, nuisance and trespass) arising out of or relating to any actual or alleged exposure to any Hazardous Substance in, on, from or relating to the Auctioned Assets prior to, on or after the Closing; (iv) any Release or threatened Release of any Hazardous Substance following the Closing from the Buyer Facilities or otherwise originating from or relating to equipment owned or used by Buyer that is located on any Seller Real Estate; and (v) the transportation, storage, recycling, Release or threatened Release of any Hazardous Substance in any way arising from or associated with the Auctioned Assets at or to any location, following the Closing;

(iv) except as set forth in Section 2.3(b)(iii)(D), any liabilities and obligations under all the consent orders listed on Schedule 2.3(a)(iv) (the “Seller Consent Orders”) and identified thereon as the “Assumed Consent Order Obligations” (the “Assumed Consent Order Obligations”);

(v) except as set forth in Section 2.3(b)(iv), any liabilities and obligations with respect to the Permits to the extent arising or accruing after the Closing Date;

(vi) (A) all wages, overtime, employment taxes, workers compensation benefits, occupational safety and health liabilities or other similar liabilities and obligations in respect of Transferred Employees arising or accruing following the Closing Date, and (B) all other liabilities and obligations with respect to the Transferred Employees for which Buyer is responsible pursuant to Article IX;

(vii) (A) any liabilities and obligations in respect of any personal or bodily injury (including but not limited to any claims based on wrongful death and loss of consortium) or property (real or personal) damage claim relating to, resulting from, or arising out of the Auctioned Assets, or (B) any liabilities and obligations in respect of any discrimination, wrongful discharge or unfair labor practice claim by any Transferred Employee, in the case of each of the foregoing clauses (A) and (B) to the extent arising or accruing after the Closing Date;

(viii) any liabilities and obligations, with respect to the periods that include the Closing Date, with respect to real or personal property rent, Taxes based on the ownership or use of property, utilities charges and similar charges that

primarily relate to the Generating Facilities (collectively, the “Prorated Items”), to the extent such Prorated Items relate to the period following the Closing Date, including (A) personal property taxes, real estate and occupancy taxes, assessments and other charges, (B) rent and all other items payable by Sellers under any Contract, (C) any fees with respect to any Transferable Permit and (D) sewer rents and charges for water, telephone, electricity and other utilities, in each case calculated by multiplying the amount of any such Prorated Item by a fraction the numerator of which is the number of days in such period beginning after the Closing Date and the denominator of which is the number of days in such period;

(ix) any liabilities and obligations in respect of Taxes (other than Prorated Items) attributable to the Auctioned Assets arising or accruing during taxable periods (or portions thereof) beginning after the Closing Date; and

(x) any liabilities and obligations under the Ancillary Agreements in respect of the Auctioned Assets arising after the Closing Date.

(b) Retained Liabilities. Buyer shall not assume or be obligated to pay, perform or otherwise discharge the following liabilities or obligations (the “Retained Liabilities”):

(i) any liabilities and obligations of Sellers primarily relating to any Retained Assets;

(ii) any liabilities and obligations of Sellers under the Contracts for (A) goods and fuels delivered or services rendered prior to or on the Closing Date, and (B) breaches by any of the Sellers of its obligations thereunder occurring prior to or on the Closing Date;

(iii) (A) any cost of environmental remediation or natural resource damages in connection with the Release or threatened Release of Hazardous Substances that were disposed of by or on behalf of Sellers at any Off-Site location prior to or on the Closing; (B) any Environmental Liability of Sellers arising out of or in connection with any Release or threatened Release of any Hazardous Substance following the Closing Date from the Seller Facilities or any equipment owned or used by Sellers that is located on Buyer Real Estate, (C) any liability of Sellers in respect of any bodily injury claim relating to the actual or alleged exposure of a third party to asbestos at the Auctioned Assets prior to or on the Closing Date but only if such claim has been filed prior to or on the Closing Date in a state or federal court having jurisdiction to hear such claim (the claims described in clause (C) above are the “Retained Asbestos-Related Claims”), and

(D) the liabilities and obligations relating to the Auctioned Assets under the Seller Consent Orders, except the Assumed Consent Order Obligations;

(iv) any monetary fines, punitive damages, penalties and interest thereon (excluding (A) natural resource damages, (B) clean up or remediation costs, and (C) other costs of a similar nature) imposed by a Governmental Authority to the extent arising out of or relating to acts or omissions of Sellers in respect of the Auctioned Assets prior to or on the Closing Date;

(v) (A) all wages, pensions, benefits, severance pay, overtime, employment taxes, workers compensation benefits, occupational safety and health liabilities or other similar liabilities and obligations in respect of Transferred Employees to the extent arising or accruing prior to or on the Closing Date and (B) all other liabilities and obligations with respect to the Transferred Employees for which Sellers are responsible pursuant to Article IX;

(vi) any liabilities and obligations (A) in respect of any personal injury or property damage claim (other than any Environmental Liabilities which are Assumed Obligations pursuant to Section 2.3(a)(iii) above) relating to the Auctioned Assets or (B) in respect of any actual or alleged discrimination, wrongful discharge, violations of any collective bargaining agreements, contested claims for pension or welfare benefits, contested unemployment insurance claims, unfair labor practice, harassment, retaliation, constructive termination or any similar claim by any Transferred Employee, in the case of each of the foregoing clauses (A) and (B), to the extent arising out of or relating to acts or omissions of Sellers prior to or on the Closing Date;

(vii) any liabilities and obligations, with respect to periods prior to or on the Closing Date, for the Prorated Items, calculated as set forth in Section 2.3(a)(viii);

(viii) any liabilities and obligations in respect of Taxes (other than Prorated Items) attributable to the Auctioned Assets arising or accruing during taxable periods (or portions thereof) ending before the Closing Date;

(ix) any liabilities and obligations for money borrowed relating to a Permitted Exception (except to the extent expressly included as an Assumed Obligation);

(x) any liabilities and obligations arising after the date of this Agreement in respect of which Sellers have provided pursuant to Section 7.1(d)(ii) that such liabilities and obligations shall not be assumed or retained by Buyer; and

(xi) any liabilities and obligations of Sellers under the Ancillary Agreements in respect of the Retained Assets.

#### Section 2.4 Third Party Consents.

(a) Notwithstanding Section 2.2(a)(ii), (iii) or (iv), to the extent that any Seller's or Sellers' rights under any Contract or warranty may not be assigned without the consent of another person, which consent has not been obtained, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and Sellers, at their expense, shall use their reasonable best efforts to obtain prior to the Closing any such required consents with respect to any Material Contracts or material warranties.

(b) The Parties agree that if any consent to an assignment of any such Material Contract or material warranty shall not be obtained or if any attempted assignment would in Sellers' reasonable opinion be ineffective or would impair any material rights and obligations of Buyer under such Material Contract or material warranty, as applicable, so that Buyer would not acquire the benefit of all such rights and obligations, Sellers, to the maximum extent permitted by law and such Material Contract or material warranty, as applicable, shall after the Closing appoint Buyer to be Sellers' representative and agent with respect to such Material Contract or material warranty, as applicable, and Sellers shall, to the maximum extent permitted by law and such Material Contract or material warranty, as applicable, enter into such reasonable arrangements with Buyer as are necessary to provide Buyer with the benefits and obligations of such Material Contract or material warranty, as applicable. Sellers and Buyer shall cooperate and shall each use their reasonable best efforts after the Closing to obtain an assignment of each such Material Contract or material warranty, as applicable, to Buyer.

Section 2.5 Con Edison Transformer. On the Closing Date, Buyer shall purchase, and Con Edison shall sell, and the Auctioned Assets shall include, all of Con Edison's right, title and interest in the 345 kV transformer located on the Buyer Real Estate more particularly described on Schedule 2.5 hereto (the "Con Edison Transformer"). The purchase price shall be the book cost of the Con Edison Transformer, as reflected on the books of Con Edison as of the Closing Date. At least five (5) Business Days prior to the Closing Date, Con Edison shall provide to Buyer the amount of such book cost, which amount shall be certified in writing by an appropriate officer of Con Edison. Con Edison represents and warrants that it has and, on the Closing Date, will have good and marketable title to the Con Edison Transformer, free and clear of all Encumbrances. Except as provided in the previous sentence, the Con Edison Transformer shall be sold "AS IS, WHERE IS" and shall be transferred to Buyer by Con Edison pursuant to a bill of sale to be executed by Con Edison at Closing. Except as provided in this Section 2.5, neither

Con Edison nor any other Seller shall make any other representations or warranties with respect to the Con Edison Transformer.

### ARTICLE III

#### Purchase Price

Section 3.1 Purchase Price. The purchase price for the Auctioned Assets shall be as set forth in the Purchase Price Agreement. In addition to the Purchase Price (as defined in the Purchase Price Agreement), Buyer shall (i) pay Sellers the Inventory Adjustment Amount and the Permitted Capital Expenditures Amount pursuant to the provisions of this Article III and Article IV herein and (ii) pay Con Edison any amounts required to be paid pursuant to Section 2.5 herein.

#### Section 3.2 Post-Closing Adjustment.

(a) Within twenty (20) Business Days after the Closing, Central Hudson shall prepare and deliver to Buyer a statement (an "Inventory Adjustment Statement") which reflects the book cost, as reflected on the books of the Co-Tenancy, as maintained by Central Hudson, as of the Closing Date, of all fuel inventory and supplies, materials and spare parts (other than Capital Spare Parts and the Con Ed Transformer) inventory included in the Auctioned Assets (the "Inventory Adjustment Amount") and, upon request of Buyer, related accounting material used by Central Hudson to prepare the Inventory Adjustment Statement. The Inventory Adjustment Amount will be based, in respect of fuel, on the actual fuel inventory on the Closing Date and, in respect of supplies, materials and spare parts (other than Capital Spare Parts and the Con Ed Transformer), on an inventory survey conducted within ten (10) Business Days prior to the Closing Date, in each case, consistent with the inventory procedures of the Co-Tenancy in effect as of the date of this Agreement (the "Inventory Survey"). Central Hudson shall provide reasonable notice to Buyer of the date and time of the Inventory Survey and will permit an employee, or representative, of Buyer to observe the Inventory Survey. The Inventory Adjustment Statement shall be prepared using (i) GAAP, and (ii) the same rolling average unit costs that the Co-Tenancy has historically used to calculate the book cost of the Auctioned Assets' fuel and supplies, materials and spare parts (other than Capital Spare Parts and the Con Ed Transformer) inventory. Buyer agrees to cooperate with Central Hudson in connection with the preparation of the Inventory Adjustment Statement and related information, and shall provide to Central Hudson such access, books, records and information as may be reasonably requested from time to time. Buyer hereby acknowledges that (i) the book value of the fuel inventory as reflected on the books of the Co-Tenancy does not include any petroleum business taxes and similar excise taxes on sales of petroleum based

products imposed by Governmental Authorities and (ii) any such taxes shall be paid by Buyer pursuant to Section 7.6(a) herein.

(b) Buyer may dispute the quantity delivered or quality of any inventory item shown on the Inventory Adjustment Statement, or the mathematical calculations reflected therein, by notifying Sellers in writing of the disputed amount, and the basis of such dispute, within twenty (20) Business Days of Buyer's receipt of the Inventory Adjustment Statement; provided, however, that in respect of the quality of any inventory item, Buyer may not dispute the Co-Tenancy's normal and customary methods for accounting for excess inventory nor the quality of any item if such item functions for its intended purpose. Buyer shall have no right to dispute any other matter in respect of the Inventory Adjustment Statement, including historical rolling average unit costs used to calculate the book cost of the inventory or the appropriateness, under GAAP or otherwise, of using such historical rolling average unit cost to determine the book cost of any particular item of inventory. In the event of a dispute with respect to the quantity or quality of any inventory item shown on the Inventory Adjustment Statement, or the mathematical calculations reflected therein, Buyer and Sellers shall attempt to reconcile their differences and any resolution by them as to any disputed amounts shall be final, binding and conclusive on the Parties. If Buyer and Sellers are unable to reach a resolution of such differences within twenty (20) Business Days of receipt of Buyer's written notice of dispute to Sellers, Buyer and Sellers shall submit the amounts remaining in dispute for determination and resolution to PricewaterhouseCoopers LLP or any other accounting firm of recognized national standing reasonably acceptable to Sellers and Buyer (the "Accountants"), which shall be instructed to determine and report to the Parties, within twenty (20) Business Days after such submission, upon such remaining disputed amounts, and such report shall be final, binding and conclusive on the Parties with respect to the amounts disputed. The fees and disbursements of the Accountants shall be allocated between Buyer and Sellers so that Buyer's share of such fees and disbursements shall be in the same proportion that the aggregate amount of the remaining disputed amounts so submitted by Buyer to the Accountants that is unsuccessfully disputed by Buyer (as finally determined by the Accountants) bears to the total amount of such remaining disputed amounts so submitted by Buyer to the Accountants.

(c) If the Inventory Adjustment Amount is greater or less than the Estimated Inventory Adjustment Amount, then on the Inventory Adjustment Date (as defined below), (i) to the extent that the Inventory Adjustment Amount exceeds the Estimated Inventory Adjustment Amount, Buyer shall pay to Sellers the amount of such excess, and (ii) to the extent that the Inventory Adjustment Amount is less than the Estimated Inventory Adjustment Amount, Sellers shall pay to Buyer the amount of such deficiency. "Inventory Adjustment Date" means (1) if Buyer does not disagree in any respect with the Inventory Adjustment Statement, the

twenty-third (23<sup>rd</sup>) Business Day following Buyer's receipt of the Inventory Adjustment Statement or (2) if Buyer shall disagree in any respect with the Inventory Adjustment Statement, the third Business Day following either the resolution of such disagreement by the Parties or a final determination by the Accountants in accordance with Section 3.2(b). Any amount paid under this Section 3.2(c) shall be paid with interest for the period commencing on the Closing Date through the date of payment, calculated based on a 360-day year at the prime rate of Citibank, N.A. in effect on the Closing Date, and in cash by wire transfer of immediately available funds to an account or accounts designated in writing by Buyer or Sellers, as the case may be.

## ARTICLE IV

### The Closing

Section 4.1 Time and Place of Closing. Upon the terms and subject to the satisfaction of the conditions contained in Article VIII, the closing of the sale of the Auctioned Assets contemplated by this Agreement (the “Closing”) will take place on such date as the Parties may agree, which date shall be as soon as practicable, but no later than ten (10) Business Days, following the date on which all of the conditions set forth in Article VIII have been satisfied or waived, at 10:00 a.m., local time, at the offices of Dickstein Shapiro Morin & Oshinsky LLP in New York, New York, or at such other place or time as the Parties may agree. The date on which the Closing actually occurs is hereinafter referred to as the “Closing Date”; provided, however, that if the Closing occurs and the payments by Buyer pursuant to Section 4.2 hereof (including any amounts payable by Buyer under the Purchase Price Agreement) are not received in the accounts designated by Sellers pursuant to Section 4.2(a) prior to 4:00 p.m., local time, on such date, then the “Closing Date” shall be the immediately following Business Day. The time at which the Closing shall be deemed effective shall be midnight on the Closing Date. For the avoidance of doubt, midnight means the end of the day on the Closing Date.

Section 4.2 Payment of Purchase Price, Estimated Adjustment Amount and Permitted Capital Expenditures Amount.

(a) At the Closing, in addition to any amounts payable by Buyer under the Purchase Price Agreement, Buyer will pay or cause to be paid: (i) to Sellers by wire transfer of immediately available funds to an account or accounts previously designated in writing by Sellers an amount in United States dollars equal to the sum of (a) the Estimated Inventory Adjustment Amount, plus (b) the amount expended by Sellers between the date hereof and the Closing Date for Permitted Capital Expenditures (the “Permitted Capital Expenditures Amount”) as set forth in the Permitted Capital Expenditures Report; and (ii) to Con Edison by wire transfer of

immediately available funds to an account or accounts previously designated in writing by Con Edison in United States dollars the amount required to be paid by Buyer to Con Edison pursuant to Section 2.5 herein.

(b) At least five (5) Business Days prior to the Closing Date, Central Hudson shall provide to Buyer its good faith estimate of the Inventory Adjustment Amount, which estimate shall be certified in writing by an appropriate officer of Central Hudson (the "Estimated Inventory Adjustment Amount"). On or before the Closing Date, Sellers shall provide to Buyer a report, which details the Permitted Capital Expenditures Amount (the "Permitted Capital Expenditures Report").

## ARTICLE V

### Representations and Warranties of Sellers

Each Seller, severally and not jointly, represents and warrants to Buyer as follows (all such representations and warranties of Con Edison and Niagara Mohawk, other than those contained in Sections 5.1, 5.2, 5.3 and 5.15, being made to the Knowledge of Con Edison and Niagara Mohawk, as applicable, regardless of whether any such representation or warranty is expressly limited by "the Knowledge of such Seller" or any similar limitation):

Section 5.1 Organization; Qualification. Such Seller is a corporation duly incorporated, validly existing and in good standing under the laws of the State of New York and has all requisite corporate power and authority to own, lease and operate the Auctioned Assets and to carry on the business of the Auctioned Assets as currently conducted.

Section 5.2 Authority Relative to This Agreement. Such Seller has all necessary corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements to which such Seller is a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery by such Seller of this Agreement and the Ancillary Agreements to which such Seller is a party and the consummation by such Seller of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors of such Seller or by a committee thereof to whom such authority has been delegated and no other corporate proceedings on the part of such Seller are necessary to authorize this Agreement or the Ancillary Agreements to which such Seller is a party or the consummation of the transactions contemplated hereby or thereby. This Agreement and the Ancillary Agreements to which such Seller is a party have been duly and validly executed and delivered by such Seller and, assuming that this Agreement and the Ancillary Agreements to which such Seller is a party constitute valid and binding agreements of Buyer and each other Seller party thereto, subject to the receipt of the

Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals, constitute valid and binding agreements of such Seller, enforceable against such Seller in accordance with their respective terms.

Section 5.3 Consents and Approvals; No Violation.

(a) Subject to obtaining the Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals, neither the execution and delivery by such Seller of this Agreement or the Ancillary Agreements to which such Seller is a party nor the consummation by such Seller of any of the transactions contemplated hereby or thereby will (i) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-laws of such Seller, (ii) except as set forth on Schedule 5.3(a), result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which such Seller is a party or by which such Seller, or any of the Auctioned Assets, may be bound, except (x) for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which would not, individually or in the aggregate, create a Material Adverse Effect or (y) for those requirements which become applicable to such Seller as the result of the specific regulatory status of Buyer (or any of its Affiliates) or as a result of any other facts that specifically relate to the business or activities in which Buyer (or any of its Affiliates) is or proposes to be engaged, or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to such Seller, or the Auctioned Assets, except for such violations which would not, individually or in the aggregate, create a Material Adverse Effect.

(b) Except for (i) the filings by such Seller and Buyer required by the HSR Act and the expiration or earlier termination of all waiting periods under the HSR Act, and (ii) the Required Regulatory Approvals set forth on Schedule 5.3(b) attached hereto (collectively, the “Seller Required Regulatory Approvals”), no declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by such Seller of the transactions contemplated hereby or by the Ancillary Agreements to which such Seller is a party, other than such declarations, filings, registrations, notices, authorizations, consents or approvals (A) which, if not obtained or made, would not individually or in the aggregate, create a Material Adverse Effect or (B) which relate to the Transferable Permits.

Section 5.4 Personal Property. Except for Permitted Exceptions, such Seller has good and marketable title, free and clear of all Encumbrances, to all personal property included in the Auctioned Assets.

Section 5.5 Real Estate. Except for Permitted Exceptions, such Seller has good and marketable title, free and clear of all Encumbrances, to the Buyer Real Estate. Schedule 5.5(a) contains a legal description of the Buyer Real Estate. Copies of the most recent real property map and certificate of title and title report in the possession of such Seller with respect to the Buyer Real Estate or any portion thereof are listed on Schedule 5.5(b) and Schedule 5.5(c), respectively.

Section 5.6 Leases. Except as set forth on Schedule 2.2(a)(iv) or on the title report referenced on Schedule 5.5(c), as of the date of this Agreement, such Seller is neither a tenant nor a licensee, landlord or lessor under any real property leases or licenses which (a) are to be transferred and assigned to Buyer on the Closing Date, and (b) (i) provide for annual payments of more than \$100,000 or (ii) are material to the Auctioned Assets.

Section 5.7 Certain Contracts and Arrangements. (a) Except for (i) any contract or agreement listed on Schedule 2.2(a)(iv) (the “Material Contracts”), (ii) Contracts which will expire prior to the Closing Date or that are permitted to be entered into under this Agreement and (iii) Contracts that provide for annual payments after the date hereof of less than \$100,000, such Seller is not a party to any contract which is material to the business or operations of the Auctioned Assets.

(b) Each Contract to which such Seller is a party (i) constitutes a valid and binding obligation of such Seller, and, to the Knowledge of such Seller, of the other parties thereto, and (ii) to the Knowledge of such Seller, is in full force and effect.

(c) Except as set forth on Schedule 5.7 attached hereto, to the Knowledge of such Seller, there is not, under any of the Contracts to which such Seller is a party, any default or event which, with notice or lapse of time or both, would constitute a material default by such Seller, except for such events of default and other events as to which requisite waivers or consents have been obtained or which would not, individually or in the aggregate, create a Material Adverse Effect.

Section 5.8 Legal Proceedings. Except as set forth on Schedule 5.8 or in such Seller’s Filed Seller SEC Documents, as of the date of this Agreement, there are no claims, actions, proceedings or investigations (including condemnation proceedings) pending or, to the Knowledge of such Seller, threatened against or relating to such Seller with respect to the business or operations of the Auctioned Assets, before any Governmental Authority which would, individually or in the aggregate, be reasonably expected to create a Material Adverse Effect. Except for the Assumed Consent Order Obligations, with respect to the business or operations of the Auctioned Assets, such Seller is not, as of the date of this Agreement, subject to any outstanding judgment, rule, order, writ, injunction or decree of any Governmental Authority which could create a Material Adverse Effect. The

representations and warranties of such Seller set forth in this Section 5.8 shall not apply to, and do not cover, any environmental matters which, with respect to any representations and warranties of such Seller, are exclusively governed by Section 5.10.

Section 5.9 Permits; Compliance with Law. Except as set forth on Schedule 5.9 or in such Seller's Filed Seller SEC Documents, such Seller holds, and is in compliance with, all Permits necessary to conduct the business and operations of the Auctioned Assets as currently conducted, and, to the Knowledge of such Seller, such Seller is otherwise in compliance with all laws, statutes, orders, rules, regulations, ordinances or judgments of any Governmental Authority applicable to the business and operations of the Auctioned Assets, except for such failures to comply with such Permits, or such failures to be in compliance with such laws, statutes, orders, rules, regulations, ordinances or judgments, which would not, individually or in the aggregate, create a Material Adverse Effect. Except as set forth on Schedule 5.9, such Seller has not received any written notification that it is in violation of any of such Permits or laws, statutes, orders, rules, regulations, ordinances or judgments, except for notifications of violations which would not, individually or in the aggregate, create a Material Adverse Effect. The representations and warranties of such Seller set forth in this Section 5.9 shall not apply to, and do not cover, any environmental matters which, with respect to any representations and warranties of such Seller, are exclusively governed by Section 5.10.

#### Section 5.10 Environmental Matters.

(a) Except as set forth in Schedule 5.10 or disclosed in such Seller's Filed Seller SEC Documents, such Seller holds, and is in compliance with, the Environmental Permits required for such Seller to conduct the business and operations of the Auctioned Assets as currently conducted under applicable Environmental Laws, and, to the Knowledge of such Seller, such Seller is otherwise in compliance with applicable Environmental Laws on the date hereof with respect to the business and operations of the Auctioned Assets, except for such failures to hold or comply with such Environmental Permits, or such failures to be in compliance with such applicable Environmental Laws on the date hereof, which would not, individually or in the aggregate, create a Material Adverse Effect.

(b) Except as set forth in Schedule 5.10 or disclosed in such Seller's Filed Seller SEC Documents, such Seller has not received any written notice of a violation, proceeding or investigation of any Environmental Law, or been notified that it is a potentially responsible party under the Federal Comprehensive Environmental Response, Compensation, and Liability Act or any similar state law with respect to any real property included in the Buyer Real Estate or in any lease

forming part of the Auctioned Assets, except for such matters under such Environmental Laws as would not, individually or in the aggregate, create a Material Adverse Effect.

(c) Except as set forth in Schedule 5.10 or disclosed in such Seller's Filed Seller SEC Documents, with respect to the business and operations of the Auctioned Assets, such Seller is not subject to any outstanding judgment, decree or judicial order relating to compliance with any Environmental Law or to investigation or cleanup of Hazardous Substances under any applicable Environmental Law, except for (i) the Seller Consent Orders and (ii) such judgments, decrees or judicial orders that would not, individually or in the aggregate, create a Material Adverse Effect.

(d) Except as set forth in Schedule 5.10 or disclosed in such Seller's Filed Seller SEC Documents, as of the date of this Agreement, there are no claims, actions, proceedings or investigations pending, or to the Knowledge of such Seller, threatened against or relating to such Seller, with respect to the exposure at the Auctioned Assets of any person to Hazardous Substances, except for (i) the Retained Asbestos-Related Claims and (ii) such claims, actions, proceedings or investigations which, if adversely determined, would not, individually or in the aggregate, create a Material Adverse Effect.

For purposes of the representations and warranties made in this Article V, such Seller specifically disclaims any representations and warranties with respect to standards of performance for new stationary sources promulgated under Section 111 of the Federal Clean Air Act, 42 U.S.C. § 7411. The representations and warranties made in this Section 5.10 are the exclusive representations and warranties of such Seller relating to environmental matters as of the date hereof.

**Section 5.11 Labor Matters.** Such Seller has previously made available to Buyer copies of all collective bargaining agreements, and amendments thereto, to which such Seller is a party or is subject and which relate to the business or operations of the Auctioned Assets. Except as set forth on Schedule 5.11, with respect to the business and operations of the Auctioned Assets, as of the date of this Agreement, (a) such Seller is in compliance with all applicable laws regarding employment and employment practices, terms and conditions of employment, health and safety, and wages and hours, occupational safety and health, plant closings, mass layoffs, (b) such Seller has not received written notice of any unfair labor practice charge or complaint against such Seller pending before the National Labor Relations Board, (c) there is no labor strike, dispute, slowdown or stoppage actually pending or, to the Knowledge of such Seller, threatened against or affecting such Seller, (d) such Seller has not received notice that any representation petition respecting the employees of such Seller has been filed with the National Labor

Relations Board, (e) no arbitration proceeding arising out of or under collective bargaining agreements is pending against such Seller and (f) such Seller has not experienced any primary work stoppage since December 31, 1998, except, in the case of each of the foregoing clauses, for such matters as would not, individually or in the aggregate, create a Material Adverse Effect.

Section 5.12 ERISA; Benefit Plans. Schedule 5.12 sets forth a list of all material deferred compensation, profit-sharing, retirement and pension plans and all material bonus and other material employee benefit or fringe benefit plans maintained, or with respect to which contributions have been made, by such Seller with respect to current or former employees employed in connection with the power generation operations of the Generating Facilities (collectively, “Benefit Plans”). True and complete copies of all Benefit Plans, and all amendments thereto, have been provided or made available to Buyer. Except as set forth on Schedule 5.12, such Seller and each trade or business (whether or not incorporated) which are or have ever been under common control, or which are or have ever been treated as a single employer, with such Seller under Section 414(b), (c), (m) or (o) of the Code (an “ERISA Affiliate”) have fulfilled their respective obligations under the minimum funding requirements of Section 302 of ERISA, and Section 412 of the Code, with respect to each Benefit Plan which is an “employee pension benefit plan” as defined in Section 3(2) of ERISA and to which Section 302 of ERISA applies and each such plan is in compliance in all respects with the presently applicable provisions of ERISA and the Code, except for such failures to fulfill such obligations or comply with such provisions which would not, individually or in the aggregate, create a Material Adverse Effect. Except as set forth on Schedule 5.12, neither such Seller nor any ERISA Affiliate has incurred any liability under Section 4062(b) of ERISA, or any withdrawal liability under Section 4201 of ERISA, to the Pension Benefit Guaranty Corporation (the “PBGC”) in connection with any Benefit Plan which is subject to Title IV of ERISA which liability remains outstanding, and there has not been any reportable event (as defined in Section 4043 of ERISA) with respect to any such Benefit Plan (other than a reportable event with respect to which the 30-day notice requirement has been waived by the PBGC). Neither such Seller nor any ERISA Affiliate or parent corporation, within the meaning of Section 4069(b) or Section 4212(c) of ERISA, has engaged in any transaction, within the meaning of Section 4069(b) or Section 4212(c) of ERISA. No Benefit Plan and no “employee pension benefit plan” (as defined in Section 3(2) of ERISA) maintained by such Seller or any ERISA Affiliate or to which such Seller or any ERISA Affiliate has contributed is a multiemployer plan.

Section 5.13 Taxes. With respect to the Auctioned Assets and trades or businesses associated with the Auctioned Assets, (a) all Tax Returns required to be filed have been filed and (b) all Taxes shown to be due on such Tax Returns, and all Taxes otherwise owed, have been paid in full, except to the extent that any failure to

file or any failure to pay any Taxes would not, individually or in the aggregate, create a Material Adverse Effect. Except as set forth on Schedule 5.13, no written notice of deficiency or assessment has been received from any taxing authority with respect to liabilities for Taxes of such Seller in respect of the Auctioned Assets which has not been fully paid or finally settled or which is not being contested in good faith through appropriate proceedings, except for any such notices regarding Taxes which would not, individually or in the aggregate, create a Material Adverse Effect. Except as set forth on Schedule 5.13, there are no outstanding agreements or waivers extending the applicable statutory periods of limitation for Taxes associated with the Auctioned Assets for any period, except for any such agreements or waivers which would not, individually or in the aggregate, create a Material Adverse Effect.

Section 5.14 Undisclosed Liabilities. With respect to the Auctioned Assets, there are no liabilities or obligations of any nature or kind (absolute, accrued, contingent or otherwise) that would have been required to be set forth on a balance sheet in respect of the Auctioned Assets or in the notes thereto prepared in accordance with GAAP, as applied by such Seller in connection with its December 31, 1999 balance sheet, except for any such liabilities or obligations which (a) are disclosed in or contemplated or permitted by this Agreement or the Ancillary Agreements to which such Seller is a party (including the Assumed Obligations), (b) are disclosed in the Confidential Memorandum, (c) are disclosed in such Seller's Filed Seller SEC Documents, (d) have been incurred in the ordinary course of business, or (e) which would not, individually or in the aggregate, create a Material Adverse Effect.

Section 5.15 Brokers. No broker, finder or other person is entitled to any brokerage fees, commissions or finder's fees in connection with the transaction contemplated hereby by reason of any action taken by such Seller, except Navigant Consulting, Inc., which is acting for and at the expense of Sellers.

Section 5.16 Insurance. Such Seller (directly or indirectly through Central Hudson, on behalf of the Co-Tenants) carries policies of insurance covering fire, workers' compensation, property all-risk, comprehensive bodily injury, property damage liability, automobile liability, product liability, completed operations, explosion, collapse, contractual liability, personal injury liability and other forms of insurance relating to the Auctioned Assets, or otherwise self-insures in accordance with all statutory and regulatory criteria against any such liabilities, which insurance is in such amounts, has such deductibles and retentions and is underwritten by such companies as would be obtained by a reasonably prudent electric power business. All such insurance policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the date of this Agreement have been paid, and no notice of cancellation or termination has been received by any Seller with respect to such policy.

Section 5.17 Disclaimers. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS ARTICLE V, THE AUCTIONED ASSETS ARE BEING SOLD AND TRANSFERRED “AS IS, WHERE IS”, AND SUCH SELLER IS NOT MAKING ANY OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING SUCH AUCTIONED ASSETS (INCLUDING ANY RELATING TO LIABILITIES, OPERATIONS OF THE GENERATING FACILITIES, CONDITION, VALUE OR QUALITY OF THE AUCTIONED ASSETS OR THE PROSPECTS (FINANCIAL OR OTHERWISE), RISKS OR OTHER INCIDENTS OF THE AUCTIONED ASSETS) OR WITH RESPECT TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS TO WHICH SUCH SELLER IS A PARTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. SUCH SELLER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE AUCTIONED ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR THE APPLICABILITY OF ANY GOVERNMENTAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO ANY ENVIRONMENTAL LAWS, OR WHETHER SUCH SELLER POSSESSES SUFFICIENT REAL PROPERTY OR PERSONAL PROPERTY TO OPERATE THE AUCTIONED ASSETS. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 5.10 HEREOF, SUCH SELLER FURTHER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING THE ABSENCE OF HAZARDOUS SUBSTANCES OR LIABILITY OR POTENTIAL LIABILITY ARISING UNDER ENVIRONMENTAL LAWS WITH RESPECT TO THE AUCTIONED ASSETS, ALL OF WHICH ARE HEREBY EXPRESSLY WAIVED BY BUYER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SUCH SELLER MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE INFORMATION SET FORTH IN, OR CONTEMPLATED BY, THE CONFIDENTIAL MEMORANDUM.

## ARTICLE VI

### Representations and Warranties of Buyer

Buyer represents and warrants to Sellers as follows:

Section 6.1 Organization. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and

has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as is now being conducted. Buyer is duly qualified or licensed to do business as a foreign corporation and is in good standing in the State of New York.

Section 6.2 Authority Relative to This Agreement. Buyer has all necessary corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and such Ancillary Agreements and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors of Buyer and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement or such Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby. This Agreement and such Ancillary Agreements have been duly and validly executed and delivered by Buyer and, assuming that this Agreement and such Ancillary Agreements constitute valid and binding agreements of Sellers, subject to the receipt of the Buyer Required Regulatory Approvals and the Seller Required Regulatory Approvals, this Agreement and the Ancillary Agreements constitute valid and binding agreements of Buyer, enforceable against Buyer in accordance with their respective terms.

Section 6.3 Consents and Approvals; No Violation.

(a) Subject to obtaining the Buyer Required Regulatory Approvals and the Seller Required Regulatory Approvals, neither the execution and delivery by Buyer of this Agreement or the Ancillary Agreements to which it is a party nor the consummation by Buyer of any of the transactions contemplated hereby or thereby will (i) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-laws of Buyer, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Buyer or any of its subsidiaries is a party or by which any of their respective assets may be bound or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Buyer, or any of its assets, except, in the case of clause (ii) and (iii), for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, have a Buyer Material Adverse Effect.

(b) Except for (i) the filings by Buyer and Seller required by the HSR Act and the expiration or earlier termination of all waiting periods under the HSR Act, and (ii) the Required Regulatory Approvals set forth on Schedule 6.3(b) attached hereto (collectively, the “Buyer Required Regulatory Approvals”), no declaration,

filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by Buyer of the transactions contemplated hereby or by the Ancillary Agreements, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which relate to the Transferable Permits.

Section 6.4 Availability of Funds. At the Closing, Buyer will have sufficient funds available to it or have received binding written commitments (copies of which have heretofore been delivered to Sellers) from one or more nationally recognized financial institutions to provide sufficient funds on the Closing Date to pay the Purchase Price, the Estimated Inventory Adjustment Amount, and the Permitted Capital Expenditures Amount, and the amount required to be paid to Con Edison pursuant to Section 2.5 herein.

Section 6.5 Brokers. No broker, finder or other person is entitled to any brokerage fees, commissions or finder's fees in connection with the transaction contemplated hereby by reason of any action taken by Buyer, except Bank of America Securities, which is acting for and at the expense of Buyer.

Section 6.6 No Knowledge of Seller's Breach. Buyer has no Knowledge of any breach by any Seller of any representation or warranty of such Seller, or of any other condition or circumstance that would excuse Buyer from its timely performance of its obligations hereunder. Buyer shall promptly notify Sellers with respect to any Seller's representations and warranties or such other conditions or circumstances if any such information comes to Buyer's attention prior to the Closing.

Section 6.7 Qualified Buyer. Buyer is qualified to obtain any Permits and Environmental Permits necessary for Buyer to own and operate the Auctioned Assets as of the Closing Date. Without limiting the foregoing, to the Knowledge of Buyer, there is no reason or circumstance that would prevent Buyer from procuring the Buyer Required Regulatory Approvals.

Section 6.8 WARN Act. Buyer does not intend to engage in a "Plant Closing" or "Mass Lay-off" as such terms are defined in the WARN Act within sixty (60) days of the Closing Date.

Section 6.9 Financial Representations. Buyer has provided Sellers with the Guarantor's most recent balance sheet, income statement and statement of changes in cash flows and independent auditors reports for each of the preceding three fiscal years and most recent interim period. Such financial statements have

been prepared in accordance with GAAP and fairly reflect the financial position and results of operations of Guarantor as at and for the periods therein.

Section 6.10 Legal Proceedings. There are no claims, actions, proceedings or investigations pending or, to the Knowledge of Buyer, threatened against or relating to Buyer before any Governmental Authority which would, individually or in the aggregate, be reasonably expected to create a Buyer Material Adverse Effect. Buyer is not subject to any outstanding judgment, rule, order, writ, injunction or decree of any Governmental Authority which could create a Buyer Material Adverse Effect.

## ARTICLE VII

### Covenants of the Parties

#### Section 7.1 Conduct of Business Relating to the Auctioned Assets.

(a) Except with the prior written consent of Buyer (such consent not to be unreasonably withheld), as required to effect the purchase and sale of the Auctioned Assets and related transactions contemplated by this Agreement or as otherwise required by law (including Environmental Laws), during the period from the date of this Agreement to the Closing Date, Sellers will operate the Auctioned Assets in the usual, regular and ordinary course and in accordance with Good Utility Practice, and continue to pay accounts payable, salaries, wages, benefits, and other amounts incurred in the operation of the Auctioned Assets which relate to the Auctioned Assets in a timely manner, consistent with past practice.

(b) Notwithstanding the foregoing, except as contemplated in this Agreement or the Ancillary Agreements, prior to the Closing Date, without the prior written consent of Buyer (such consent not to be unreasonably withheld or delayed), Sellers will not:

(i) except for Permitted Exceptions, grant any Encumbrance on the Auctioned Assets securing any indebtedness for borrowed money or guarantee or other liability for the obligations of any person;

(ii) make any material change in the levels of fuel inventory and supplies, materials and spare parts inventory customarily maintained by Sellers with respect to the Auctioned Assets, other than consistent with past practice;

(iii) sell, lease (as lessor), transfer or otherwise dispose of, any of the Auctioned Assets, other than assets that become obsolete or assets used,

consumed or replaced in the ordinary course of business consistent with past practice;

(iv) terminate, materially extend or otherwise materially amend any of the Material Contracts (other than in accordance with their respective terms) or waive any default by, or release, settle or compromise any material claim against, any other party thereto;

(v) amend any of the Transferable Permits, other than (A) Transferable Permits not material to the operations of the Auctioned Assets as currently conducted, (B) as reasonably necessary to complete the transfer of Transferable Permits as contemplated hereby, (C) routine renewals or non-material modifications or amendments, and (D) modifications, alterations and amendments contemplated by Section 7.3(b);

(vi) enter into any Contract for the purchase, sale or storage of fuel with respect to the Auctioned Assets (whether commodity or transportation) with a term in excess of 12 months, if the aggregate future liability or receivable outstanding on the date for measurement for the purpose of this covenant for all such Contracts would be in excess of \$2 million, not including any such Contract terminable by notice of not more than 30 days without penalty or cost (other than de minimis administrative costs);

(vii) except as set forth on Schedule 7.1(b)(vii), (A) establish, adopt, enter into or amend any collective bargaining agreement or Benefit Plan, except (1) if such action would not create a Material Adverse Effect or (2) as required under applicable law or under the terms of any collective bargaining agreement, or (B) grant to any employee of the Auctioned Assets any increase in compensation, except (1) in the ordinary course of business consistent with past practice or (2) to the extent required by the terms of any collective bargaining agreement, employment agreement in effect as of the date of this Agreement or applicable law;

(viii) except in the case of capital expenditures covered by clause (ix) below, enter into any Contract with respect to the Auctioned Assets for goods or services not addressed in clauses (i) through (vii) with a term in excess of 12 months, if the aggregate future liability or receivable outstanding on the date for measurement for the purpose of this covenant for all such Contracts would be in excess of one million dollars (\$1,000,000), not including any such Contract terminable by notice of not more than 30 days without penalty or cost (other than de minimis administrative costs); provided, however, that notwithstanding any other provision of this Agreement to the contrary, Sellers may enter into any Contract reasonably necessary to effect the physical, legal or operational separation of the sites

on which the Auctioned Assets are located or to otherwise implement the change of ownership contemplated hereby, or subdivision, of such sites or implement the provisions of the Ancillary Agreements;

(ix) make, or commit to make, any capital expenditures except (A) those capital expenditures described on Schedule 7.1(b)(ix), (B) those capital expenditures which do not exceed in the aggregate one million dollars (\$1,000,000) (in addition to those other capital expenditures permitted under this subsection (ix)), (C) those capital expenditures which are approved by Buyer, or (D) those capital expenditures which are mandated by a law or regulation of a Governmental Authority; provided, however, that, in the case of clause (D), Sellers will not make any such mandated capital expenditures (unless the failure by Sellers to make such capital expenditures would have an adverse impact upon the Auctioned Assets) if (y) such mandated capital expenditures are not required to be made by Sellers prior to the Closing Date, and (z) Buyer assumes responsibility, at its sole cost, to make such mandated capital expenditures after the Closing (any capital expenditures described above are the “Permitted Capital Expenditures”);

(x) enter into any Contract with Affiliates of such Seller which would become an Assumed Obligation unless the terms of which are indicative of an arms-length arrangement; or

(xi) enter into any Contract with respect to the Auctioned Assets relating to any of the transactions prohibited by the foregoing clauses (i) through (x).

(c) Without limiting the generality of Sections 7.1(a) and (b), to the extent Section 7.1(a) or (b) prohibits Sellers from entering into any Contract for goods and services in connection with maintenance or capital expenditures, Buyer agrees that Sellers may request Buyer’s consent to enter into such Contract, such consent not to be unreasonably withheld or delayed, and to the extent Buyer so consents, all liabilities and obligations under such Contract shall constitute Assumed Obligations and, at the Closing, Buyer shall otherwise reimburse Sellers for all their expenditures thereunder. In the event that Buyer does not provide consent for maintenance or capital expenditures requested by Sellers pursuant to this Section 7.1(c), Sellers’ failure to undertake such maintenance or capital expenditures shall not constitute a breach of Section 7.1(a) nor shall any change or effect on the Auctioned Assets resulting from, or related to, not making such maintenance or capital expenditures constitute a Material Adverse Effect.

(d) Notwithstanding anything in this Section 7.1 to the contrary, Sellers may take any action, incur any expense or enter into any obligation with respect to the Auctioned Assets to the extent that (i) all obligations and liabilities arising with

respect thereto do not constitute Assumed Obligations, or (ii) Sellers otherwise provide that such obligations and liabilities shall not be assumed or retained by Buyer.

## Section 7.2 Access to Information.

(a) Between the date of this Agreement and the Closing Date, Sellers will, subject to the terms of Section 7.11 hereof, during ordinary business hours and upon reasonable notice (i) give Buyer and its representatives reasonable access to appropriate personnel at Central Hudson, all books, records, plants, offices and other facilities and properties constituting the Auctioned Assets, including for the purpose of observing the operation by Sellers of the Auctioned Assets, (ii) permit Buyer to make such reasonable inspections thereof as Buyer may reasonably request, (iii) furnish Buyer with such financial and operating data and other information with respect to the Auctioned Assets as Buyer may from time to time reasonably request, (iv) furnish Buyer upon request a copy of each material report, schedule or other document with respect to the Auctioned Assets filed by Sellers with, or received by Sellers from, the PSC, FERC or any other Governmental Authority; provided, however, that (A) any such activities shall be conducted in such a manner as not to interfere unreasonably with the operation of the Auctioned Assets, (B) Sellers shall not be required to take any action which would constitute a waiver of any legal privilege, including the attorney-client privilege, the work product privilege and the self-critical investigation privilege and (C) Sellers need not supply Buyer with (1) any information or access which Sellers are under a legal obligation not to supply or (2) any information which Sellers have previously supplied to Buyer. Notwithstanding anything in this Section 7.2 to the contrary, (i) Sellers will not be required to provide such information or access to any employee records other than Transferred Employee Records, (ii) Buyer shall not have the right to perform or conduct any environmental sampling or testing at, in, on, around or underneath the Auctioned Assets and (iii) Sellers shall not be required to provide such access or information with respect to any Retained Asset or Retained Liabilities.

(b) Following the Closing Date, Buyer shall retain all Operating Records (whether in electronic form or otherwise) relating to the Auctioned Assets on or prior to the Closing Date. Buyer also agrees that, following the Closing Date, each Seller shall have the right, upon reasonable request to Buyer, to have access to, or receive from Buyer copies of, any Operating Records or other information in Buyer's possession relating to the Auctioned Assets on or prior to the Closing Date and required by such Seller in order to comply with applicable law. Such Seller shall reimburse Buyer for its reasonable costs and expenses incurred in connection with the foregoing sentence. If the Buyer shall desire to dispose of any Operating Records or other information contemplated above, Buyer shall, prior to such

disposition, give Sellers a reasonable opportunity to segregate and remove such records and information as they may select.

### Section 7.3 Consents and Approvals; Transferable Permits.

(a) The Parties shall cooperate with each other and (i) prepare and file (or otherwise effect) as soon as practicable all applications, notices, petitions and filings with respect to and (ii) use their reasonable best efforts to obtain (A) the Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals and (B) any other consents, approvals or authorizations of any other Governmental Authorities or third parties that are necessary to consummate the transactions contemplated by this Agreement or the Ancillary Agreements. Without limiting the generality of the foregoing, (1) each Party agrees to, upon the other party's request, support such other Party's applications for regulatory approvals of the purchase and sale of the Auctioned Assets contemplated by this Agreement, and (2) the Parties agree to defend any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the Ancillary Agreements, or the consummation of the transactions contemplated hereby or thereby, including seeking to have any stay or temporary restraining order entered by any Governmental Authority vacated or reversed.

(b) Upon execution of this Agreement, Sellers shall commence the process of transferring to Buyer the Transferable Permits, including completing and filing applications and related documents with the appropriate Governmental Authorities. Sellers hereby reserve the right to modify, alter or amend any Transferable Permit or to refuse to correct violations or deficiencies in respect of any Transferable Permit as long as such modification, alteration, amendment or refusal would not, individually or in the aggregate, create a Material Adverse Effect. Sellers shall use their reasonable efforts to give notice to Buyer of any modification, alteration or amendment to any Transferable Permit.

(c) Sellers shall use their reasonable best efforts to cooperate with Buyer in the transfer of Transferable Permits to Buyer by Closing. If, as determined in the sole discretion of Sellers, the transfer of any Transferable Permit cannot be completed by Closing, Buyer is hereby authorized, but not required, to act as Sellers' representative and agent in respect of such Transferable Permit and to do all things necessary for effecting transfer of such Transferable Permit as soon after the Closing as is practicable, with Sellers remaining the Transferable Permit "holder of record" in such case until such transfer is completed. In the case of each such Transferable Permit, Sellers shall, to the maximum extent permitted by law and such Transferable Permit, enter into such reasonable arrangements with Buyer as are necessary to provide Buyer with the benefits and obligations of such Transferable Permit. If, as determined in the sole discretion of Sellers, Buyer is able to complete

the transfer of any Transferable Permit after Closing without the occurrence of any event that, if such event had occurred between the execution of this Agreement and the Closing, would have created, individually or in the aggregate, a Material Adverse Effect, Sellers may substitute Buyer in its place and stead as the Party responsible for completing the transfer of such Transferable Permit.

#### Section 7.4 Further Assurances.

(a) Subject to the terms and conditions of this Agreement, each of the Parties will use its reasonable best efforts to take, or cause to be taken, as soon as possible, all action, and to do, or cause to be done, as soon as possible, all things necessary, proper or advisable under applicable laws and regulations to consummate the sale of the Auctioned Assets pursuant to this Agreement as soon as possible, including using its reasonable best efforts to ensure satisfaction of the conditions precedent to each Party's obligations hereunder. Prior to submission by any Party of any application with a Governmental Authority for a regulatory approval, such Party shall submit such application to each of the other Parties for review and comment and shall incorporate into such application any revisions reasonably requested by the other Parties. None of the Parties will, without prior written consent of the other Parties, take or fail to take, or permit their respective Affiliates to take or fail to take, any action, which would reasonably be expected to prevent or materially impede, interfere with or delay the consummation, as soon as possible, of the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) Following the Closing Date, without further consideration and at its own expense, (i) each Seller will execute and deliver such instruments of assignment or conveyance as Buyer may reasonably request to more effectively vest in Buyer such Seller's title to the Auctioned Assets (subject to Permitted Exceptions and the other terms of this Agreement), and (ii) Buyer will execute and deliver such instruments of assumption as each Seller may reasonably request in order to more effectively consummate the sale of the Auctioned Assets and the assumption of the Assumed Obligations pursuant to this Agreement.

(c) Sellers shall join or support Buyer's application to the PSC for the certification required under Section 32(c) of PUHCA in order for Buyer to obtain qualification, with respect to the Auctioned Assets, as an exempt wholesale generator under Section 32 of PUHCA.

(d) Sellers and Buyer shall cooperate in good faith to establish a transition committee to consider operational and business issues related to the purchase and sale of the Auctioned Assets.

Section 7.5 Public Statements. The Parties shall consult with each other prior to issuing any public announcement, statement or other disclosure with respect to this Agreement, the Ancillary Agreements or the transactions contemplated hereby or thereby, and shall not issue any such public announcement, statement or other disclosure prior to such consultation, except as may be required by law.

Section 7.6 Tax Matters.

(a) All transfer and sales taxes (including (i) sales tax on the sale or purchase of the Auctioned Assets imposed by Governmental Authorities, (ii) transfer tax on the conveyance of interest in real property imposed by Governmental Authorities, and (iii) any petroleum business taxes and similar excise taxes on sales of petroleum based products imposed by Governmental Authorities) incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by Buyer. Buyer shall prepare and file in a timely manner any and all Tax Returns or other documentation relating to such taxes; provided, however, that, to the extent required by applicable law, Sellers will join in the execution of any such Tax Returns or other documentation relating to any such taxes. Buyer shall provide to Sellers copies of each Tax Return described in the proviso in the preceding sentence at least thirty (30) days prior to the date such Tax Return is required to be filed. Sellers shall not file any refund request, protest, petition for reassessment or take any similar action with respect to property Taxes imposed on the Auctioned Assets without the consent of Buyer.

(b) Each Party shall provide the other Parties with such assistance as may reasonably be requested by the other Parties in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to liability for Taxes, and each Party shall retain and provide the other Parties with any records or information which may be relevant to such return, audit, examination or proceedings. Any information obtained pursuant to this Section 7.6(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other instrument relating to Taxes shall be kept confidential by the parties hereto.

(c) If Buyer or any Seller or Sellers receives a refund of Taxes in respect of the Auctioned Assets for a taxable period including the Closing Date, Buyer shall pay to such Seller or Sellers the portion of any such refund attributable to the portion of such taxable period prior to or on the Closing Date, and any Seller or Sellers shall pay to Buyer the portion of any such refund attributable to the portion of such taxable period on and after the Closing Date.

(d) If permitted by applicable law, Sellers shall: (i) consent to and cooperate with Buyer in making a Code Section 754 election for the tax partnership resulting from joint ownership of the Roseton Station by the Co-Tenancy and (ii) at Buyer's written request, shall cause the tax partnership resulting from joint ownership of the Roseton Station by the Co-Tenancy to include, in the applicable Tax Return for the period ending on the Closing Date, an election under Section 754 of the Code to adjust the basis of such tax partnership's assets under Code Section 743.

Section 7.7 Bulk Sales or Transfer Laws. Buyer acknowledges that Sellers will not comply with the provisions of any bulk sales or transfer laws of any jurisdiction in connection with the transactions contemplated by this Agreement. Buyer hereby waives compliance by Sellers with the provisions of the bulk sales or transfer laws of all applicable jurisdictions.

Section 7.8 Witness Services. At all times following the Closing Date, each Party shall use reasonable best efforts to make available to the other Party, upon reasonable written request, its and its subsidiaries' then current or former officers, directors, employees (including former employees of Sellers) and agents as witnesses to the extent that (i) such persons may reasonably be required by such requesting Party in connection with any claim, action, proceeding or investigation in which such requesting Party may be involved and (ii) there is no conflict between Buyer and Sellers in such claim, action, proceeding or investigation. Such other Party shall be entitled to receive from such requesting Party, upon the presentation of invoices for such witness services, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses and direct and indirect costs of employees who are witnesses, as may be reasonably incurred in providing such witness services.

Section 7.9 Consent Orders. Buyer and Sellers agree to cooperate with each other and any applicable Governmental Authority to facilitate the entry of a consent order between such Governmental Authority and Buyer, wherein Buyer will agree to assume and perform the Assumed Consent Order Obligations.

Section 7.10 Control of Litigation. At all times from and after the date hereof, the Parties agree and acknowledge that Sellers shall be entitled exclusively to control, defend and settle any litigation, administrative or regulatory proceeding, and any investigation or remediation activity arising out of or related to any Retained Assets or Retained Liabilities, and Buyer agrees to cooperate fully in connection therewith.

Section 7.11 Confidentiality. Each Party agrees that it shall not use any Confidential Information of any other Party or its Affiliates for any purpose other

than in connection with the consummation of the transactions contemplated by this Agreement or any Ancillary Agreement. Each Party further agrees that it shall not divulge any such Confidential Information to any Person (i) except to its employees, agents, lenders, financial and other advisors and representatives to the extent required in connection with the transactions contemplated by this Agreement or any Ancillary Agreement, (ii) except as required to comply with applicable laws, ordinances, decrees or judicial or administrative orders (and then only that portion of the Confidential Information that is legally required to be disclosed), and (iii) except as otherwise agreed to by the Parties in writing. Each Party shall inform its employees, agents, lenders, financial and other advisors and representatives of the confidential nature of such information and the obligation to keep such information confidential, and shall take such other action as shall be reasonable required to cause such information to be kept confidential. For purposes of this Agreement, "Confidential Information" shall mean any confidential or proprietary information including any information relating to any Party or its Affiliates' properties or operations, which has been disclosed by such Party to another Party in connection with the transactions contemplated hereby or by any of the Ancillary Agreements; provided, however, that Confidential Information shall not include any information if:

- (i) the receiving Party shall have had knowledge of such information prior to the date on which such Party received it from the other Party, and such information was free from any limitation on disclosure;
- (ii) such information shall have entered the public domain through no fault of the receiving Party; or
- (iii) such information shall have been independently developed by the receiving Party.

(b) In the event that this Agreement is terminated for any reason, the covenants under this Section 7.11 shall survive the termination of this Agreement. At the time of such termination, if requested by any Party, the other Party shall use its reasonable efforts to return to the other Party, or destroy, all documents in its possession which contain Confidential Information of the other Party.

#### Section 7.12 Risk of Loss.

(a) Except as otherwise provided for in this Section 7.12, from the date hereof through the Closing Date, all risk of loss or damage to the assets and properties included in the Auctioned Assets shall be borne by Sellers (other than loss or damage caused by the acts or negligence of Buyer or any of its employees,

officers, agents or representatives, which loss or damage shall be the responsibility of Buyer).

(b) If, before the Closing Date, all or any portion of the Auctioned Assets are (1) taken by eminent domain or are the subject of a pending or (to the Knowledge of Sellers) contemplated taking which has not been consummated, or (2) damaged or destroyed by fire or other casualty, Sellers shall notify Buyer promptly in writing of such fact. If the fair market value of the Auctioned Assets that are the subject of, or are adversely affected by, such taking or loss is five percent (5%) of the Purchase Price or less, (as estimated in good faith by Sellers), the Parties agree that such taking or loss shall not have any effect on (or otherwise impede in any manner) the transactions contemplated hereby, and Sellers shall, at their election, either cure the taking or loss prior to Closing or assign to Buyer all of Sellers' rights, title and interest in and to any related award or insurance proceeds. If (1) the fair market value of the Auctioned Assets that are the subject of, are adversely affected by such taking or loss is in excess of five percent (5%) of the Purchase Price (as estimated in good faith by Sellers) and (2) Sellers have not notified Buyer of their intention to cure such taking or loss within twenty (20) Business Days after its occurrence, the Parties shall negotiate in good faith a fair and equitable adjustment to the Purchase Price and, upon such settlement, consummate the transactions contemplated by this Agreement pursuant to the terms of this Agreement. If no such settlement is reached within sixty (60) days after Sellers have notified Buyer of such taking or casualty, Buyer or Sellers may terminate this Agreement pursuant to Section 11.1(d). If Sellers notify Buyer of their intention to cure such taking or loss in accordance with this Section 7.12(b), Sellers shall have the right to delay the Closing Date for up to six (6) months to effect such cure.

### Section 7.13 Tax Exempt Financing.

(a) Buyer understands and agrees that:

(i) those certain facilities of Sellers listed on Schedule 7.13 hereto (the "Exempt Facilities") have been financed, and refinanced, in whole or in part, with the proceeds of the issuance and sale by various Governmental Authorities of industrial development revenue bonds or private activity bonds as set forth on Schedule 7.13 attached hereto (collectively, the "Revenue Bonds") the interest on which, with certain exceptions, is excluded from gross income for purposes of federal income taxation; and Sellers are the economic obligor in respect of such bonds;

(ii) The basis for such exclusion is the use of the Exempt Facilities for the purpose of (A) the abatement or control of atmospheric or water pollution or contamination and/or (B) the collection, storage, treatment,

utilization, processing or final disposal of solid waste and/or the collection, storage, treatment, utilization, processing or final disposal of sewage, such qualifying purposes being discussed in more detail in (b) below;

(iii) The use of the Exempt Facilities for a purpose other than a qualifying purpose indicated in subsection (ii) above could impair (A) such exclusion from gross income of the interest on such bonds, possibly with retroactive effect, unless appropriate remedial action were taken (which could include prompt defeasance or redemption of such bonds) and/or (B) the deductibility of payment by Sellers of interest based on the restrictions in Section 150 (b) of the Code; and

(iv) Any breach by Buyer of its obligations under this Section 7.13 could result in the incurrence by Sellers of additional costs and expenses, including without limitation, increased interest costs, loss of the interest deduction for tax purposes and transaction costs relating to any refinancing, redemption and/or defeasance of all or part of the Revenue Bonds, and Buyer will indemnify Sellers for such additional costs and expenses.

(b) (i) Buyer agrees that it shall not use, or permit the use of, the Exempt Facilities for any purpose other than the continuing use of such Exempt Facilities, and in accordance with the respective tax and/or other compliance documents for each of the Revenue Bonds, for:

(A) abating or controlling atmospheric or water pollution or contamination by removing, altering, disposing of or storing pollutants, contaminants, waste or heat, all as contemplated in U.S. Treasury Regulations Section 1.103-8(g);

(B) the collection, storage, treatment, utilization, processing or final disposal of solid waste, all as contemplated in U.S. Treasury Regulations Section 1.103-8(f); or

(C) the collection, storage, treatment, utilization, processing or final disposal of sewage, all as contemplated in U.S. Treasury Regulations Section 1.103-8(f)

unless Buyer has obtained at its own expense an opinion addressed to Sellers of nationally recognized bond counsel reasonably acceptable to Sellers (“Bond Counsel”) that such use will not impair (x) the exclusion from gross income of the interest on any issue of Revenue Bonds for Federal income tax purposes or (y) the deductibility of any Seller’s payments of interest based on the restrictions in Section 150(b) of the Code.

(ii) Buyer reasonably expects, as of the date of this Agreement, that the Exempt Facilities will continue to be used for the qualifying purposes set forth in subsection (i) above, and for no other purpose, for the remainder of their useful lives.

(c) It is expressly understood and agreed that the provisions of clause (b) above shall not prohibit Buyer from (i) suspending the operation of the Exempt Facilities on a temporary basis and/or (ii) selling exclusively for cash the Exempt Facilities consisting of personal property, in whole or in part, including any sale for scrap, provided that in the case of suspension of operation under clause (i) above, the operation of the Generating Facilities served by such Exempt Facilities shall not theretofore have been, and is not then being, terminated on a permanent basis, and provided further that in the case of a sale under clause (ii) above the proceeds of such sale of the Exempt Facilities shall within six months from the date of sale be expended to acquire replacement property to be used for the same qualifying purpose as the Exempt Facilities so sold or be otherwise applied and provided further that Buyer has obtained at its own expense an opinion of Bond Counsel addressed to and reasonably satisfactory to Sellers as to the exact application of the proceeds of such sale and that any such application will not impair (x) the exclusion from gross income of the interest on any issue of Revenue Bonds for Federal income tax purposes or (y) the deductibility of any Seller's payments of interest based on the restrictions in Section 150(b) of the Code.

(d) Buyer agrees that it shall not issue, or have issued on its behalf, any tax-exempt bonds to finance or refinance its acquisition of the Exempt Facilities; provided that it is expressly understood and agreed that this clause (d) shall not prohibit the use of tax-exempt bonds to finance or refinance any improvement to the Exempt Facilities made after the date of acquisition or to any assets other than the Exempt Facilities.

(e) Buyer agrees that it shall give Sellers at least 180 days' prior written notice of any suspension or termination of the operation of the Exempt Facilities, or any part thereof, and of any sale, exchange, transfer or other disposition of the Exempt Facilities, or any part thereof, including, but not limited to, a sale for scrap, such written notice to be provided whether or not an opinion of Bond Counsel is required to be obtained in accordance with clause (c).

(f) If any Seller shall desire to refund any Revenue Bonds, Buyer shall cooperate with such Seller and with Bond Counsel with respect to such refunding bonds and shall provide upon request any representations, agreements or covenants that are reasonably requested concerning its compliance to such date and/or in the future with the representations, agreements and covenants made herein.

(g) If Buyer shall sell, exchange, transfer or otherwise dispose of the Exempt Facilities to a third party, Buyer shall cause to be included in the documentation relating to such transaction covenants and agreements on the part of such third party for the benefit of Sellers, and as requested by Sellers, the trustee for the holders of any Revenue Bonds, substantially identical to those on the part of Buyer contained in this Section 7.13.

(h) The covenants and agreements on the part of Buyer contained in this Section 7.13 shall continue in effect so long as any of the Revenue Bonds, including any refunding bonds issued hereafter to refund any Revenue Bonds, shall remain outstanding. Sellers shall notify Buyer promptly when there shall be no Revenue Bonds outstanding, and, at the request of any Seller, Buyer shall execute further documentation to provide that such covenants and agreements are also for the benefit of the trustee of the holders of any Revenue Bonds.

(i) No later than five (5) Business Days prior to the Closing, Buyer shall execute and deliver to Central Hudson and the New York State Energy Research and Development Authority (the "Authority") the agreement required pursuant to Section 3.08 of that certain Participation Agreement, dated as of June 1, 1977, by and between Central Hudson and the Authority.

(j) Subject to the agreement referenced in paragraph (i) above and Buyer's compliance with this Section 7.13, Buyer shall have no liability under the Revenue Bonds.

Section 7.14 Compliance with Governmental Agreements. Following the Closing Date, Buyer agrees that it will abide by, and comply with, all existing permit conditions, provisions in existing rulings and regulations issued to any Seller by the PSC, and any other existing agreements or arrangements between any Seller and the State of New York (or any political subdivision thereof), including provisions or agreements relating to environmental compliance and mitigation, in each case to the extent any such condition, provision, agreement or arrangement relates to the Auctioned Assets or the Assumed Obligations, unless and to the extent Buyer is exempt by law, regulation or order from compliance with any such condition, provision, agreement or arrangement.

Section 7.15 Cross Plant Outage Credits. Subject to applicable laws (including antitrust laws), following the Closing Date, in all subsequent permits, permit applications, and regulatory and judicial proceedings pertaining to cooling water usage obligations at the Roseton Station, including obligations imposed pursuant to the Clean Water Act §402, New York State Environmental Conservation Law Title 8, consent orders, or any successor orders or permits, Buyer shall take all commercially reasonable actions necessary to support, effect and

implement the transfer of cooling water usage obligations among the facilities subject to such obligations, and shall pay or receive, as the case may be, compensation to or from such other owners of the facilities subject to such obligations no more than necessary to compensate the financial consequences of the performance of transferred obligations, calculated based on (i) market prices received or foregone, and (ii) the costs avoided or incurred, by the owners of such facilities and their Affiliates. Buyer shall take such actions as may be necessary to impose the conditions and provisions of this Agreement upon all of its successors and permitted assigns

Section 7.16 Trade Names. Sellers shall not object to the use by Buyer of the name “Roseton Electric Generating Plant” or any trade names, trademarks, service marks or logos (and any rights to and in the same, including any right to use the same) primarily relating to the power generation operations of the Generating Facilities that are not Retained Assets or that contain the word “Roseton”.

Section 7.17 Separation Modifications. Central Hudson has made or is making, at its own expense, certain modifications to the Auctioned Assets and the Roseton Switchyard to enhance the separation of the Auctioned Assets and the Roseton Switchyard following the Closing (the “Separation Modifications”). The Separation Modifications are described on Schedule 7.17 hereto. In the event any Separation Modification is not completed prior to Closing, Buyer shall cooperate in good faith with Central Hudson to enable Central Hudson to complete such Separation Modification in a timely manner. Buyer acknowledges that Central Hudson has undertaken to construct such Separation Modifications for the mutual benefit of the Parties and that Central Hudson makes no representation or warranty relating to any Separation Modification, including any representation or warranty regarding the efficacy of any Separation Modification except that such Separation Modifications will be effectuated in accordance with Good Utility Practice in all material respects.

## ARTICLE VIII

### Conditions

Section 8.1 Conditions Precedent to Each Party’s Obligation to Effect the Purchase and Sale. The respective obligations of each Party to effect the purchase and sale of the Auctioned Assets shall be subject to the satisfaction or waiver by such Party on or prior to the Closing Date of the following conditions:

(a) all Seller Required Regulatory Approvals and Buyer Required Regulatory Approvals shall have been obtained by Sellers and Buyer, as the case may be, and all conditions to effectiveness prescribed therein or otherwise by law,

regulation or order shall have been satisfied by such Parties; provided, however, that if at the time any such Seller Required Regulatory Approval or Buyer Required Regulatory Approval is obtained, any Party reasonably expects a request for rehearing or a challenge thereto to be filed or if a request for rehearing or a challenge thereto has been filed, in each case, which, if successful, would cause such Seller Required Regulatory Approval or Buyer Required Regulatory Approval, as the case may be, to be reversed, stayed, enjoined, set aside, annulled, suspended or substantially modified, then such Party may by notice to the other Parties within five (5) Business Days after receipt of such Seller Required Regulatory Approval or Buyer Required Regulatory Approval, as the case may be, delay the Closing until the time for requesting rehearing has expired or until such challenge is decided, in each case, whether or not any appeal thereof is pending; provided further, however, that if the Closing is delayed pursuant to the foregoing provision, the Termination Date shall be automatically extended for a period of time equal to the period of such delay but in no event later than the date that is eighteen (18) months from the date of this Agreement; and provided further, however, no Seller will be required to close if any Seller Required Regulatory Approval contains terms and conditions that create a Regulatory Material Adverse Effect;

(b) no preliminary or permanent injunction or other order or decree by any Federal or state court of competent jurisdiction and no statute or regulation enacted by any Governmental Authority prohibiting the consummation of the purchase and sale of the Auctioned Assets (collectively, “Restraints”) shall be in effect;

(c) the execution and delivery of each Ancillary Agreement by each Party thereto; and

(d) the simultaneous closing of the transactions contemplated by the Danskammer Asset Sale Agreement.

Section 8.2 Conditions Precedent to Obligation of Buyer to Effect the Purchase and Sale. The obligation of Buyer to effect the purchase and sale of the Auctioned Assets contemplated by this Agreement shall be subject to the satisfaction by Sellers or waiver by Buyer on or prior to the Closing Date of the following additional conditions:

(a) Each Seller shall have performed in all material respects the covenants and agreements contained in this Agreement which are required to be performed by such Seller on or prior to the Closing Date;

(b) the representations and warranties of each Seller which are set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein) would not, individually or in the aggregate, create a Material Adverse Effect;

(c) Buyer shall have received a certificate from an authorized officer of each Seller, dated the Closing Date, to the effect that, to the best of such officer’s knowledge, the conditions set forth in Section 8.2(a) and (b) have been satisfied with respect to such Seller;

(d) Buyer shall have received (i) the bargain and sale deed substantially in the form of Exhibit A hereto (the “Deed”), and (ii) an opinion from each of (A) Dickstein Shapiro Morin & Oshinsky LLP and Gould & Wilkie LLP, each counsel for Central Hudson, (B) the General Counsel of Con Edison and (C) the General Counsel of Niagara Mohawk, or in each case other counsel reasonably acceptable to Buyer, dated the Closing Date, reasonably satisfactory in form and substance to Buyer covering the matters set forth in Exhibit H hereto;

(e) Buyer shall have obtained (or Sellers shall have made available to Buyer pursuant to Section 7.3 hereof) all material Permits and Environmental Permits, the absence of which would materially adversely affect Buyer’s ability to operate the Auctioned Assets on the Closing Date;

(f) Buyer shall have received a Foreign Investment in Real Property Tax Act certification and affidavit, executed by each Seller; and

(g) Each Seller shall have delivered to Buyer all such other instruments as shall, in the reasonable opinion of Buyer and its counsel, be (i) necessary to transfer to Buyer the Auctioned Assets in accordance with this Agreement or (ii) otherwise required to consummate the transactions contemplated by this Agreement.

Section 8.3 Conditions Precedent to Obligation of Sellers to Effect the Purchase and Sale. The obligation of Sellers to effect the purchase and the sale of the Auctioned Assets contemplated by this Agreement shall be subject to the satisfaction by Buyer or waiver by Sellers on or prior to the Closing Date of the following additional conditions:

(a) Buyer shall have performed in all material respects the covenants and agreements contained in this Agreement which are required to be performed on or prior to the Closing Date;

(b) the representations and warranties of Buyer which are set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to “materiality” or “Buyer Material Adverse Effect” set forth therein) would not, individually or in the aggregate, create a Buyer Material Adverse Effect;

(c) Sellers shall have received a certificate from an authorized officer of Buyer, dated the Closing Date, to the effect that, to the best of such officer’s knowledge, the conditions set forth in Section 8.3(a) and (b) have been satisfied;

(d) Sellers shall have received an opinion from Locke, Liddell & Sapp, L.L.P. or other counsel reasonably acceptable to Sellers, dated the Closing Date, and reasonably satisfactory in form and substance to Sellers covering the matters set forth in Exhibit I hereto;

(e) Buyer shall have provided evidence in form and substance reasonably satisfactory to Sellers of compliance by Buyer with its obligations under Article IX;

(f) If a Guarantee Agreement has been entered into:

(i) the Guarantee Agreement shall be in full force and effect;

(ii) the Guarantor shall have performed in all material respects its covenants and agreements contained in the Guarantee Agreement which are required to be performed on or prior to the Closing Date;

(iii) the representations and warranties of the Guarantor which are set forth in the Guarantee Agreement shall be true and correct as of the date of the Guarantee Agreement and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to “materiality” or “Guarantor Material Adverse Effect” set forth therein) would not, individually or in the aggregate, create a Guarantor Material Adverse Effect (as defined therein);

(iv) Sellers shall have received a certificate from an authorized officer of the Guarantor, dated the Closing Date, to the effect that, to the best of such officer's knowledge, the conditions set forth in Sections 8.3(f)(ii) and (iii) have been satisfied; and

(v) Sellers shall have received an opinion from Locke, Liddell & Sapp, L.L.P. or other counsel reasonably acceptable to Sellers, dated the Closing Date, and reasonably satisfactory in form and substance to Sellers covering the matters set forth in Exhibit J hereto.

(g) Buyer shall have delivered to Sellers all such other instruments as shall, in the reasonable opinion of Sellers and their respective counsel, be (i) necessary for Buyer to assume the Assumed Obligations in accordance with this Agreement or (ii) otherwise required to consummate the transactions contemplated by the Agreement.

## ARTICLE IX

### Employee Matters

#### Section 9.1 Transferred Employees.

(a) Buyer shall offer employment to each full time employee of Central Hudson at the Closing Date covered by the Fossil Production Plant Agreement, effective July 1, 1998, between Central Hudson, and Local Union 320 of the International Brotherhood of Electrical Workers A.F. of L. - C.I.O. (the "IBEW") (the "IBEW Collective Bargaining Agreement"). Each such employee who becomes employed by Buyer in accordance with this Article IX is referred to herein as a "Transferred Union Employee". Each full-time employee of Central Hudson employed at the Generating Facilities and not covered by the IBEW Collective Bargaining Agreement (a "Management Employee") who is offered and accepts employment with Buyer, as hereinafter described, is referred to herein as a "Transferred Management Employee". Collectively, Transferred Management Employees and Transferred Union Employees are referred to herein as "Transferred Employees". Transferred Employees shall cease to be employees of Central Hudson on the Closing Date and their period of employment with Buyer shall begin on the Closing Date.

(b) Buyer agrees to recognize the IBEW as the exclusive collective bargaining representative for the Transferred Union Employees and agrees to assume and be the successor to Central Hudson under and within the meaning of, the IBEW Collective Bargaining Agreement from and after the Closing Date which

includes providing the employee benefits provided by the plans/programs listed in Schedule 9.1 hereto (as amended or modified by Central Hudson prior to the Closing Date in accordance with the terms hereof). Buyer shall meet with the IBEW, no less than 120 days prior to the Closing Date, to review with the IBEW the benefit plans which Buyer shall be obligated to provide to the Transferred Union Employees pursuant to the IBEW Collective Bargaining Agreement and this Agreement. If Buyer does not have in effect as of the Closing Date the required health benefit plans covering the Transferred Union Employees and Central Hudson is required to pay premiums during the 120 day period following the Closing Date for COBRA coverage under Central Hudson's Health Benefit Plan for any such employees, Buyer shall reimburse Central Hudson for such premiums within 10 days after receiving an invoice from Central Hudson.

(c) Buyer shall within ninety (90) days from the date hereof make written employment offers to at least 30 Management Employees (inclusive of employment offers to be made by Buyer under Section 9.1(c) of the Danskammer Asset Sale Agreement) (the "Management Package") upon the terms described below in accordance with all applicable laws and regulations:

(i) Each Transferred Management Employee shall be guaranteed a salary at or greater than his/her base rate of pay and benefits equivalent to those provided by Central Hudson at the Closing Date, as set forth in the plans listed in Schedule 9.1 hereof (as amended or modified by Central Hudson prior to the Closing Date in accordance with the terms hereof). Position assignments shall be within a 50 mile radius of the Generating Facilities unless otherwise agreed to by such Transferred Management Employee. If such offer is for a location which will involve an unreasonable commuting distance from such Transferred Management Employee's home, such Employee will be provided relocation benefits by Buyer equivalent to that of Central Hudson in effect at the Closing Date. Such offer shall also provide that Buyer shall not change any terms of the Management Package or other conditions of service for any Transferred Management Employee for a period of twenty-four months following the Closing Date, and no Transferred Management Employee shall be terminated by Buyer within such twenty-four month period other than for cause.

(ii) All employment offers by Buyer in accordance with this Section 9.1(c) will remain open for a period of fourteen (14) calendar days from the date of the offer. Any offer accepted in such period shall be irrevocable. Buyer shall promptly provide written notice of all such offers and acceptances to Central Hudson. Notwithstanding any provision hereof to the contrary, the "social security" supplement benefit contained in Section 4.5 of the Retirement Income Plan shall be part of vested benefits, in the manner of a QSUPP as defined under Treas. Reg. §1.401(a)(4)-12, in the Buyer's Defined Benefit Plan and shall continue

in effect so long as there are Transferred Management Employees eligible for such benefit.

(d) In addition, but not as part of the Management Package, all Transferred Management Employees, will be provided by Buyer with a lump sum payment (“Bonus”) equivalent to thirty-five percent (35%) of each Transferred Management Employees’ base salary from Central Hudson at the Closing Date (plus any income thereon as provided below) as follows:

(i) At Closing, Buyer will segregate in immediately available funds an amount equal to thirty-five percent (35%) of the aggregate base salary at the Closing Date of all Transferred Management Employees and hold such amount in escrow, as escrow agent (“Escrow Agent”) for the benefit of the Transferred Management Employees (“Escrow Fund”). The Escrow Agent will distribute his/her Bonus (together with a pro-rata share based on the Bonus payable to such Transferred Management Employee of the income earned on the Escrow Fund) within ten (10) days following the first anniversary of the Closing Date to each Transferred Management Employee who either is employed with the Buyer on such anniversary of the Closing Date, or whose employment by Buyer has been terminated by Buyer other than for cause prior to such anniversary or by such employee’s death. A Transferred Management Employee who is terminated for cause, resigns or retires prior to such anniversary date will not be eligible for the Bonus. A Transferred Management Employee whose employment by Buyer is terminated prior to such anniversary date by his/her death will have his/her Bonus paid to his/her estate at the same time that the Bonuses are paid to eligible Transferred Management Employees. All amounts held in escrow by the Escrow Agent and not distributable to a Transferred Management Employee in accordance with this Section 9.1(d) shall be released to Central Hudson within ten (10) days after the first anniversary of the Closing Date.

(ii) The Escrow Agent shall establish an escrow account with a commercial bank of its choosing (“Bank”) and shall deposit the Escrow Fund with the Bank and invest and reinvest the Escrow Fund in a money market fund maintained by the Bank. All income derived from the investment and reinvestment of the Escrow Fund shall become part of the Escrow Fund. Any costs incurred by Buyer in administering and distributing the Escrow Fund shall be borne by Buyer. The Escrow Agent shall be responsible for all investment or other losses with respect to the Escrow Fund.

(iii) The Escrow Agent’s (in its capacity as such) duties, obligations and liabilities under this Section 9.1(d) are limited solely to the functions specifically required of the Escrow Agent. The Escrow Agent (in its

capacity as such) shall have no other duties, obligations or liabilities, implied or otherwise.

(e) As of the Closing Date, all Transferred Employees shall cease to participate in all of Central Hudson's employee benefit plans and programs, including those described in Schedule 9.1. As of the Closing Date, Buyer shall establish and maintain, and all Transferred Employees shall commence, as applicable, participation in, the (i) welfare benefit plans of Buyer ("Replacement Welfare Plans") and (ii) Buyer's Defined Benefit Plan and Buyer's Defined Contribution Plan (collectively, the "Buyer Benefit Plans") that will provide benefits, in the case of the Transferred Union Employees, as required under the IBEW Collective Bargaining Agreement, and, in the case of the Transferred Management Employees, as part of the Management Package. Buyer agrees to maintain the terms of Buyer's Benefit Plans (i) for Transferred Management Employees for a period of twenty-four (24) months after the Closing Date, and (ii) for Transferred Union Employees for such period as may be required by the IBEW Collective Bargaining Agreement.

(f) Transferred Employees shall be given credit by Buyer for all service with Central Hudson and its Affiliates under all employee benefit plans, programs and arrangements and all fringe benefit plans, programs and arrangements of Buyer including the Replacement Welfare Plans, the Buyer's Defined Benefit Plan and the Buyer's Defined Contribution Plan in which they become participants. Buyer shall waive any limitations as to pre-existing condition or actively at-work exclusions and waiting periods with respect to the Transferred Employees under the Buyer Benefit Plans.

(g) Buyer shall cause to be established and Transferred Employees shall as of the Closing Date commence participation in, as applicable (i) a tax-qualified defined benefit pension plan or plans for the benefit of the Transferred Employees (collectively, the "Buyer's Defined Benefit Plan") and (ii) a tax-qualified defined contribution plan or plans for the benefit of the Transferred Employees (collectively, the "Buyer's Defined Contribution Plan"). The Buyer's Defined Benefit Plan and the Buyer's Defined Contribution Plan shall provide the same level of benefits and have the same terms, respectively, as Central Hudson's Retirement Income Plan, a tax qualified defined benefit plan ("Retirement Income Plan") and Savings Incentive Plan, a tax-qualified defined contribution plan ("Savings Incentive Plan"), as in effect as of the Closing Date, provided that, except as required by law or by the terms of the Retirement Income Plan and/or Savings Incentive Plan or by the terms of the IBEW Collective Bargaining Agreement, or as permitted in accordance with Section 7.1(b)(vii) above, no amendments or modifications shall be made with respect to such plans after the date hereof and prior to the Closing Date without the written consent of Buyer, which consent shall not be unreasonably withheld except that no consent shall be required for amendments adopted (y) prior to the date

hereof which are to become effective after the date hereof and (z) after the date hereof which effect the transfers of assets in subclauses (A) and (B) below.

To the extent not covered by (f) above, Transferred Employees shall be given credit in the Buyer's Defined Benefit Plan and/or in the Buyer's Defined Contribution Plan for the following as applicable: for all service and compensation from Central Hudson and its Affiliates as if they were service with and compensation from Buyer for purposes of determining eligibility for benefits, periods of participation, eligibility and/or entry dates, the amount of any benefits or benefit accruals, vesting, and service related levels of benefits under the Buyer's Defined Benefit Plan and/or Buyer's Defined Contribution Plan. In the event that the asset transfer described below does not occur with respect to Buyer's Defined Benefit Plan, prior service with Central Hudson will not be recognized for benefit accrual purposes or for determining levels of benefits.

In connection with the foregoing, the following actions shall be taken as of the Closing Date:

(A) At the time specified in subparagraph (D) below, Central Hudson shall cause to be transferred from the Retirement Income Plan to the corresponding Buyer's Defined Benefit Plan (1) assets attributable to the accrued benefits (excluding "Cash Balance Accounts" described in Article 17 of the Retirement Income Plan, but including said "social security" supplement benefit referred to in paragraph (c) above) under the Retirement Income Plan of Transferred Employees (whether or not vested) equal to the actuarial liabilities determined, as of the Closing Date, for the Retirement Income Plan in accordance with the interest rate, retirement ages and mortality tables in effect as of the Closing Date for purposes of determining single-employer plan termination annuity rates as published by the PBGC ("PBGC Rates"), and (2) assets equal to the amount as of the Closing Date in the Cash Balance Accounts, if any, of Transferred Employees (whether or not vested), (3) interest, on the assets referred to in clause (1) above, for the period from the Closing Date to the date of the actual transfer of such assets (the "Adjustment Period") at an annual rate that is equal to the interest discount during the Adjustment Period reflected in the PBGC Rates, and (4) interest credited on the asset referred to in clause (2) above for the Adjustment Period determined under Article 17 of the Retirement Income Plan, all adjusted to reflect the applicable Adjustments pursuant to subparagraph (E) below.

The transfers of assets described in this subparagraph (A) shall be made in accordance with the provisions of the Code, including, but not limited to, Sections 401(a)(12), 411(d)(6) and 414(l) of the Code and Treasury Regulation Section 1.414(l)-1. No Transferred Employee shall be entitled to receive any benefits under the Retirement Income Plan, including his/her Cash Balance Account, because of

his/her employment by Buyer unless the asset transfer does not occur. All actuarial determinations shall be made by the actuaries appointed by Central Hudson for the Retirement Income Plan. Such determinations shall be in accordance with the subparagraph (A) above, and reviewed for reasonableness with the actuaries for Buyer, but, in the event of a dispute, determinations made by such actuaries for the Retirement Income Plan shall be final.

(B) Contributions to the Savings Incentive Plan with respect to the Transferred Employees shall cease effective as of the Closing Date. Central Hudson shall amend the Savings Incentive Plan to afford each Transferred Employee the option of transferring his/her Account Balance into the Buyer's Defined Contribution Plan, including any outstanding loans ("Loans") made to such Transferred Employees pursuant to Section 7.2 of the Savings Incentive Plan; such option to be exercised within two (2) months of the Closing Date. Any such transfers shall be made in compliance with the Code, including Section 401(a)(12), 411(d)(6) and 414(l).

Prior to any such transfer, Buyer will provide Central Hudson with such documents and other information as Central Hudson shall reasonably request to assure itself that Buyer's Defined Contribution Plan and the trust or trusts established pursuant thereto (i) provide for acceptance of the Aggregate Accounts (as defined in Section 1.5 of the Savings Incentive Plan) of Transferred Employees under the Savings Incentive Plan and related Loans and (ii) contain participant loan provisions and procedures necessary to effect the orderly transfer of Loans associated with such transfer. In the event that a Transferred Employee shall elect to leave his or her Aggregate Account balance in the Savings Incentive Plan, Buyer shall cooperate with Central Hudson in providing that any outstanding loan attributable to such account balance shall be repaid through payroll deductions from Buyer's payroll.

(C) All assets transferred under subparagraphs (A) or (B) (other than relating to Loans) shall be transferred in cash, or in marketable securities that are reasonably acceptable to Buyer.

(D) Within forty-five (45) days after the Closing Date, Central Hudson and Buyer shall file or cause to be filed any Forms 5310-A that may be required to be submitted to the IRS in connection with the transfers described in subparagraphs (A) and (B). The transfer described in subparagraph (A) shall be made as soon as practicable following the determination of the amount described in subparagraph (A) and the transfer described in subparagraph (B) shall be made as soon as practicable after the Closing Date, but in each case in no event prior to the thirtieth (30) day following the filing of such Forms 5310-A with the IRS or, in the event that the IRS, the PBGC or any other governmental entity raises any objections

to the transfer, the date as of which the IRS, the PBGC or other governmental entity withdraws such objections or is satisfied that the terms of the transfer have been modified to the extent necessary to meet such objections. Each such transfer shall be made pursuant to such instruments as Central Hudson shall approve.

(E) Upon completion of the transfer under subparagraph (A), all benefits accrued by Transferred Employees to the Closing Date under the Retirement Income Plan shall be assumed by and become the sole responsibility of Buyer. Upon completion of the transfer under subparagraph (B), all such Aggregate Account amounts under, and Loans made by, the Savings Incentive Plan attributable to the Transferred Employees, shall, as of the Closing Date, be assumed by and become the sole responsibility of Buyer.

The assets transferred under subparagraphs (A) and (B) shall be subject to the following adjustments (collectively, the "Adjustments") and administration matters occurring during, and for, the period from the Closing Date to the date of transfer of such assets:

(i) Any benefits that would otherwise be payable to the Transferred Employees under the Buyer's Defined Benefit Plan and/or Buyer's Defined Contribution Plan shall be paid or continued to be paid out of the Retirement Income Plan and/or Savings Incentive Plan, as the case may be, and the assets to be transferred under subparagraphs (A) and/or (B) shall be reduced by the amount of such payments.

(ii) The assets to be so transferred shall be increased or decreased to reflect applicable losses, earnings, appreciation and/or depreciation thereon.

(iii) Any Loans repaid shall reduce the right as lender of Loans to be transferred to Buyer.

Pending the completion of such transfers, Central Hudson will cooperate with Buyer with respect to plan administration, including administration of Loans. Pending the completion of such transfers (i) investment elections under the Savings Incentive Plan will be available to Transferred Employees and (ii) payments due with respect to any Loans, which would otherwise be satisfied by payroll deduction by Central Hudson, must be made directly by the Transferred Employee obligated with respect to any such Loan. Central Hudson agrees that it shall use commercially reasonable efforts to accomplish the transfer of assets described in subparagraphs (A) and (B) of this paragraph. All Adjustments shall be reviewed by Central Hudson

with the Buyer prior to becoming effective, however, in the event of any disagreement, Central Hudson's determination shall be final. The assets transferred under subparagraphs (A) and (B) of this subparagraph (g) shall be subject to any applicable qualified domestic relations orders.

Notwithstanding anything in this Section 9.1 to the contrary, no transfer under subparagraphs (A) or (B) shall take place unless and until Central Hudson has received written evidence of the adoption of Buyer's Defined Contribution Plan and Buyer's Defined Benefit Plan, and the trust (or trusts) thereunder by Buyer and either (A) a copy of a favorable determination letter issued by the IRS and satisfactory to Central Hudson's counsel with respect to each such plan of Buyer or (B) an opinion, satisfactory to Central Hudson's counsel, of Buyer's counsel to the effect that the terms of Buyer's Defined Contribution Plan and Buyer's Defined Benefit Plan and their related trust or trusts qualify under ERISA and Section 401(a) and 501(a) of the Code.

(h) Central Hudson shall remain responsible for all salary, wages, and a pro rata portion of any bonuses or incentive compensation accrued by any Transferred Employee for periods prior to the Closing Date; except that Buyer shall give all Transferred Employees full credit for all vacation accrued and not taken as of the Closing Date. Central Hudson shall retain responsibility under the Welfare Plans for claims relating to treatment received by Transferred Employees and their eligible dependents prior to the Closing Date. Buyer shall have responsibility under the Replacement Welfare Plans for claims relating to treatment received by Transferred Employees and their eligible dependents on and after the Closing Date.

(i) Individuals who are otherwise employees of Central Hudson, but who on any date are not actively at work due to a leave of absence covered by the Family and Medical Leave Act, or due to any other authorized absence, shall nevertheless be treated as "Transferred Union Employees" or as "Management Employees", as the case may be, on such date if they are able to (i) return to work within the protected period under the Family and Medical Leave Act or such other leave whichever is applicable, and (ii) perform the essential functions of their job, with or without a reasonable accommodation.

(j) On the Closing Date, Buyer shall have in effect a workers' compensation program for Transferred Employees that complies with the requirements of the New York State Workers' Compensation Law and, as applicable, the IBEW Collective Bargaining Agreement and the Management Package.

Section 9.2 Employment-at-Will. No provision of this Agreement shall affect any Transferred Management Employee's status as an employee-at-will.

Section 9.3 WARN Act. Buyer shall be responsible, with respect to the Auctioned Assets, for performing and disclosing all requirements under the WARN Act and applicable state and local laws and regulations for the notification of its employees of any “employment loss” within the meaning of the WARN Act which occurs following the Closing Date.

Section 9.4 COBRA. Buyer shall provide notice of and the opportunity to purchase continuation coverage as required by COBRA to any dependent or former dependent of a Transferred Employee who incurs a “qualifying event” (as such term is defined in COBRA) on or after the Closing Date, or who incurs a “qualifying event” prior to the Closing Date (other than termination of employment or death of the employee) as to which notice is not provided to Central Hudson or Buyer until the Closing Date or thereafter.

## ARTICLE X

### Indemnification and Dispute Resolution

#### Section 10.1 Indemnification.

(a) Each Seller, severally and not jointly, shall indemnify, defend and hold harmless Buyer and its Affiliates and their respective directors, officers, employees and agents (collectively with Buyer and its Affiliates, the “Buyer Indemnitees”) from and against any and all claims, demands or suits by any person, and all losses, liabilities, damages, obligations, payments, costs and expenses (including reasonable legal fees and expenses and including costs and expenses incurred in connection with investigations and settlement proceedings) (each, an “Indemnifiable Loss”), as incurred, asserted against or suffered by any Buyer Indemnitee relating to, resulting from or arising out of:

- (i) any breach by such Seller of any covenant or agreement of such Seller contained in this Agreement or, prior to their expiration in accordance with Section 12.3, the representations and warranties contained in Sections 5.1, 5.2, 5.3 and 5.15 hereof;
- (ii) the Retained Liabilities;
- (iii) noncompliance by such Seller with any applicable bulk sales or transfer laws as provided in Section 7.7; or

(iv) any breach by such Seller of any Ancillary Agreement to which such Seller is a party to the extent such Ancillary Agreement does not contain express indemnification provisions.

(b) Buyer will indemnify, defend and hold harmless Sellers and their Affiliates and their respective directors, officers, trustees, employees and agents (collectively with Sellers and its Affiliates, the “Seller Indemnitees”) from and against any and all Indemnifiable Losses, as incurred, asserted against or suffered by any Seller Indemnatee relating to, resulting from or arising out of:

(i) any breach by Buyer of any covenant or agreement of Buyer contained in this Agreement or, prior to their expiration in accordance with Section 12.3, the representations and warranties contained in Sections 6.1, 6.2, 6.3 and 6.5 hereof;

(ii) the Assumed Obligations;

(iii) any obligation resulting from any action or inaction of Buyer (A) under any Contract or warranty pursuant to Section 2.4(b) (whether acting as principal or representative and agent for any Seller or Sellers pursuant to Section 2.4(b) or otherwise) or (B) pursuant to any Transferable Permit in respect of which any Seller or Sellers remain the holder of record after the Closing Date pursuant to Section 7.3(c);

(iv) any transfer, sales or excise tax obligations imposed on Sellers for which Buyer is responsible under the terms of this Agreement or any Ancillary Agreement; or

(v) any breach by Buyer of any Ancillary Agreement to the extent such Ancillary Agreement does not contain express indemnification provisions.

(c) Any person entitled to receive indemnification under this Agreement having a claim under these indemnification provisions shall make a good faith effort to recover any Indemnifiable Losses from insurers of such Indemnatee under applicable insurance policies so as to reduce the amount of any Indemnifiable Loss hereunder. The amount of any Indemnifiable Loss shall be reduced to the extent that the relevant Buyer Indemnatee or Seller Indemnatee (each, an “Indemnatee”) receives any insurance proceeds with respect to an Indemnifiable Loss and shall be (i) increased to take account of any Tax Cost incurred by the Indemnatee arising from the receipt of indemnity payments hereunder (grossed up for such increase) and (ii) reduced to take account of any Tax Benefit realized by the Indemnatee

arising from the incurrence or payment of any such Indemnifiable Loss. If the amount of any Indemnifiable Loss, at any time subsequent to the making of an indemnity payment in respect thereof, is reduced by recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other person, the amount of such reduction, less any costs, expenses or premiums incurred in connection therewith, will promptly be repaid by the Indemnitee to the Party required to provide indemnification hereunder (the “Indemnifying Party”) with respect to such Indemnifiable Loss.

(d) To the fullest extent permitted by law, no Party nor any Buyer Indemnitee or any Seller Indemnitee shall be liable to any other Party or any other Buyer Indemnitee or Seller Indemnitee for any claims, demands or suits for consequential, incidental, special, exemplary, punitive, indirect or multiple damages connected with or resulting from any breach after the Closing Date of this Agreement (other than breach of this Article X) or the Ancillary Agreements (except to the extent expressly provided to the contrary in any Ancillary Agreement), or any actions undertaken in connection with or related hereto or thereto, including any such damages which are based upon breach of contract, tort (including negligence and misrepresentation), breach of warranty, strict liability, statute, operation of law or any other theory of recovery.

(e) The rights and remedies of Sellers and Buyer under this Article X are, solely as between Sellers and Buyer, exclusive and in lieu of any and all other rights and remedies which Sellers and Buyer may have under this Agreement, the Ancillary Agreements (except to the extent expressly provided to the contrary in any Ancillary Agreement) or otherwise for monetary relief with respect to (i) any breach of, or failure to perform, any covenant or agreement set forth in this Agreement or the Ancillary Agreements by any Seller or Buyer, (ii) any breach of any representation or warranty by any Seller or Buyer, (iii) the Assumed Obligations or the Retained Liabilities, (iv) noncompliance by Sellers with any bulk sales or transfer laws and (v) any obligation in respect of Section 2.4 or Section 7.3. Each Party agrees that the previous sentence shall not limit or otherwise affect any non-monetary right or remedy which a Party may have under this Agreement or the Ancillary Agreements or otherwise limit or affect any Party’s right to seek equitable relief, including the remedy of specific performance.

(f) Buyer and Sellers agree that, notwithstanding Section 10.1(e), each Party shall retain, subject to the other provisions of this Agreement, including Sections 10.1(d) and 12.3, all remedies at law or in equity with respect to (i) fraud or willful or intentional breaches of this Agreement or the Ancillary Agreements and (ii) gross negligence or willful or wanton acts or omissions to act of any Indemnitee (or any contractor or subcontractor thereof) after the Closing Date.

## Section 10.2 Third Party Claims Procedures.

(a) If any Indemnitee receives notice of the assertion of any claim or of the commencement of any claim, action, or proceeding made or brought by any person who is not a Party or an Affiliate of a Party (a “Third Party Claim”) with respect to which indemnification is to be sought from an Indemnifying Party, the Indemnitee will give such Indemnifying Party reasonably prompt written notice thereof, but in any event not later than ten (10) Business Days after the Indemnitee’s receipt of notice of such Third Party Claim; provided, however, that a failure to give timely notice will not affect the rights or obligations of any Indemnitee except if, and only to the extent that, as a result of such failure, the Indemnifying Party was actually prejudiced. Such notice shall describe the nature of the Third Party Claim in reasonable detail and will indicate the estimated amount, if practicable, of the Indemnifiable Loss that has been or may be sustained by the Indemnitee.

(b) If a Third Party Claim is made against an Indemnitee, the Indemnifying Party will be entitled to participate in the defense thereof and, if it so chooses, to assume the defense thereof with counsel selected by the Indemnifying Party; provided, however, that such counsel is not reasonably objected to by the Indemnitee; and provided further that the Indemnifying Party first admits in writing its liability to the Indemnitee with respect to all material elements of such claim. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party will not be liable to the Indemnitee for any legal expenses subsequently incurred by the Indemnitee in connection with the defense thereof. If the Indemnifying Party elects to assume the defense of a Third Party Claim, the Indemnitee will (i) cooperate in all reasonable respects with the Indemnifying Party in connection with such defense, (ii) not admit any liability with respect to, or settle, compromise or discharge, any Third Party Claim without the Indemnifying Party’s prior written consent and (iii) agree to any settlement, compromise or discharge of a Third Party Claim which the Indemnifying Party may recommend and which by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such Third Party Claim and releases the Indemnitee completely in connection with such Third Party Claim. In the event the Indemnifying Party shall assume the defense of any Third Party Claim, the Indemnitee shall be entitled to participate in (but not control) such defense with its own counsel at its own expense. If the Indemnifying Party does not assume the defense of any such Third Party Claim, the Indemnitee may defend the same in such manner as it may deem appropriate, including settling such claim or litigation after giving notice to the Indemnifying Party of the terms of the proposed settlement and the Indemnifying Party will promptly reimburse the Indemnitee upon written request. Anything contained in this Agreement to the contrary notwithstanding, no Indemnifying Party shall be entitled to assume the defense of any Third Party Claim

if such Third Party Claim seeks an order, injunction or other equitable relief or relief for other than monetary damages against the Indemnitee which, if successful, would materially adversely affect the business of the Indemnitee.

Section 10.3 Several Liability of Sellers. The liabilities and obligations of Sellers under this Agreement, the Purchase Price Agreement, the Bill of Sale, the Assignment and Assumption Agreement and the Deeds shall be several as to each Seller, and in no event shall a Seller be liable to Buyer for more than its proportionate Ownership Interest in connection with an Indemnifiable Loss that is attributable to more than one Seller in accordance with Section 10.1(a). In the event an Indemnifiable Loss is attributable to less than all Sellers, each liable Seller shall be responsible for its pro rata portion of such loss, based on the percentage each such Seller's Ownership Interest bears to the aggregate Ownership Interests of all liable Sellers.

## ARTICLE XI

### Termination

#### Section 11.1 Termination.

(a) This Agreement may be terminated at any time prior to the Closing by an instrument in writing signed on behalf of each of the Parties.

(b) Except as provided for in Section 8.1(a), this Agreement may be terminated by Sellers or Buyer if the Closing shall not have occurred on or before the date that is 12 months from the date of this Agreement (the "Termination Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 11.1(b) shall not be available to any Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before such date.

(c) This Agreement may be terminated by any Party if any Restraint having any of the effects set forth in Section 8.1(b) shall be in effect and shall have become final and nonappealable; provided, however, that the Party seeking to terminate this Agreement pursuant to this Section 11.1(c) shall have used its reasonable best efforts to prevent the entry of and to remove such Restraint.

(d) This Agreement may be terminated by Sellers, on the one hand, or Buyer, on the other hand, upon written notice to the other Parties, in accordance with the provisions of Section 7.12(b), provided that the Party seeking to so terminate shall have complied with its obligations under Section 7.12.

## ARTICLE XII

### Miscellaneous Provisions

Section 12.1 Expenses. Except to the extent specifically provided herein or by agreement among Sellers with respect to the costs and expenses of Sellers, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such costs and expenses, whether or not the transactions contemplated hereby are consummated.

Section 12.2 Amendment and Modification; Extension; Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing signed on behalf of each of the Parties. The Parties may (i) extend the time for the performance of any of the obligations or other acts of a Party, (ii) waive any inaccuracies in the representations and warranties of a Party contained in this Agreement or (iii) waive compliance by a Party with any of the agreements or conditions contained in this Agreement. Any agreement on the part of the Parties to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of all Parties. The failure of a Party to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

Section 12.3 No Survival of Representations or Warranties; Survival of Covenants. Each and every representation and warranty contained in this Agreement, other than the representations and warranties contained in Sections 5.1, 5.2, 5.3 and 5.15 and Sections 6.1, 6.2, 6.3 and 6.5 (which representations and warranties shall survive for 18 months from the Closing Date), shall expire with, and be terminated and extinguished by the Closing and no such representation or warranty shall survive the Closing Date. From and after the Closing Date, none of Sellers, Buyer or any officer, director, trustee or Affiliate of any of them shall have any liability whatsoever with respect to any such representation or warranty. The expiration of the representations and warranties contained in Sections 5.1, 5.2, 5.3 and 5.15 and Sections 6.1, 6.2, 6.3 and 6.5 shall not affect the Parties' obligations under Article X if the Indemnitee provided the Indemnifying Party with proper notice of the claim or event for which indemnification is sought prior to such expiration. All agreements and covenants of the Parties herein shall survive the Closing.

Section 12.4 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

if to Central Hudson, to:

Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, NY 12601-4879  
Telecopier: (914) 486-5782  
Attention: Ronald P. Brand, Senior Vice President

with a copy to:

Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, DC 20037  
Telecopier: (202) 887-0689  
Attention: Kenneth M. Simon, Esq.

If to Con Edison to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, NY 10003  
Telecopier: (212) 677-0601  
Attention: General Counsel

with a copy to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, New York 10003  
Telecopier: (212) 529-7182  
Attention: Vice President, Energy Management

If to Niagara Mohawk, to:

Niagara Mohawk Power Corporation  
300 Erie Boulevard West  
Syracuse, NY 13202  
Telecopier: (315) 428-6407  
Attention: Gregory Barone, Esq.

with a copy to:

Sullivan & Cromwell  
1701 Pennsylvania Avenue, N.W.

Washington, DC 20006  
Telecopier: (202) 293-6330  
Attention: Janet T. Geldzahler, Esq.

if to Buyer, to:

Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, TX 77002  
Telecopier: (713) 767-8513  
Attention: Edward P. Hermann  
Senior Director – Project Acquisitions

with a copy to:

Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, TX 77002  
Telecopier: (713) 767-8510  
Attention: Tim Beverick, Esq.

Section 12.5 Assignment; No Third Party Beneficiaries.

(a) This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any Party, including by operation of law, without the prior written consent of the other Parties, except (i) in the case of any Seller (A) to an Affiliate of such Seller or a third party in connection with the transfer of any of the Retained Assets to such Affiliate or third party, or (B) to a lending institution or trustee in connection with a pledge or granting of a security interest in all or any part of any of the Retained Assets or this Agreement and (ii) in the case of Buyer (A) prior to the Closing, to one or more wholly-owned subsidiaries of Buyer or lending institutions or other institutional investors acting as lessor to Buyer or one or more wholly-owned subsidiaries of Buyer, so long as Guarantor shall have duly executed and delivered a guarantee of such assigned obligations in the form of the Guarantee Agreement and such assignment is for all of Buyer's rights, interests and obligations hereunder associated with the asset(s) subject to any such assignment, (B) to an Affiliate of Buyer in connection with the transfer of the Auctioned Assets to such Affiliate and (C) to a lending institution or trustee in connection with a pledge or granting of a security interest in the Auctioned Assets and this Agreement; provided, however, that no assignment or transfer of rights or obligations by any Party shall relieve it from the full liabilities

and the full financial responsibility, as provided for under this Agreement, unless and until the transferee or assignee shall agree in writing to assume such obligations and duties and the other Party has consented in writing to such assumption.

(b) Nothing in this Agreement is intended to confer upon any other person except the Parties any rights or remedies hereunder or shall create any third party beneficiary rights in any person, including, with respect to continued or resumed employment, any employee or former employee of any Seller (including any beneficiary or dependent thereof). No provision of this Agreement shall create any rights in any such persons in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement except as expressly provided for thereunder.

Section 12.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

Section 12.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 12.8 Interpretation. When a reference is made in this Agreement to an Article, Section, Schedule or Exhibit, such reference shall be to an Article or Section of, or Schedule or Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” or equivalent words. The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in the Ancillary Agreements and any certificate or other document made or delivered pursuant hereto or thereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument, statute, regulation, rule or order defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument, statute, regulation, rule or order as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes, regulations, rules or orders) by succession of comparable successor statutes, regulations, rules or orders and references to all attachments thereto and instruments incorporated therein.

References to a person are also to its permitted successors and assigns. Each Party acknowledges that it has been represented by counsel in connection with the review and execution of this Agreement and, accordingly, there shall be no presumption that this Agreement or any provision hereof be construed against the Party that drafted this Agreement.

#### Section 12.9 Jurisdiction and Enforcement.

(a) Each of the Parties irrevocably submits to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the Parties agrees to commence any action, suit or proceeding relating hereto in the United States District Court for the Southern District of New York or, if such suit, action or proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, Dutchess County. Each of the Parties further agrees that service of process, summons, notice or document by hand delivery or U.S. registered mail at the address specified for such Party in Section 12.4 (or such other address specified by such Party from time to time pursuant to Section 12.4) shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement or any Ancillary Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or any Ancillary Agreement and to enforce specifically the terms and provision of this Agreement or any Ancillary Agreement, this being in addition to any other remedy to which they are entitled at law or in equity.

Section 12.10 Entire Agreement. This Agreement and the Ancillary Agreements including the Appendices, Exhibits, Schedules, documents, certificates and instruments referred to herein or therein and other contracts, agreements and instruments contemplated hereby or thereby, embody the entire agreement and

understanding of the Sellers, on the one hand, and Buyer, on the other, in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein or therein. This Agreement and the Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Buyer, on the other, with respect to the transactions contemplated by this Agreement. The Parties acknowledge and agree that the Confidentiality Agreement dated April 3, 2000 entered into by and between Central Hudson and Buyer remains in full force and effect.

Section 12.11 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

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IN WITNESS WHEREOF, the Parties have caused this Asset Purchase and Sale Agreement to be signed by their respective duly authorized officers as of the date first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION

By: Ronald P. Brand ~~RB~~ *RB*  
Name:  
Title:

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER  
CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY POWER CORP.

By: E. P. Herman *EPH*  
Name:  
Title:

IN WITNESS WHEREOF, the Parties have caused this Asset Purchase and Sale Agreement to be signed by their respective duly authorized officers as of the date first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC.

By: Joan S. Freilich  
Name: Joan S. Freilich  
Title: Exec. V. P. and CFO

NIAGARA MOHAWK POWER  
CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY POWER CORP.

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the Parties have caused this Asset Purchase and Sale Agreement to be signed by their respective duly authorized officers as of the date first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER  
CORPORATION

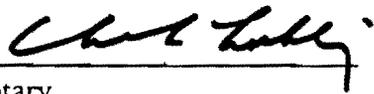
By: Thomas H. Baron  
Name: Thomas H. Baron  
Title: Senior V.P.-Field Operations

DYNEGY POWER CORP.

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

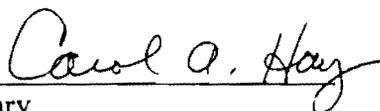
On this 7th day of August 2000, before me, the undersigned, personally appeared Joan S. Freilich, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(~~s~~) whose name(~~s~~) is (~~are~~) subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/~~they~~ executed the same in ~~his~~/~~her~~/~~their~~ capacity(~~ies~~), and that by ~~his~~/~~her~~/~~their~~ signature(~~s~~) on the instrument, the individual(~~s~~), or the person on behalf of which the individual(~~s~~) acted, executed the instrument.

  
\_\_\_\_\_  
Notary

CHANOCH LUBLING  
NOTARY PUBLIC, State of New York  
No. 24-4748879  
Qualified in Kings County  
Commission Expires October 31, 2000

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

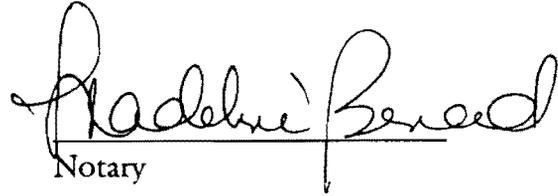
On this 4<sup>th</sup> day of August 2000, before me, the undersigned, personally appeared Thomas H. Baron, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary

CAROL A. HAY  
Notary Public, State of New York  
No. 01HA5038055  
Qualified in Onondaga County  
Commission Expires January 17, 2006

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

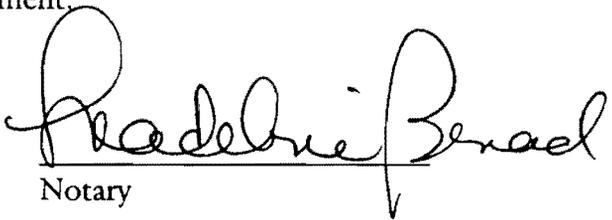
On this 4<sup>th</sup> day of August 2000, before me, the undersigned, personally appeared EDWARD P. Hermann, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
Notary

MADELINE BERNARD  
Notary Public, State of New York  
No. 01BE5011980  
Qualified in Bronx  
Commission Expires: 6/15/01

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

On this 4<sup>th</sup> day of August 2000, before me, the undersigned, personally appeared Ronald P. Brard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
Notary

MADELINE BERNARD  
Notary Public, State of New York  
No. 01BE5011980  
Qualified in Bronx  
Commission Expires: 6/15/01

APPENDIX A  
DEFINITIONS

As used in this Agreement, the following terms have the meanings set forth below:

“Accountants” shall have the meaning set forth in Section 3.2(b).

“Adjustment Period” shall have the meaning set forth in Section 9.1.

“Adjustments” shall have the meaning set forth in Section 9.1.

“Affiliate” shall have the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended.

“Aggregate Accounts” shall have the meaning set forth in Section 9.1.

“Agreement” shall have the meaning set forth in the Preamble.

“Ancillary Agreements” means the Purchase Price Agreement, the Assignment and Assumption Agreement, the Bill of Sale, the Guarantee Agreement, the Interconnection Agreement, the Easement Agreement, the Deed and any other agreement to which Buyer and any Seller are party and which is expressly identified by its terms as an Ancillary Agreement hereunder.

“Assignment and Assumption Agreement” means that Assignment and Assumption Agreement, to be entered into at the Closing by Buyer and Sellers, in substantially the form as Exhibit B hereto.

“Assumed Consent Order Obligations” shall have the meaning set forth in Section 2.3(a)(iv).

“Assumed Obligations” shall have the meaning set forth in Section 2.3(a).

“Auctioned Assets” shall have the meaning set forth in Section 2.2(a).

“Bank” shall have the meaning set forth in Section 9.1.

“Benefit Plans” shall have the meaning set forth in Section 5.12.

“Bill of Sale” means that certain Bill of Sale, to be entered into at the Closing by Buyer and Sellers, in substantially the form as Exhibit C hereto.

“Bond Counsel” shall have the meaning set forth in Section 7.13.

“Bonus” shall have the meaning set forth in Section 9.1.

“Business Day” means any day other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in New York City, New York are authorized or required by law or other action of a Governmental Authority to close.

“Buyer” shall have the meaning set forth in the Preamble.

“Buyer Benefit Plans” shall have the meaning set forth in Section 9.1.

“Buyer Facilities” means the facilities owned or operated by Buyer which are located on that portion of the Seller Real Estate subject to the easement and right-of-way granted to Buyer by Central Hudson under the Easement Agreement.

“Buyer Indemnitees” shall have the meaning set forth in Section 10.1(a).

“Buyer Material Adverse Effect” means any change or event which would have a material adverse effect on the ability of Buyer to consummate the transactions contemplated by, and discharge its obligations under, the Agreement and the Ancillary Agreements.

“Buyer Real Estate” shall have the meaning set forth in Section 2.2(a)(i).

“Buyer Required Regulatory Approvals” shall have the meaning set forth in Section 6.3(b).

“Buyer’s Defined Benefit Plan” shall have the meaning set forth in Section 9.1.

“Buyer’s Defined Contribution Plan” shall have the meaning set forth in Section 9.1.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1984.

“Capital Spare Parts” means the major equipment items that are listed on Schedule 2.2(a)(ii).

“Central Hudson” shall have the meaning set forth in the Preamble.

“Central Hudson Interest” shall have the meaning set forth in the Recitals.

“Closing” shall have the meaning set forth in Section 4.1.

“Closing Date” shall have the meaning set forth in Section 4.1.

“Co-Tenancy” shall have the meaning set forth in Section 1.3.

“Code” means the Internal Revenue Code of 1986, as amended.

“Communications Equipment” means the equipment, systems, switches and lines used in connection with voice, data and other communications activities.

“Con Edison” shall have the meaning set forth in the Preamble.

“Con Edison Interest” shall have the meaning set forth in the Recitals.

“Confidential Memorandum” means the Confidential Offering Memorandum, prepared on behalf of Sellers, describing, among other things, the Generating Facilities, and the materials delivered with such Confidential Offering Memorandum, as such Confidential Offering Memorandum and such materials may have been amended or supplemented.

“Contracts” shall have the meaning set forth in Section 2.2(a)(iv).

“Danskammer Asset Sale Agreement” means the Asset Purchase and Sale Agreement for the sale of the Danskammer Generating Station, dated the date hereof, by and between Central Hudson and Buyer.

“Deed” shall have the meaning set forth in Section 8.2(d)(i).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” shall have the meaning set forth in Section 5.12.

“Easement Agreement” mean the Easement Agreement, to be entered into at the Closing by Buyer and Central Hudson, in substantially the form of Exhibit D hereto.

“Emission Reduction Credits” means credits, in units that are established by the environmental regulatory agency with jurisdiction over the source or facility that has obtained the credits, resulting from a reduction in the emissions of air pollutants from an emitting source or facility (including, and to the extent allowable under applicable law, reductions from retirements, control of emissions beyond that required by applicable law and fuel switching), that: (i) have been certified by NYSDEC, as complying with the law and regulations of the State of New York governing the establishment of such credits; or (ii) have been certified by any other applicable regulatory authority as complying with the law and regulations governing the establishment of such credits. Emission Reduction Credits include certified air emissions reductions, as described above, regardless of whether the regulatory agency certifying such reductions designates such certified air emissions reductions by a name other than “emissions reduction credits”, but do not include SO<sub>2</sub> Allowances or NO<sub>x</sub> Allowances.

“Encumbrances” means any mortgages, pledges, liens, security interests, conditional and installment sale agreements, activity and use limitations, exceptions, conservation easements, rights-of-way, easements, licenses, deed covenants, deed restrictions, encumbrances and charges of any kind.

“Environmental Laws” means all former, current and future Federal, state, local and foreign laws (including common law), treaties, regulations, rules, ordinances, codes, decrees, judgments, directives or orders (including consent orders) and Environmental Permits, in each case, relating to pollution or protection of the environment or natural resources, including laws relating to Releases or threatened Releases, or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, arrangement for disposal, transport, recycling or handling, of Hazardous Substances.

“Environmental Liability” means all liabilities, obligations, damages, losses, claims, actions, suits, judgments, orders, fines, penalties, fees, expenses and costs, including: (i) remediation costs, engineering costs, environmental consultant

fees, laboratory fees, permitting fees, investigation costs and defense costs and attorneys' fees and expenses; (ii) any claims, demands and causes of action relating to or resulting from any personal or bodily injury (including but not limited to wrongful death, pain, suffering and loss of consortium), property damage (real or personal) (including but not limited to nuisance, trespass and diminution of value) or natural resource damage; and (iii) any penalties, fines or costs of any kind associated in any way with the failure to comply with any Environmental Law.

“Environmental Permits” means the permits, licenses, consents, approvals and other governmental authorizations with respect to Environmental Laws relating primarily to the power generation operations of the Generating Facilities.

“Escrow Agent” shall have the meaning set forth in Section 9.1.

“Escrow Fund” shall have the meaning set forth in Section 9.1.

“Estimated Inventory Adjustment Amount” shall have the meaning set forth in Section 4.2(b).

“Exempted Facilities” shall have the meaning set forth in Section 7.13(a).

“FERC” means the Federal Energy Regulatory Commission.

“Filed Seller SEC Documents” means the reports, schedules, forms, statements and other documents filed after December 31, 1997 by any Seller with the Securities and Exchange Commission, and publicly available prior to the date of the Agreement.

“GAAP” shall have the meaning set forth in Section 1.2.

“Generating Facilities” means the Roseton Station and related facilities, as more fully described on Schedule 2.2(a)(iii) and Schedule 5.5(a) hereto.

“Good Utility Practice” means any of the applicable practices, methods and acts:

(i) required by FERC, NPCC, NERC, NYSRC, the NYISO, or the successor of any of them, whether or not the Party whose conduct is at issue is a member thereof;

(ii) required by applicable law or regulation;

(iii) required by the policies and standards of Central Hudson relating to emergency operations;

(iv) otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period;

which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable law, regulation, good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Governmental Authority” means any court, administrative or regulatory agency or commission or other governmental entity or instrumentality, domestic, foreign or supranational or any department thereof.

“Greenhouse Gas Emission Reduction Credits” mean with respect to a Federal or state law or regulation that imposes, or may at any time after the Closing Date impose, a quantitative limitation on greenhouse gas emissions, or taxes such emissions, an authorization to emit a unit of greenhouse gases or a credit against such quantitative limit or taxes with respect to recognized reductions in greenhouse gases, where greenhouse gases include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and/or sulfur hexafluoride.

“Guarantee Agreement” means the Guarantee Agreement to be entered into by Guarantor and Sellers, substantially in the form of Exhibit E hereto.

“Guarantor” means the “Guarantor” under the Guarantee Agreement.

“Hazardous Substances” means (i) any petrochemical or petroleum products, crude oil or any fraction thereof, ash, radioactive materials, radon gas, asbestos in any form or concentration, urea formaldehyde foam insulation or polychlorinated biphenyls in any concentration, (ii) any chemicals, materials, substances or wastes defined as, included in, or that are alleged or determined by any person or Governmental Authority to be included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “PCBs,” “contaminants,” “asbestos” or “pollutants” or similar term in any

Environmental Law, (iii) any other chemical, material, substance or waste which is prohibited, limited or regulated by any Environmental Law, or (iv) any noise, electromagnetic radiation, and any other substance or energy which causes or is alleged to cause any Environmental Liability.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“IBEW” shall have the meaning set forth in Section 9.1.

“IBEW Collective Bargaining Agreement” shall have the meaning set forth in Section 9.1.

“IRS” means the United States Internal Revenue Service.

“Income Tax” means any Federal, state, local or foreign Tax or surtax (i) based upon, measured by or calculated with respect to income, profits or receipts (including the New York State Gross Receipts Tax (including the excess dividends tax), any and all municipal gross receipt Taxes, capital gains Taxes and minimum Taxes) or (ii) based upon, measured by or calculated with respect to multiple bases (including corporate franchise Taxes) if one or more of the bases on which such Tax may be based, measured by or calculated with respect to, is described in clause (i), in each case, together with any interest, penalties, or additions to such Tax.

“Indemnifiable Loss” shall have the meaning set forth in Section 10.1(a).

“Indemnifying Party” shall have the meaning set forth in Section 10.1(c).

“Indemnitee” shall have the meaning set forth in Section 10.1(c).

“Interchange Meters” means all MWh and MVarh meters, pulse isolation relays, pulse conversion relays, transducers required by Central Hudson or the NYISO for billing or other purposes, and associated totalizing equipment, appurtenances and compensation, required to measure the transfer of energy across the Point of Interconnection.

“Interconnection Agreement” means the Interconnection Agreement, to be entered into at the Closing by Central Hudson and Buyer, substantially in the form of Exhibit F hereto.

“Interconnection Facilities” means those items of switching equipment, switchyard controls, protective relays and related facilities of Central Hudson that are used by Central Hudson in connection with the provision of Interconnection Services.

“Interconnection Services” shall have the meaning set forth in the Interconnection Agreement.

“Inventory Adjustment Amount” shall have the meaning set forth in Section 3.2(a).

“Inventory Adjustment Date” shall have the meaning set forth in Section 3.2(c).

“Inventory Adjustment Statement” shall have the meaning set forth in Section 3.2(a).

“Inventory Survey” shall have the meaning set forth in Section 3.2(a).

“Knowledge” means the actual knowledge (without independent inquiry) of the senior officers of the specified person, which senior officers are charged with the responsibility for the particular function as of the date of the Agreement, or with respect to any certificate delivered pursuant to the Agreement, the date of delivery of such certificate.

“Loans” shall have the meaning set forth in Section 9.1.

“Management Employee” shall have the meaning set forth in Section 9.1.

“Management Package” shall have the meaning set forth in Section 9.1.

“Material Adverse Effect” means any change, or effect on the Auctioned Assets, that, is materially adverse to the business, operations or condition (financial or otherwise), of the Auctioned Assets, taken as a whole, other than (i) any change or effect resulting from changes in the international, national, regional or local wholesale or retail energy, capacity or ancillary services electric power markets, (ii) any change or effect resulting from changes in the international, national, regional or local markets for fuel, (iii) any change or effect resulting from changes in the national, regional or local electric transmission systems, (iv) any change or effect resulting from any bid cap, price limitation, market power mitigation measure, or

other regulatory or legislative measure in respect of transmission services, rights or access or the wholesale or retail energy, capacity or ancillary services markets adopted or approved (or failed to be adopted or approved) by FERC, the PSC or any other Governmental Authority or proposed (or failed to be adopted or proposed) by any person, (v) any change or effect resulting from any regulation, rule, procedure or order adopted or proposed by or with respect to, or related to, the NYISO, (vi) any change or effect resulting from any action or measure taken or adopted, or proposed to be taken or adopted, by any local, state, regional, national or international reliability organization, (vii) any change resulting from the failure of any employees not to be employed by Buyer following the Closing, (viii) any changes in law, or any judgments, orders or decrees that apply generally to similarly situated persons, and (ix) any materially adverse change in or effect on the Auctioned Assets which is cured by Sellers before the Closing Date (which cure for purposes hereof shall include any reduction by Sellers in the Purchase Price substantially equal to the reduction in value of the Auctioned Assets resulting from such change or effect).

“Material Contracts” shall have the meaning set forth in Section 5.7(a).

“NERC” means the North American Electric Reliability Council and any successor entity thereto.

“NPCC” means the Northeast Power Coordinating Council or any successor thereto.

“NO<sub>x</sub> Allowances” means nitrogen oxide allowances that have been allocated to Sellers for the Roseton Station by NYSDEC under the State of New York’s NO<sub>x</sub> Budget Program authorizing the emission of one ton of nitrogen oxide during the specified control period.

“NYISO” means (i) the New York Independent System Operator and (ii) if the New York Independent System Operator is no longer the independent system operator for the bulk power transmission system, then any successor thereto performing similar functions in the Mid-Hudson Region of the State of New York, including any regional transmission organization, independent system operator, transco, and any other independent system administrator that possesses operational control over the bulk power transmission system.

“NYSDEC” means the New York State Department of Environmental Conservation and any successor thereto.

“NYSRC” means the New York State Reliability Council and any successor thereto.

“Niagara Mohawk” shall have the meaning set forth in the Preamble.

“Niagara Mohawk Interest” shall have the meaning set forth in the Recitals.

“Off-Site” means any location at which the Sellers prior to the Closing Date disposed or arranged for the disposal of Hazardous Substances, provided that “Off-Site” shall not include the Auctioned Assets or any location to or under which Hazardous Substances at any time disposed of, present or Released on, at, under or from the Auctioned Assets have migrated or may migrate in the future.

“Operating Records” shall have the meaning set forth in Section 2.2(a)(viii).

“Ownership Interest” shall have the meaning set forth in the Recitals.

“PBGC” shall have the meaning set forth in Section 5.12.

“PBGC Rates” shall have the meaning set forth in Section 9.1.

“PSC” means the New York State Public Service Commission.

“PUHCA” means the Public Utility Holding Company Act of 1935.

“Party” shall have the meaning set forth in the Preamble.

“Permits” means the permits, licenses, consents, approvals and other governmental authorizations (other than with respect to Environmental Laws) relating primarily to the power generation operations of the Generating Facilities.

“Permitted Capital Expenditures” shall have the meaning set forth in Section 7.1(b)(ix).

“Permitted Capital Expenditures Amount” shall have the meaning set forth in Section 4.2(a).

“Permitted Capital Expenditures Report” shall have the meaning set forth in Section 4.2(b).

“Permitted Exceptions” means (i) all exceptions, restrictions, easements, charges, rights-of-way and monetary and nonmonetary encumbrances which are set forth in any Permits or Environmental Permits, (ii) statutory liens for current taxes or assessments not yet due or delinquent or the validity of which is being contested in good faith by appropriate proceedings, (iii) mechanics’, carriers’, workers’, repairers’ and other similar liens arising or incurred in the ordinary course of business relating to obligations as to which there is no default on the part of Sellers or the validity of which are being contested in good faith by appropriate proceedings, (iv) purchase money security interests in respect of personal property arising or incurred in the ordinary course of business, (v) zoning, entitlement, conservation restriction and other land use and environmental regulations by Governmental Authorities, (vi) the title matters listed on Schedule 5.5(c) to the Agreement (other than Encumbrances securing Sellers’ indebtedness for borrowed money other than those covered by clause (xi) below), (vii) all matters disclosed on that map listed on Schedule 5.5(b) to the Agreement and any other facts that would be disclosed by an accurate survey and physical inspection of the Buyer Real Estate, (viii) Encumbrances, easements or other restrictions created pursuant to or contemplated by any Ancillary Agreement, (ix) Encumbrances of record (other than Encumbrances securing Sellers’ indebtedness for borrowed money other than those covered by clause (xi) below) or Encumbrances otherwise disclosed to Buyer in the Agreement or the Ancillary Agreements with respect thereto, (x) restrictions and regulations imposed by the NYISO, any Governmental Authority or any local, state, regional, national or international reliability council, (xi) any Encumbrances that are released or otherwise terminated at or prior to Closing, and (xii) such other Encumbrances or imperfections in or failure of title which would not, individually or in the aggregate, reasonably be expected to materially impair the continued use and operation of the Auctioned Assets as currently conducted and do not create a Material Adverse Effect.

“person” means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization or Governmental Authority.

“Point of Interconnection” shall have the meaning set forth in the Interconnection Agreement.

“Prorated Items” shall have the meaning set forth in Section 2.3(a)(viii).

“Protective Relaying System” means the system relating to the Generating Facilities comprised of components collectively used to detect defective power system elements or other conditions of an abnormal nature, initiate appropriate control circuit action in response thereto and isolate the appropriate system elements in order to minimize damage to equipment and interruption to service.

“Purchase Price” shall have the meaning set forth in the Purchase Price Agreement.

“Purchase Price Agreement” means the Purchase Price Agreement entered into on the date hereof by Sellers and Buyer, substantially in the form of Exhibit G hereto.

“Regulatory Material Adverse Effect” shall occur where the Required Regulatory Approval contains terms and conditions that are materially adverse to any Seller taken as a whole.

“Release” means any release, spill, emission, emanation, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture.

“Replacement Welfare Plans” shall have the meaning set forth in Section 9.1.

“Required Regulatory Approvals” means with respect to a Party, any consent or approval of, filing with, or notice to, any Governmental Authority that is necessary for the execution and delivery of the Agreement and the Ancillary Agreements by such Party or the consummation thereby of the transactions contemplated hereby.

“Restraints” shall have the meaning set forth in Section 8.1(b).

“Retained Asbestos-Related Claims” shall have the meaning set forth in Section 2.3(b)(iii).

“Retained Assets” shall have the meaning set forth in Section 2.2(b).

“Retained Liabilities” shall have the meaning set forth in Section 2.3(b).

“Retirement Income Plan” shall have the meaning set forth in Section 9.1.

“Revenue Bonds” shall have the meaning set forth in Section 7.13.

“Roseton Station” means the Roseton Generating Station, consisting of two steam generating units and associated generating facilities, located in Newburgh, New York.

“Roseton Switchyard” means the electric switchyard located at the Roseton Station.

“Seller” shall have the meaning set forth in the Preamble.

“Seller Consent Orders” shall have the meaning set forth in Section 2.3(a)(iv).

“Seller Facilities” means those facilities owned or operated by Central Hudson which are located on that portion of the Buyer Real Estate subject to the easement and right-of-way granted to Central Hudson by Buyer under the Easement Agreement.

“Seller Indemnitees” shall have the meaning set forth in Section 10.1(b).

“Seller Real Estate” means all real property and leaseholds or other interests in real property of any Seller or Sellers (including the premises on which the Roseton Switchyard is located), other than Buyer Real Estate.

“Seller Required Regulatory Approvals” shall have the meaning set forth in Section 5.3(b).

“SO<sub>2</sub> Allowances” mean sulfur dioxide allowances that have been allocated to Sellers for the Generating Facilities by the Administrator of the United States Environmental Protection Agency under Title IV of the Clean Air Act authorizing the emission of one ton of sulfur dioxide per allowance during or after a specified calendar year.

“Tax Benefit” means, with respect to any Indemnifiable Loss for any person, the positive excess, if any, of the Tax liability of such person without regard to such Indemnifiable Loss over the Tax liability of such person taking into account such Indemnifiable Loss, with all other circumstances remaining unchanged.

“Tax Cost” means, with respect to any indemnity payment for any person, the positive excess, if any, of the Tax liability of such person taking such indemnity payment into account over the Tax liability of such person without regard to such payment, with all other circumstances remaining unchanged.

“Tax Return” means any return, report, information return or other document (including any related or supporting information) required to be supplied to any authority with respect to Taxes, including amendments thereto.

“Taxes” means all taxes, surtaxes, charges, fees, levies, penalties or other assessments imposed by any United States Federal, state or local or foreign taxing authority, including Income Taxes, excise, property, sales, transfer, franchise, special franchise, payroll, recording, withholding, social security or other taxes, or any liability for taxes incurred by reason of joining in the filing of any consolidated, combined or unitary Tax Returns, in each case including any interest, penalties or additions attributable thereto; provided, however, that “Taxes” shall not include sewer rents or charges for water.

“Termination Date” shall have the meaning set forth in Section 11.1(b).

“Third Party Claim” shall have the meaning set forth in Section 10.2(a).

“Transferable Permits” shall have the meaning set forth in Section 2.2(a)(v).

“Transferred NO<sub>x</sub> Allowances” shall have the meaning set forth in Section 2.2(a)(vii).

“Transferred SO<sub>2</sub> Allowances” shall have the meaning set forth in Section 2.2(a)(vi).

“Transferred Employee Records” shall have the meaning set forth in Section 2.2(a)(viii).

“Transferred Employees” shall have the meaning set forth in Section 9.1.

“Transferred Management Employee” shall have the meaning set forth in Section 9.1.

“Transferred Union Employee” shall have the meaning set forth in Section 9.1.

“Transmission System” shall have the meaning set forth in Section 2.2(b)(i).

“WARN Act” means the Worker Adjustment Retraining and Notification Act of 1988, as amended.

ROSETON GENERATING STATION

SCHEDULES

TO

ASSET PURCHASE AND SALE AGREEMENT

BY AND AMONG

CENTRAL HUDSON GAS & ELECTRIC CORPORATION,  
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.,

NIAGARA MOHAWK POWER CORPORATION

AND

DYNEGY POWER CORP.

The Schedules are qualified in their entirety by reference to specific provisions of the Agreement and are not intended to constitute, and shall not be construed as constituting, representations or warranties of the Sellers. Inclusion of information herein shall not be construed as an admission that such information is material to the business, operations or condition (financial or otherwise) of the Auctioned Assets, taken as a whole.

Matters reflected on these Schedules are not necessarily limited to matters required by the Agreement to be reflected in the Schedules. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

Headings have been inserted in the Schedules for convenience of reference only and shall to no extent have the effect of amending or changing the express provisions of the Sections set forth in the Agreement.

SCHEDULE 2.2(a)(i)

Buyer Real Estate

See Schedule 5.5(a).

SCHEDULE 2.2(a)(ii)

Capital Spare Parts

<u>Description</u>	<u>Quantity</u>
Rotating Assembly, Injection Water Booster Pump	1
Pump, Boiler Circulating Pump	1
Shaft, Boiler Circulating Pump	2
Impeller, Boiler Circulating Pump	2
Motor, Boiler Circulating Pump	1
Rotating Assembly, Condensate Pump	1
Pump Assembly, Primary Oil Pump	1
Rotating Assembly, Primary Oil Pump	1
Rotating Assembly, Boiler Feed Pump	1
Shaft, Boiler Feed Pump	1
Pump Assembly, Boiler Feed Pump Hydraulic Tool	1
Coupling Assembly, Boiler Feed Pump	1
Shaft, Upper, River Circulating Water Pump	1
Shaft, Lower, River Circulating Water Pump	1
Coupling, River Circulating Water Pump	1
Motor, Forced Draft Fan	1
Full Set Stator Coils, Induced Draft Fan Motor	1
Rotating Assembly, Electric and Diesel Fire Pump	1
Valve, Outer Control Valve Main Turbine	1
Isophase Duct, for Spare MSU Transformer	1
Isophase Duct, for Unit 2 MSU Transformer	1
Screen, Traveling Water	1
Transformer, Start Up (located in Danskammer substation)	1

**SCHEDULE 2.2(a)(iii)(A)**

**Tangible Personal Property on Buyer Real Estate**

**Boilers**

	<b>UNIT 1</b>	<b>UNIT 2</b>
<b>Boiler Manufacturer</b>	Combustion Engineering	Combustion Engineering
<b>Boiler Type</b>	Tangentially Fired	Tangentially Fired
<b>Furnace Type</b>	Membrane welded walls	Membrane welded walls
	Width = 56'- 6" Depth = 44'- 4 1/2"	Width = 56' - 6" Depth = 44'- 4 1/2"
<b>Number Type of Oil Guns</b>	20 Steam Atomized	20 Steam Atomized
<b>Number of Gas Spuds</b>	40	40
<b>Number of Burner Elev</b>	5	5
<b>Total Burners</b>	20	20
<b>Steam Flows (lbs/hr)</b>	Control Point - MCR	Control Point - MCR
<b>Primary</b>	2,820,000 - 4,200,000	2,820,000 - 4,200,000
<b>Reheat</b>	2,570,000 - 3,780,000	2,570,000 - 3,780,000
<b>Pressure (psi)</b>	2600	2600
<b>Superheater Type</b>	Multistage Horizontal	Multistage Horizontal
<b>Reheater Type</b>	Multistage Horizontal	Multistage Horizontal
<b>Economizer Type</b>	Spiral Fin. - 2 fins/Inch 180W X 20H	Spiral Fin. - 2 fins/Inch 180W X 20H
<b>Air Heater Type</b>	28.5 VI 54 - Ljungstrom	28.5 VI 54 - Ljungstrom
<b>Circulation</b>	Controlled	Controlled
<b>No. of Boiler Circulators</b>	4	4
<b>Main Steam Temp (OF)</b>	1005	1005
<b>Reheat Steam Temp (OF)</b>	1005	1005
<b>Boiler Blowdown Method</b>	Continuous	Continuous

**Turbines**

	<b>Unit 1</b>	<b>Unit 2</b>
<b>Turbine Manufacturer</b>	General Electric	General Electric
<b>Turbine Type</b>	Tandem Compound, Four Flow G-2	Tandem Compound, Four Flow G-2
<b>Throttle (press/temp)</b>	2400/1000	2400/1000
<b>Number of Stages HP/IP/LP</b>	6/5/7	6/5/7
<b>Number of Extraction Pts. HP/IP/LP</b>	1/2/4	1/2/4
<b>Turbine Serial Number</b>	170 x 490	170 x 486
<b>No. of Turbine Control Valves</b>	4	4

### Generators

	Unit 1	Unit 2
<b>Generators</b>	4A4W	4A4W
<b>Manufacturer</b>	G. E.	G. E.
<b>Rating (KVA)</b>	690,000	690,000
<b>Serial Number</b>	180X490	180X496

### Main Transformers

	UNIT 1	UNIT 2
<b>Manufacturer</b>	Westinghouse	Cooper Power Systems
<b>Rating (KVA) FOA</b>	560,000 / 627,000 (55/65C)	560,000 / 627,000 (55/65C)

### Station Service Transformers

	UNIT 1	UNIT 2
<b>Manufacturer</b>	Westinghouse	Westinghouse
<b>Rating (KVA) OA/FOA/FOA</b>	23,000 / 30,666 / 38,333	23,000 / 30,666 / 38,333

### Control Systems

<b>CONTROL EQUIPMENT</b>	UNIT 1	UNIT 2
<b>Combustion</b>	Max 1 L&N	Max 1 L&N
<b>Burner Management</b>	Westinghouse WDPF	Westinghouse WDPF
<b>Turbine Control Systems</b>	General Electric MHC	General Electric MHC
<b>Data Acquisition</b>	DEC Vax 4000	DEC Vax 4000

## Balance of Plant

1. Generation-Related Structures on Buyer Real Estate:
  - Main Building housing Units 1-2, administrative offices, chemistry laboratory, shops, locker rooms, and lunchroom.
  - Waste Water treatment building.
  - Three warehouses/outbuildings.
  - Fuel oil pump houses.
  - One guard house.
  - Docking and Fuel oil unloading facilities.
  - Administration Building.
  - Cooling Water Intake and Discharge System.
2. Fuel Oil Tanks:
  - Six 8,000,000 gallon No. 6 Fuel Oil.
  - Two 376,000 gallon No. 6 Fuel Oil Day Tanks.
  - Two 150,000 gallon No. 2 Fuel Oil.
3. Waste Treatment Ponds.
4. Environmental Protection Equipment:
  - Two Dust Collectors Units 1 & 2.
  - Continuous emission monitors.
  - Flue Gas Recirculation System.
  - Water treatment for effluent .
5. Gas Chromatograph.

## Vehicles

VEHICLE #	YEAR	MFG.	DESCRIPTION	USE
001	1988	CHV	Nova	Pool
004	1995	CHEV	Pick-Up	Results
005	1995	CHEV	FS Pickup	Operations
008	1991	CHV	Cavalier	Admin Pool
009	1989	PLY	Reliant	Results Foremen
010	1988	DOD	Dakota Pickup	Pool
011	1989	PLY	Reliant	Pool
013	1991	DOD	Caravan Suburban	Pool
016	1992	DOD	4X4 Pickup w/snowplow	Yard
017	1992	CHV	1/2 Ton Pickup	Technicians
019	1900	FRID	Tractor	Pool
022	1992	GRV	45 ton Rough Terrain Crane	Plant
028	1990	LDY	Trailer Compressor	Plant
029	1986	YAL	Propane Forklift	Plant
031	1990	HYS	Forklift	Storeroom
032	1988	JCB	Backhoe Loader	Yard
040	1988	HOB	Welder	Plant
041	1989	HOB	Hobart Welder	Plant
055	1991	GMC	Dump Truck	Yard
056	1977	CHV	Dump Truck	Operations
	1991	MK	4X4 70' Hyd Man-Lift	Plant
060	1999	FRO	Pickup	Mechanics

## Information Systems – Common to the Roseton and Danskammer Stations

### 1. Local Area Network:

- 9 NT Servers (IBM and Dell).
- 1 Novell Server (IBM).
- 2 DEC Servers and 35 DEC PC Based Clients.
- 70 Windows 95 or 98 Client Workstations (IBM and Others).
- 5 NT Workstations (Dell).
- 100MB Fiber Backbone.
- 7 - 3COM Autodetect Network Switches.
- Wide Area Network Tie to South Road Through Router Over T1.

### 2. Individual Systems:

- 4 PAI - Continuous Emissions Monitoring Systems (CEM).
- 2 SAIC - Plant Monitoring Systems (PMS).
- 2 JB Systems - Computerized Maintenance Management (CMMS).
- 2 General Physics - Etapro Performance Monitoring Systems.
- 1 Quality Systems - Safety Tagging System.
- 1 Eagle Mountain Scientific - NOx System Averaging.

### 3. Phone System (ROLM):

- Separate Production Phone Switches.
- Direct Access Telephone Numbers.

SCHEDULE 2.2(a)(iii)(B)

Tangible Personal Property on Seller Real Estate

1. Two 345 KV Disconnect Switches.
2. Two Ground Switches.
3. Four Steel Structures.

SCHEDULE 2.2(a)(iv)

Material Contracts

1. Memorandum of Understanding dated as of March 22, 1988 by and among Alberta Northeast Gas, Limited, Central Hudson, and The Brooklyn Union Gas Company and Connecticut Natural Gas Corporation.
2. Facilities Agreement dated May 1, 1992 by and between Central Hudson on the one hand, and Central Hudson, Consolidated Edison and Niagara Mohawk (the "Co-Tenants") on the other.<sup>1</sup>
3. Roseton Dock Facilities License Agreement dated February 13, 1975 by and between Central Hudson and Amerada Hess Corporation.

Material Contracts Common to Danskammer and Roseton

1. Fossil Production Plant Agreement, effective July 1, 1998, between Central Hudson and the Local Union 320 of the International Brotherhood of Electrical Workers A.F. of L. -C.I.O., as amended by the Memorandum of Agreement, dated July 1, 1998 between Central Hudson and I.B.E.W. Locals 320 and 2218 (as it pertains to I.B.E.W. Local 320).
2. Service Order by and between ENSR Consulting and Engineering and Central Hudson.
3. Utilities Cost Sharing Agreement dated December 19, 1980 by and among Central Hudson, Con Edison, Orange & Rockland Utilities, Inc., Niagara Mohawk and The Power Authority of the State of New York.

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<sup>1</sup> For purposes of clarification, the Co-Tenants rights and interests will be assigned to the Buyer.

SCHEDULE 2.2(a)(v)

Certain Transferable Permits

1. Roseton Title IV Facility (Phase II Acid Rain) Permit; Permit #3-3346-00075/00013; Effective Date: February 1, 1999; Expiration Date: December 31, 2004.
2. Roseton Title V Operating Permit; Permit #3-3346-00075/00008; Application deemed complete 04/09/98, Permit pending.
3. Radioactive Materials License; Lic. #2421-3432, Date Issued: February 16, 1999; Expiration Date: February 28, 2002.
4. United States Coast Guard Certificate of Adequacy for Reception Facilities (re: Roseton Marine Off-loading Terminal); Date Issued: March 5, 1986 ( Last update: July 9, 1998.)
5. State Pollution Discharge Elimination System; Permit #NY0008231; Effective Date: October 1, 1987; Expiration Date: October 1, 1992 (still in effect while renewal application is pending).
6. Incidental Take Permit Application; Original Application submitted: May 4, 1998; Permit pending.
7. Scientific Collection License Application; Original Application submitted; May 4, 1998; Permit pending. (This permit was applied for by Seller on behalf of multiple parties. The Seller will transfer to Buyer only its interest in such permit.)

Note: The transferability of each of the foregoing permits is subject to the satisfaction of any conditions and obligations set forth therein.

Note: Items 5 through 7 shall deemed Transferable Permits only to the extent they are transferrable, if at all.

SCHEDULE 2.2(a)(vi)

Transferred SO<sub>2</sub> Allowances

Transferred SO<sub>2</sub> Allowances shall be the sum of the following:

- 1) All SO<sub>2</sub> Allowances allocated to Roseton by applicable laws or regulations of any Governmental Authority for compliance periods that commence after the Closing Date.
- 2) With respect to the compliance period that includes the Closing Date, an amount of SO<sub>2</sub> Allowances equal to the Roseton SO<sub>2</sub> emissions prior to the Closing Date, and
- 3) With respect to the compliance year that includes the Closing Date, the Buyer will receive the monthly percentage of SO<sub>2</sub> Allowances as shown in the schedule below for all months commencing after the Closing Date, and
- 4) For the month in which the Closing occurs, the Buyer shall receive a pro rated share of the monthly percentage of SO<sub>2</sub> Allowances allocated to Roseton for that compliance year based on the number of days in such month that remain after the Closing Date.

Month	Percentage of Total SO <sub>2</sub> Allowance Allocation
January	8.84%
February	7.18%
March	7.28%
April	5.43%
May	7.74%
June	10.25%
July	13.43%
August	10.69%
September	6.69%
October	8.04%
November	7.06%
December	7.37%
<b>Totals</b>	<b>100.00%</b>

SCHEDULE 2.2(a)(vii)

Transferred NO<sub>x</sub> Allowances

Transferred NO<sub>x</sub> Allowances shall be the sum of the following:

- 1) All NO<sub>x</sub> Allowances allocated to Roseton by applicable laws or regulations of any Governmental Authority for compliance periods that commence after the Closing Date.
- 2) With respect to the compliance period that includes the Closing Date, an amount of NO<sub>x</sub> Allowances equal to the Roseton NO<sub>x</sub> emissions prior to the Closing Date, and
- 3) With respect to the compliance period that includes the Closing Date, the Buyer will receive the monthly percentage of NO<sub>x</sub> Allowances as shown in the schedule below for all months commencing after the date of the Closing, and
- 4) For the month in which the closing occurs, the Buyer shall receive a pro rated share of the monthly percentage of NO<sub>x</sub> Allowances allocated to Roseton for that compliance period based on the number of days in such month that remain after the Closing Date.

Month	Percentage of Total NO <sub>x</sub> Allowance Allocation
January	0.00%
February	0.00%
March	0.00%
April	0.00%
May	15.86%
June	21.00%
July	27.52%
August	21.91%
September	13.70%
October	0.00%
November	0.00%
December	0.00%
<b>Totals</b>	<b>100.00%</b>

SCHEDULE 2.2(b)(i)

Transmission System  
(Retained Assets)

High-Voltage Electrical Equipment

Unit #1	Sellers own the 345 kV switchyard including all land, equipment, and fence surrounding such switchyard, except that the Buyer owns the disconnect switch and all the structures and equipment back to the generator from the disconnect switch.
Unit #2	Sellers own the 345 kV switchyard including all land, equipment, and fence surrounding such switchyard, except that the Buyer owns the disconnect switch and all the structures and equipment back to the generator.

Gas Facilities

MP-R Gas Transmission Line	Entire gas line to and including the Point of Interconnection will be retained by the Sellers.
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Structure and Foundations

Sellers will own all 345kV structures except for the four electric transmission structures that will be owned by the Buyer. Foundations, grounding and conduit systems in the 345kV switchyard will be the responsibility of the party owning the equipment.

Electrical Distribution Circuits

Sellers will retain the following electrical distribution circuits:

1. River Road to the administrative office and buildings along River Road
2. River Road to the NYPA West Transition Station

SCHEDULE 2.2(b)(ii)(A)

Interconnection Facilities

High-Voltage Electrical Equipment

Sellers retains all high-voltage electrical equipment from the points of interconnection electrically away from the Generating Facilities as defined in the Interconnection Agreement, and the transmission and distribution facilities. The points of interconnection are as described below:

Unit #1	The Point of Interconnection is the switchyard side of Buyer's disconnect switch C3081 prior to the interconnection with the switchyard bus and the 345 kV Transmission System (refer to Seller Dwg. Roseton 345KV Substation operating Diagram).
Unit #2	The Point of Interconnection is the switchyard side of Buyer's disconnect switch C3082 prior to the interconnection with the switchyard bus and the 345 kV Transmission System (refer to Seller Dwg. Roseton 345kV Substation Operating Diagram).

Gas Facilities

Gas Regulator Station	The Point of Interconnection is the discharge of the shut-off valves (RS-8, RS-9, RS-10, RS-11, RS-20, RS-21, RS-22, and RS-23) downstream of the regulators and meters (refer to Seller Dwg. 409.52). Sellers own all equipment from and including the discharge valves back to the regulators. Buyer owns all piping and equipment from the discharge of the shut-off valves to generating station including the relief valve.
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The following drawings (attached hereto) illustrate the Points of Interconnection:

- (a) Roseton 345kV Switchyard Operating Diagram, Revision 8, dated 1-14-97.
- (b) File #490.52, Roseton Regulator and Meter Station Operating Diagram, dated 2-98.

Protective Relay Schemes

In general, where relays are located in the switchyard control house at the applicable generating plant, the protective relay schemes, including stuck breaker schemes, will be owned and maintained by Sellers. Where relays are located in the applicable Generating Plant, the protective relay schemes will be owned and maintained by the Buyer.

### Current and Potential Devices

Current and potential devices, which are located at or near the sites of the generating plant, meeting the following criteria:

The ownership of current and potential transformers will be determined by the ownership of the high voltage equipment to which the current or potential transformers are connected. For example, the party that owns a transformer or circuit breaker will own its bushing current transformers. The point of interconnection will be at the terminal block in the equipment control cabinet. The party that owns the current or potential transformer will own the terminal block in the equipment control cabinet. The ownership of stand-alone potential transformers will be determined based on the ownership of the equipment to which the potential transformer is connected.

### Alternating Current and Control Cables

Alternating current and control cables, which are located at or near the sites of the Generating Plant, meeting the following criteria:

Alternating current cables carrying current or potential signals that terminate at one or both ends in the control house will be owned and maintained by Sellers. Alternating current cables carrying current or potential signals that terminate at one or both ends in the switchyard but not in the control house will be owned by the party that owns and maintains the protective relay scheme, metering scheme, synchronizing scheme, or control circuit in which the current or potential signals are used.

Control cables carrying direct current control signals (for example, trip signals from a protective relay scheme) that terminate at one or both ends in the switchyard will be owned and maintained by Sellers. For cables terminating in the plant, the point of interconnection will be the terminal block in the applicable Generating Plant. Sellers will own the cable connecting to the switchyard side of the terminal block. The Buyer will own the terminal block and the cable connecting to the plant side of the terminal block.

Buyer will own the cables, conduit, and duct systems to the equipment they will own in the switchyard. In the Roseton switchyard, Buyer will own the duct bank and cables between the Plant and the switchyard, except the cables indicated on Schedule B-1 to the Interconnection Agreement.

### Structure and Foundation

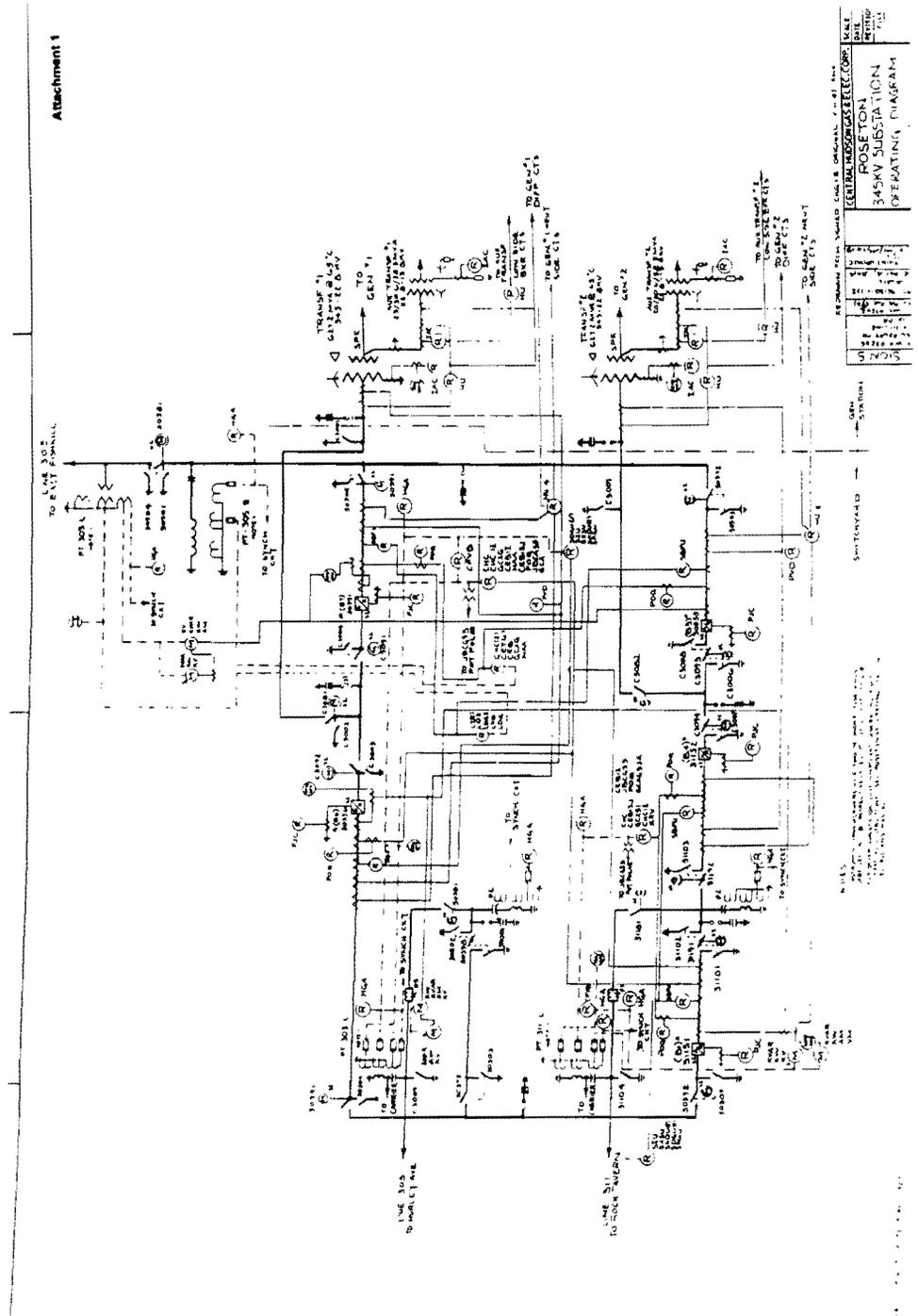
Where Buyer equipment is mounted on a Sellers' structure, or where the Sellers' equipment is mounted on a Buyer's structure, the point of interconnection is at the physical mounting location. Mounting brackets or plates that are not integral parts of the equipment are considered part of the structure.

### Sellers Equipment Located on Buyer Property

Sellers will retain the following equipment located on Buyer Real Estate:

<b>Equipment Description</b>	<b>Location</b>
Cables:	
IYM1-3	Duct bank between the station and the Switchyard
CMC1-72	Duct bank between the station and the Switchyard
CMC2-72	Duct bank between the station and the Switchyard

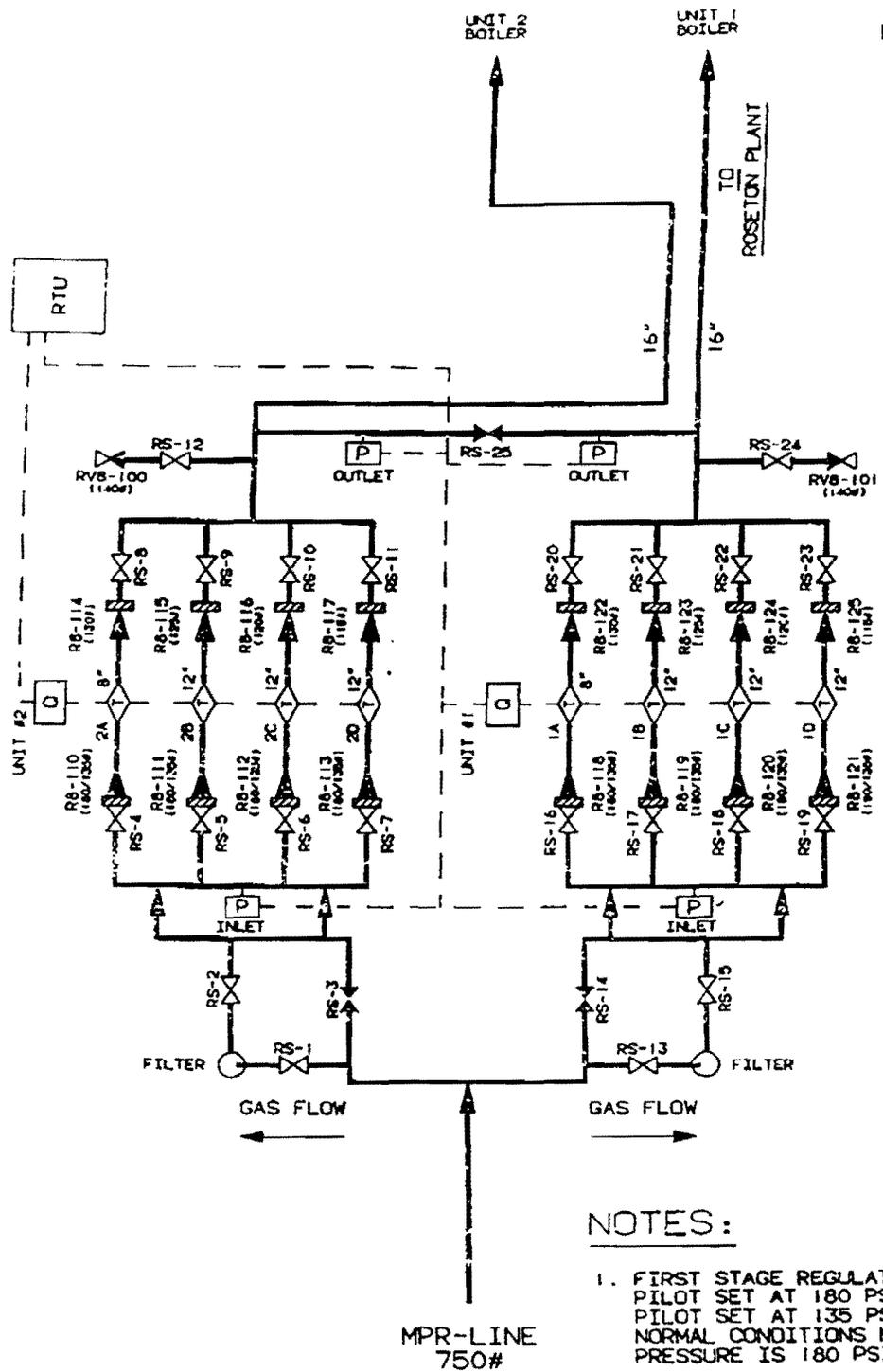
Attachment 1



PROJECT NO.	345KV SUBSTATION
DATE	10/10/00
SCALE	1:1
REVISIONS	
NO.	DESCRIPTION
1	ISSUED FOR CONSTRUCTION
2	REVISED
3	REVISED
4	REVISED
5	REVISED
6	REVISED
7	REVISED
8	REVISED
9	REVISED
10	REVISED

NOTES:  
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE (NEC) AND THE NATIONAL FIRE ALARM AND SIGNALING CODE (NFPA 72).  
 2. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL AUTHORITY.  
 3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

ROSETON  
PLANT# \_\_\_\_\_



**NOTES:**

1. FIRST STAGE REGULATOR WORKING PILOT SET AT 180 PSIG. MONITOR PILOT SET AT 135 PSIG. UNDER NORMAL CONDITIONS METERING PRESSURE IS 180 PSIG.

ISSUE 5: INCREASED REL. VLV. SETTINGS. INSTALLED REDUCING TRIM IN DOWNSTREAM IGNITOR REGULATORS. REMOVED REDUCING TRIM FROM UPSTREAM IGNITOR REGULATORS. AND REPLACED DOWNSTREAM BOILER REGULATORS

CENTRAL HUDSON GAS & ELEC CORP. ROSETON REGULATOR & METER STATION OPERATING DIAGRAM	DRWN. PLB/rd	DATE 2/98	ISSUE 5
	DSGN. CR Lopez	FILE NO. 490.52	
APPD. WJ Schick			

## SCHEDULE 2.2(b)(ii)(B)

### Communication Equipment (Common to both Danskammer and Roseton)

All communication equipment on the Sellers' property, including communication equipment located on Buyer's property for which Sellers will have permanent easements, will be owned by the Sellers.

1. All fiber optic cables, including the cable that connects the Danskammer and Roseton Plants, and the associated terminating equipment will be owned, operated and/or maintained by the Buyer. This equipment includes fiber optic cables, fiber optic terminal equipment, and associated multiplexing equipment, racks, and patch panels.
2. All copper communications cables terminating at one or both ends in the switchyard, substation or other Sellers' communication facilities and associated terminating equipment will be owned, operated, and maintained by Sellers. For cables connecting to a Buyer-owned facility, the point of interconnection will be the equipment side of the terminating punch block. Sellers will own the cable connected to the line side of the punch block, the punch block, and the bridging clips. The Buyer will own the cable connected to the equipment side of the punch block. All other copper communication cables and associated terminating equipment will be owned, operated, and maintained by the Buyer.
3. The point of interconnection for DC power supplied to Sellers' communication equipment from plant battery systems will be the DC terminal block in the communication equipment. Sellers will own the terminal block and wires leading to the equipment. The Buyer will own the DC cable from the plant battery system.
4. All existing Sellers' equipment installed at the plants for purposes of radio communications will be owned, operated, and maintained by the Buyer. This will include the emergency radio used for communication to the Sellers' Energy Control Center. The rights for the FCC licenses associated with the plant radio systems will be transferred to the Buyer pursuant to FCC regulations except for the license to operate on the 153.515 frequency.
5. The existing telephone switches, voicemails, twisted pair wiring, punch blocks, cross connects, and telephone instruments will be owned and operated by the Buyer.

SCHEDULE 2.3(a)(iv)

Seller Consent Orders

1. Assumed Consent Order Obligations :

- a. Opacity Order on Consent for Roseton & Danskammer; DEC Index No. D3-9000-97-08, Effective date: April 26<sup>th</sup>, 1999.
- b. Hudson River Settlement Agreement (HRSA).
- c. 4<sup>th</sup> Amended Stipulation of Settlement and Judicial Consent Order (re: HRSA).
- d. Stipulation of Settlement, Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation, Consolidated Edison of New York and Town of Newburgh Assessor, Town of Newburgh Board of Assessment Review, Town of Newburgh, No. 4897-98, 5257-99 (Dec. 29, 1999) (Palella).

2. Other Seller Consent Orders:

- a. Opacity Order on Consent for Roseton & Danskammer - Environmental Benefits Projects will be retained by CHG&E. All other areas of the Opacity Consent Order will be assumed by the Buyer. Retained obligations include:
  - (i) Hudson River Recreation/Fishing Trail.
  - (ii) Newburgh Boat Launch Site Lighting Project.
  - (iii) Payment of \$100,000 to Orange County Land Trust for land acquisition.

SCHEDULE 2.5

Con Edison Transformer

Manufacturer- Westinghouse	Phase -3	Hertz - 60	Class- FOA
Winding	65Deg. C ATR		
345,000 GRD Y Volts	692,000 KVA		
20,300 Volts	692,000 KVA		
L. Spec. MGM 963-08	Serial # 7002248		
Gallons Oil	Trans. Tank- 10,980		
	Cooler Bank- 1,420		
	Cops Tank - 1,000		
Impedance	21.6 % at 692,000 KVA	20,300 - - 345,000	
	18.2 % at 627,000 KVA	22,800 - - 344,650	
HV Neutral and Bushing 150 KV			
Weight	Core and Coils 557,000		
	Case 159,000		
	Oil 100,500		
	Total 816,500		

SCHEDULE 5.3(a)

Contracts Requiring Third Party Consent

1. Indenture of Mortgage between Central Hudson and American Exchange Irwin Trust Company (now the Bank of New York), as Trustee, dated as of January 1, 1927, as supplemented and amended.
2. Utilities Cost Sharing Agreement dated December 19, 1980 by and among Central Hudson, Con Edison, Orange & Rockland Utilities, Inc., Niagara Mohawk and The Power Authority of the State of New York.
3. Indenture of Mortgage between Niagara Mohawk and Marine Midland Bank, successor Trustee (formerly known as The Marine Midland Trust Company of New York, Marine Midland Grace Trust Company of New York and Marine Midland Bank – New York), dated October 1, 1937, as supplemented and amended.

SCHEDULE 5.3(b)

Seller Required Regulatory Approvals

Sellers will be required to obtain the following Required Regulatory Approvals:

Federal

1. FERC approval, to the extent required, under Section 203 of the Federal Power Act (“FPA”) for each of the Sellers to transfer of FERC jurisdictional facilities.
2. Central Hudson will require the FERC’s acceptance for filing or approval under Section 205 of the FPA of the Interconnection Agreement.

New York

1. NYPSC approval, to the extent required, pursuant to Section 70 of the Public Service Law of the State of New York of the transfer by the Sellers to the Buyer of the Auctioned Assets.

SCHEDULE 5.5(a)

Legal Descriptions of Buyer Real Estate

Legal descriptions for Parcels 1A, 2, 4, 5 and 6 attached hereto as Attachment A.

## Survey Description

All those parcels of land situate in the Town of Newburgh, County of Orange and State of New York, bounded and described as follows:

## Parcel 1A (Roseton Site)

Beginning at the southwesterly corner of the herein described parcel, said point being at the intersection of the northerly line of lands now or formerly of Amerada Hess Corporation and the centerline of River Road, thence along the centerline of River Road the following five (5) courses and distances:

1. North 23°-58'-06" East 92.30 feet,
2. North 26°-12'-36" East 415.37 feet,
3. North 06°-40'-24" West 107.80 feet,
4. North 17°-35'-24" West 531.00 feet, thence leaving said centerline of River Road,
5. South 88°-13'-54" East 28.39 feet, to a point on the easterly line of River Road, thence along said easterly line of River Road the following eight (8) courses and distances:
  6. North 16°-30'-34" West 27.81 feet,
  7. North 04°-36'-36" East 179.41 feet,
  8. North 25°-57'-11" East 168.53 feet,
  9. North 27°-23'-11" East 60.03 feet,
  10. North 19°-43'-36" East 71.98 feet,
  11. North 11°-36'-26" East 259.68 feet,
  12. 207.64 feet on a curve to the right having a radius of 200.90 feet and a long chord of North 41°-13'-16" East 198.55 feet,
  13. North 70°-50'-06" East 319.12 feet,
  14. 397.50 feet on a curve to the left having a radius of 245.00 feet and a long chord of North 24°-21'-19" East 355.31 feet to a point on the easterly line of Danskammer Road, thence running along the former division line between Rice and Brooks to the north (Danskammer Site) and the Jova Brick Company, Inc. to the south (Roseton Site) the following ten (10) courses and distances:
    15. North 52°-03'-46" East 253.71 feet,
    16. South 25°-12'-14" East 140.00 feet,
    17. South 73°-52'-14" East 544.00 feet,
    18. South 83°-37'-44" East 121.42 feet,
    19. South 73°-20'-34" East 330.00 feet,
    20. South 77°-21'-44" East 146.00 feet,
    21. South 73°-15'-44" East 100.00 feet,
    22. South 77°-12'-14" East 144.00 feet,
    23. South 67°-42'-14" East 73.50 feet,

ATTACHMENT A

24. South 55°-02'-14" East 217.14 feet to the westerly line of lands now or formerly of CSX Rail Corp., thence along said westerly line of lands of CSX Rail Corp. the following five (5) courses and distances:
25. South 27°-01'-46" West 565.84 feet,
26. 846.30 feet on a curve to the right, having a radius of 2815.50 feet and a long chord of South 35°-38'-26" West 843.11 feet,
27. South 44°-15'-06" West 488.41 feet to a point on the southerly line of lands formerly of the Jova Brick Works (now RTIC) said point also being on the northerly line of lands formerly of the Atlantic Refining Company (now RTIC), thence continuing along the aforementioned westerly line of lands now or formerly of CSX Rail Corp.,
28. South 44°-15'-06" West 1310.89 feet to a point on the aforementioned northerly line of lands now or formerly of Amerada Hess Corporation, thence along said northerly line of lands now or formerly of Amerada Hess Corporation,
29. North 49°-50'-24" West 888.84 feet to the point of beginning.

Containing 107.08 acres more or less.

Being the same Parcels conveyed by:

Jova Brick Company, Inc.	68.70 ± Acre	Liber 1955	Page 972
Atlantic Richfield	38.22 ± Acre		
Arthur V. Bernabei	0.164 Acre	Liber 2047	Page 1102

Subject to the rights of the People of the State of New York in and to that portion of River Road where the aforescribed 107 acre parcel runs to the centerline of River Road.

August 3, 2000.

Survey Description  
Parcel 2  
47.3 Acres West Side of River Road

Beginning at the northwesterly corner of the herein described parcel at the southerly line of Soap Hill Road at its intersection with the easterly line of lands now or formerly of the Cedar Hill Cemetery Association, thence along the southerly line of Soap Hill Road and later on, River Road, the following thirteen (13) courses and distances:

1. South 73°-34'-34" East 253.46 feet,
2. South 71°-03'-24" East 102.68 feet,
3. South 69°-26'-44" East 96.11 feet,
4. South 75°-41'-54" East 104.84 feet,
5. South 81°-22'-54" East 95.73 feet,
6. South 76°-59'-24" East 102.76 feet,
7. South 68°-54'-24" East 94.85 feet,
8. South 62°-23'-24" East 57.28 feet,
9. 63.70 feet on a curve to the right having a radius of 127.59 feet and a long chord of South 48°-05'-14" East 63.05 feet,
10. South 33°-46'-59" East 50.45 feet,
11. 356.05 feet on a curve to the right having a radius of 195.00 feet and a long chord of South 18°-31'-34" West 308.61 feet,
12. South 70°-50'-06" West 319.12 feet,
13. 56.07 feet on a curve to the right having a radius of 250.90 feet and a long chord of South 64°-25'-58" West 55.95 feet to a point on the northerly line of lands now or formerly of the Church of Our Lady of Mercy, thence along the northerly, westerly and southerly line of said lands now or formerly of the Church of Our Lady of Mercy the following three (3) courses and distances:
14. North 64°-37'-34" West 275.68 feet,
15. South 28°-27'-36" West 293.03 feet,
16. South 80°-38'-34" East 274.98 feet to a point on the westerly line of River Road, thence along said westerly line of River Road the following eight (8) courses and distances:
17. South 11°-36'-26" West 233.84 feet,
18. South 19°-43'-36" West 65.08 feet,
19. South 27°-23'-11" West 46.76 feet,
20. South 27°-23'-11" West 10.99 feet,
21. South 25°-57'-11" West 67.27 feet,

ATTACHMENT A

22. South 25°-57'-11" West 110.81 feet,
23. South 04°-36'-36" West 198.20 feet,
24. South 16°-30'-34" East 119.97 feet, thence leaving said westerly line of River Road,
25. South 88°-13'-54" East 26.25 feet to a point in the centerline of River Road, thence along the centerline of River Road the following three (3) courses and distances:
26. South 17°-35'-24" East 431.00 feet,
27. South 06°-40'-24" East 107.80 feet,
28. South 26°-12'-36" West 90.53 feet to the southeasterly corner of lands conveyed by the estate of Rozner to Roseton Tenants in Common, thence along the southerly line of said parcel and also along the northerly line of lands now or formerly of Venuti,
29. North 75°-07'-24" West 150.00 feet to the easterly line of lands now or formerly of Hess Oil and Chemical Corp., thence along the easterly and northerly line of lands now or formerly of Hess Oil and Chemical Corp. the following two (2) courses and distances:
30. North 26°-12'-36" East 91.00 feet,
31. North 75°-07'-24" West 769.43 feet to a stonewall intersection and the northeasterly corner of lands now or formerly of Hudson Oaks Partnership, thence continuing along the northerly line of lands now or formerly of Hudson Oaks Partnership and generally along a stonewall, the following three (3) courses and distances:
32. North 74°-21'-54" West 315.90 feet,
33. North 75°-47'-04" West 158.80 feet,
34. North 76°-51'-04" West 59.86 feet to lands now or formerly of the aforementioned Cedar Hill Cemetery Association, thence along the easterly line of lands now or formerly of the Cedar Hill Cemetery Association;
35. North 28°-02'-01" East 1812.93 feet to a point on the northwesterly line of a 25 foot wide strip of lands now or formerly of R.T.I.C., thence along said northwesterly line of lands now or formerly of R.T.I.C.,
36. North 10°-38'-29" West 386.67 feet to a point on the southerly line of the aforementioned Soap Hill Road, thence along said southerly line of Soap Hill Road,
37. South 73°-48'-04" East 28.02 feet to a point on the northeasterly line of the aforementioned 25 foot wide strip said point also being at the northwesterly corner of a triangular-shaped parcel of lands now or formerly of the Cedar Hill Cemetery Association, thence along the northeasterly line of the aforementioned 25 foot wide strip of lands now or formerly of R.T.I.C. and along the northwesterly line of the triangular-shaped parcel now or formerly of the Cedar Hill Cemetery Association,
38. South 10°-38'-29" East 342.79 feet and thence along the easterly line of the aforementioned triangular-shaped parcel now or formerly of the Cedar Hill Cemetery Association,
39. North 28°-02'-01" East 312.50 feet to the point of beginning.

ATTACHMENT A

Containing 47.30 acres, more or less.

Bearings rotated from deed to N.Y. State (East) Grid (1927).

Subject to utility easements to be retained by Central Hudson Gas and Electric Corporation.

Subject to the rights of the People of the State of New York in and to that portion of River Road that abuts the aforescribed 47.30 acre parcel. Specifically courses No. 26, 27 and 28.

Being the same as the premises conveyed to the Roseton Tenants in Common by:

1. Jova Brick Company, Liber 1955 Page 972.
2. Mary Nameth, Liber 2145 Page 481.
3. Smith, Liber 1926 Page 1008.
4. Grove, Liber 1844 Page 24.
5. DeFazio and Lamey, Liber 1865 Page 576.
6. Meehan, Liber 2109 Page 289.
7. Powell, Liber 2274 Page 222.
8. Estate of Rozner, Liber 3577 Page 132 Roseton-Tenants-in-Common.

June 20, 2000.

Survey Descriptions  
Parcels East of CSX Rail Corp.

All those parcels of land, now or formerly under the waters of Hudson River, situated in the Town of Newburgh, County of Orange, bounded and described as follows:

## Parcel "A" (Conversion)

## Parcel 4

Beginning at a point in the division line between grants of land under water to J.C. Bancroft Davis by patent dated June 25, 1869 and Gouverneur M. Armstrong and others by patent dated November 13, 1869 at its intersection with the easterly right-of-way line of the Penn Central Railroad, said point 49.56 feet as measured along said division line from its intersection with the centerline of said railroad at station 326+601.0; thence into the waters of Hudson River and along said division line;

1. South 43°-00'-20" East, 369.93 feet to the northeasterly corner of said grant to J.C. Bancroft Davis; thence along the easterly line of said grant
2. South 55°-44'-40" West 1,273.75 feet to its intersection with the division line between the lands of Central Hudson Gas and Electric Corporation, by deed dated June 24, 1966 and filed in the Orange County Clerk's Office in Liber 1747 of Deeds at Page 830 on the north and Hess Oil & Chemical Corporation on the south; thence along said division line,
3. North 49°-50'-20" West 226.07 to the beforementioned easterly right-of-way line of the Penn Central Railroad; thence along said right-of-way line,
4. North 44°-15'-10" East 1,299.41 feet to the point of beginning.

Containing 8.76 acres, more or less.

Being a portion of the grant of land under water to J.C. Bancroft Davis by patent dated June 25, 1869.

## Parcel "B" (Conversion)

## Parcel 6

Beginning at a point in the division line between grants of land under water to J.C. Bancroft Davis by patent dated June 25, 1869 and Gouverneur M. Armstrong and others by patent dated November 13, 1869 at its intersection with the easterly right-of-way line of the Penn Central Railroad, said point being 33.04 feet as measured along said division line from its intersection with the centerline of said railroad at station 326+601; thence along said easterly right-of-way line the following five (5) courses and distances;

1. North 44°-15'-10" East 492.08 feet,
2. 753.03 feet on a curve to the left, having a radius of 2,898.00 feet and a long chord of North 36°-48'-30" East 750.92 feet,
3. South 60°-38'-10" East 16.50 feet,
4. 118.73 feet on a curve to the left, having a radius of 2,914.50 feet and a long chord of North 28°-11'-

ATTACHMENT A

- 50" East 118.71 feet,
5. North 27°-01'-50" East 554.30 feet to the division line between lands of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation, as tenants in common, by deed dated May 14, 1968 on the south and Central Hudson Gas and Electric Corporation on the north; thence along said division line,
  6. South 64°-57'-10" East 143.02 feet, thence continuing along said division line partially on land and partially into the waters of the Hudson River,
  7. South 43°-00'-20" East 451.71 feet to the exterior line of said grant of land under water to Gouverneur M. Armstrong and others; thence along said exterior line
  8. South 38°-18'-22" West 1,239.88 feet and
  9. South 52°-29'-44" West 700.00 feet to the beforementioned division line between the grants of land under water to Gouverneur M. Armstrong and J.C. Bancroft Davis; thence along said division line,
  10. North 43°-00'-20" West 336.45 feet to the point of beginning.

Containing 20.01 acres, more or less.

Being a portion of the grant of land under water to Gouverneur M. Armstrong and Others dated November 13, 1869 and also lands above water lying easterly of the railroad.

Parcel "C" (Fee)

Parcel 5

Beginning at a point in the exterior line of a grant of land under water to Gouverneur M. Armstrong and Others by patent dated November 13, 1869 said point being, South 59°-04'-41" East 395.49 feet from station 326+601.0+ of the centerline of the Penn Central Railroad; thence along said exterior grant line,

11. North 52°-29'-40" East 394.39 feet; thence departing from said grant line
12. South 46°-03'-40" East 160.86 feet;
13. South 43°-52'-10" West 390.00 feet and
14. North 46°-03'-40" West 220.00 feet to the point of beginning.

Containing 74,269.00 sq. ft. or 1.705 acres, more or less.

Parcel "C" is below the mean highwater line.

All bearing referred to New York State (East) Grid Co-ordinate System.

References to Penn Central Railroad now CSX Rail Corp. See Letters Patent, People of the State of New York to Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation as Tenants in Common. March 29, 1971. Recorded in Book of Patents (Department of State) April 20, 1972 Book No. 81 at Page 70 and 74. Also recorded May 18, 1971 in the Orange County Clerk's Office in Liber 1873 of Deeds at Page 233 through 240.

June 14, 2000.

ATTACHMENT A

SCHEDULE 5.5(b)

Map of Buyer Real Estate

“Map of Lands of Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation, as Tenants in Common, Roseton Power Plant – Danskammer Power Plant” prepared by Hayward and Pagan Associates dated April 26, 2000 and last revised on July 25, 2000 (drawing #11700-02). Note that Parcel 1 on the revised Map has not been divided between Roseton and Danskammer. It is intended that this division will be shown in a subsequent revision of the Map.

SCHEDULE 5.5(c)

Title Reports of Buyer Real Estate

Stewart Title Insurance Company Certificate of Title No. 99A-12837-0, dated March 22, 1999.

SCHEDULE 5.7

Defaults Under Contracts

None.

SCHEDULE 5.8

Legal Proceedings  
(Non-Environmental)

None.

SCHEDULE 5.9

Permits; Compliance With Law  
(Non-Environmental)

None.

## SCHEDULE 5.10

### Environmental Matters

The Phase I and Phase II Environmental Reports provided to Buyer are incorporated herein by reference.

#### Non-Compliance with Environmental Permits

None.

#### Notices of Environmental Violations

1. Notice of Compliance Determination(NOCD) issued by NYSDEC to Roseton & Danskammer; Date issued: December 7<sup>th</sup>, 1999; Cited for Opacity Levels above 20%; no further action required.
2. NOCD issued by NYSDEC to Roseton & Danskammer; Date issued: November 25<sup>th</sup>, 1997.

NOTE: These notices are addressed under the Opacity Order on Consent referenced in Schedule 2.3(a)(iv).

3. Request for Information on Orange County Landfill issued by NYSDEC; Date issued: June 2, 2000.

#### Environmental Decrees or Orders

None.

#### Environmental Legal Proceedings

1. Asbestos Claims & Law Suits.
2. Hudson Riverkeeper Fund, Inc., et al v. Central Hudson Gas & Electric Corporation (No. 99 Civ. 2536 and No. 00 Civ. 2346).

SCHEDULE 5.11

Labor Matters

Arbitration is underway regarding a change to the employee overtime meal policy. A decision is expected by December 31, 2000.

## SCHEDULE 5.12

### ERISA; Benefit Plans

#### Employee Retirement Plans and Written Policies

1. Retirement Income Plan – defined benefit plan.
2. Savings Incentive Plan – 401(k) plan for all employees (different benefits for union & management employees).

#### Employee Health Plans and Written Policies

1. Cigna Plan – indemnity medical plan.
2. Champion Plan – point of service medical plan.
3. HMOs – 6 different HMOs.

#### Employee Dental Plan and Written Policies

Dental plan insured through Prudential (including orthodontia component).

#### Life Insurance

1. Term Life Insurance.
2. Accidental Death or Dismemberment Insurance.
3. Group Travel Insurance – business travel insurance for all employees.

#### Disability Plans

Disability Plan – Disability retirement plan for employees who are totally and permanently disabled from performing all work for the Company. Eligibility is age 50 and 15 years of service.

### Other Benefit Plans/Programs

1. Flexible Benefits Plan – Section 125 health care, dependent care, and premium expense spending accounts.
2. Tuition Assistance Program – tuition assistance plan for all full time employees.
3. Vision Care Plan provided by Vision Service Plan.
4. Wellness Plan.
5. Employee Assistance Plan – program administered by Employee Network, Inc.
6. Short Term Disability – Filed plan with NY State.
7. Management Incentive Plan - additional compensation paid to all management employees provided prescribed performance targets are achieved.
8. Long Term Based Incentive Compensation Plan.
9. Retirement Benefit Restoration Plan.
10. Supplementary Retirement Plan.

SCHEDULE 5.13

Taxes

1. Department of the Treasury – Internal Revenue Service Consent to Extend the Time to Assess Tax for the periods ending on December 31, 1995 and December 31, 1996 (Form 872).
2. New York State Department of Taxation and Finance Consent Extending Period of Limitation for Assessment of Corporation Franchise Taxes for the Taxable Period of January 1, 1996 through December 31, 1996.

SCHEDULE 6.3(b)

Buyer Required Regulatory Approvals

None.

SCHEDULE 7.1(b)(vii)  
Employee Benefit Changes

None.

SCHEDULE 7.1(b)(ix)

Capital Expenditures

(in thousands)

Year 2000				Year 2001					
Budget Item	Description	Installation	Removal	TOTAL 2000 EXPENDITURES	Budget Item	Description	Installation	Removal	TOTAL 2001 EXPENDITURES
1-4000-01-00	PS & I Unidentified	\$55		\$55	1-4000-51-01	PS & I NOx Control	\$200	\$0	\$200
1-4110-P1	Prior Minor Projects	\$50	\$0	\$50	1-4110-P1	Prior Minor Projects	\$50	\$0	\$50
1-4110-P2	Prior Major Projects	\$200	\$5	\$205	1-4110-P2	Prior Major Projects	\$200	\$25	\$225
1-4111-00-00	Minor Projects	\$400	\$12	\$412	1-4111-00-01	Minor Projects	\$400	\$13	\$413
1-4112-01-00	Unidentified Major Projects	\$580	\$45	\$625	1-4112-51-01	Unidentified Major Projects	\$450	\$50	\$500
1-4112-05-00	Unit 2 Ash Hopper Liner	\$125	\$25	\$150	1-4112-52-01	Unit 1 TSI Upgrade	\$225	\$10	\$235
1-4112-03-00	Max 1 Op Station Replacement	\$225	\$5	\$230	1-4112-53-01	Unit 1 FWH 5 Retube	\$485	\$50	\$535
1-4112-06-00	Fuel Oil Sto Tk Suction Heaters	\$195	\$5	\$200	1-4112-54-01	Unit 1 Major Outage	\$400	\$20	\$420
1-4112-04-00	Unit 2 Dust Collector Upgrade	\$215	\$210	\$425	1-4112-55-01	Unit 1 Cond Retube, CW Exp Joints	\$650	\$100	\$750
1-4112-07-00	Atomic Absorption Spec/photo	\$60	\$0	\$60		<b>Total</b>	<b>\$3,060</b>	<b>\$268</b>	<b>\$3,328</b>
1-4112-02-00	Hot End Air Heater Baskets U2	\$350	\$50	\$400					
<b>Total</b>		<b>\$2,455</b>	<b>\$357</b>	<b>\$2,812</b>					

## SCHEDULE 7.13

### Exempt Facilities; Revenue Bonds

#### 1. Exempt Facilities

*Dust Collection and Fly Ash Reinjection System.* This system is designed to remove fly ash from boiler exhaust gases and reinject the ash into the boiler for burning. The dust collector on each boiler consists of a structural foundation, a support structure, casing inlet and outlet duct connections, internal dust and gas separating elements, dust collector hoppers, internal flow dividers, hopper level sensors, hopper outlet valving and interlocking, and automatic control and sequencing equipment for continual removal of residue collected in the hoppers. The fly ash reinjection system on each boiler consists of a transport piping system from the dust collector hoppers to the boiler, motor driven air blowers and air heaters to supply hot transport air, controls and instrumentation for motors and heaters, and associated electrical and pneumatic equipment.

*Waste Water Treatment System.* The facilities are designed to remove pollutants from the process discharge water and consist of lift stations, a gravity transport line to the waste treatment area, four waste water treatment, settling and neutralizing basins, transfer pumps, piping, chemical injectors, skimming and final settling facilities; and associated pumps, piping, controls, instrumentation and electrical equipment;

*Sewage Treatment System.* The sewage treatment system is designed to treat raw sanitary sewage and consists of a lift station, gravity transport line, we wells, a package type sewage treatment plant equipped with aerating blowers, skimmer, electrical controllers and instrumentation, and associated piping, pumps, chemical feeders and other controls.

*Fuel Oil Spill Control Facilities.* The fuel oil spill control equipment is designed to prevent spilled oil from contaminating the Hudson River and consists of a floating boom used to encircle fuel ships and barges during unloading, a motorboat, to tow the boom into place, oil separating and monitoring pits for drainage from fuel oil storage tank areas, and welded steel envelopes around storage tanks. A sheet piling baffle extending from above the river water surface to the river bottom encloses the outlet of the storm and storage tank farm drain to entrap any oil which may escape from anywhere on the plant property.

*Smoke Density Meters.* These meters will measure the opacity of stack gases in order to indicate the presence of abnormal boiler burning conditions which could lead to unacceptable emissions to the atmosphere.

*Yard Drainage System, Fuel Oil Trench and Oil Tank Berm.* The yard drainage system is designed to collect drainage water and channel it to the Hudson River after any contaminant oil has been separated from the drainage flow. The fuel oil drainage trench serves to trap any leaks from sunken oil pipelines and thus prevents the seepage of oil into

underground water streams. The oil tank berm is designed to contain spillage from the Roseton Plant's fuel oil storage tanks.

2. New York State Energy Research and Development Authority  
"Revenue Bonds" – Central Hudson
  - a. \$4.5 million, 6¼% Pollution Control Revenue Bonds (Central Hudson Gas & Electric Corporation Projects), Series A, due June 1, 2007.  
  
\$2.496 million relates to the Roseton Plant.
  - b. \$41.15 million, Pollution Control Refunding Revenue Bonds (Central Hudson Gas & Electric Corporation Projects), 1999 Series C, due August 1, 2028.  
  
\$1.533 million relates to the Roseton Plant.
  - c. \$41 million, Pollution Control Refunding Revenue Bonds (Central Hudson Gas & Electric Corporation Projects), Series D, due August 1, 2028.  
  
\$1.527 million relates to the Roseton Plant.

## SCHEDULE 7.17

### Separation Modifications

1. Metering upgrades.
2. New remote terminal unit in the switchyard.
3. New telephone interface and additional circuits for the switchyard.
4. Several protective and control changes necessary for separation.
5. New digital fault recorder for the switchyard.
6. New station service transformer for the switchyard.
7. Key interlocks for the ground switches and generator disconnect switches located in the switchyard.
8. Install conduit and telephone protective interface for the gas regulator station.

## SCHEDULE 9.1

### Benefit Plans Applicable to Transferred Employees

#### Employee Retirement Plans and Written Policies

1. Retirement Income Plan – defined benefit plan.
2. Savings Incentive Plan – 401(k) plan for all employees (different benefits for union & management employees).

#### Employee Health Plans and Written Policies

1. Cigna Plan – indemnity medical plan.
2. Champion Plan – point of service medical plan.
3. HMOs – 6 different HMOs.

#### Employee Dental Plan and Written Policies

Dental plan insured through Prudential (including orthodontia component).

#### Life Insurance

1. Term Life Insurance.
2. Accidental Death or Dismemberment Insurance.
3. Group Travel Insurance – business travel insurance for all employees.

#### Disability Plans

Disability Plan – Disability retirement plan for employees who are totally and permanently disabled from performing all work for the Company. Eligibility is age 50 and 15 years of service.

### Other Benefit Plans/Programs

1. Flexible Benefits Plan – Section 125 health care, dependent care, and premium expense spending accounts.
2. Tuition Assistance Program – tuition assistance plan for all full time employees.
3. Vision Care Plan provided by Vision Service Plan.
4. Wellness Plan.
5. Employee Assistance Plan – program administered by Employee Network, Inc.
6. Short Term Disability – Filed plan with NY State.

## Roseton Generating Station

Exhibit A	Form of Bargain and Sale Deed
Exhibit B	Form of Assignment and Assumption Agreement
Exhibit C	Form of Bill of Sale
Exhibit D	Form of Easement Agreement
Exhibit E	Form of Guarantee Agreement
Exhibit F	Form of Interconnection Agreement
Exhibit G	Form of Purchase Price Agreement
Exhibit H	Opinion of Counsel to Seller
Exhibit I	Opinion of Counsel to Buyer
Exhibit J	Opinion of Counsel to Guarantor

EXHIBIT A

[Roseton]

BARGAIN AND SALE DEED  
WITH LIEN COVENANT

THIS INDENTURE, made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2000 between

NIAGARA MOHAWK POWER CORPORATION, a New York corporation having an office at 300 Erie Boulevard West, Syracuse, New York 13202, CONSOLIDATED EDISON OF NEW YORK, INC., a New York corporation having an office at 4 Irving Place, New York, New York 10003, and CENTRAL HUDSON GAS & ELECTRIC CORPORATION, a New York corporation having an office at 284 South Avenue, Poughkeepsie, New York 12601, as tenants in common as their interests may appear,

grantors,

and

\_\_\_\_\_

grantee,

WITNESSETH, that grantors, in consideration of ONE AND 00/100 DOLLAR (\$1.00), lawful money of the United States, and other good and valuable consideration paid by grantee, hereby grant and release unto grantee, the successors and assigns of grantee forever,

ALL OF THE GRANTORS' RIGHT, TITLE AND INTEREST IN AND TO THOSE TRACTS OR PARCELS OF LAND situate in the Town of Newburgh, County of Orange, State of New York, together with the buildings and improvements thereon, and more particularly described on Schedule A annexed and made a part hereof.

TOGETHER with the appurtenances and all the estate and rights of grantors in and to the said premises.

TO HAVE AND TO HOLD the premises herein granted unto grantee, the successors and assigns of grantee forever, as herein set forth.

This deed is subject to the trust fund provisions of Section 13 of the Lien Law.

No grantor's undivided interest as tenant-in-common in the premises constitutes all or substantially all of the assets of that grantor.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, grantors have duly executed this Indenture as of the day and year first above written.

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_

STATE OF NEW YORK        )  
COUNTY OF ONONDAGA    ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2000 before me, the undersigned, a notary public in and for the State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, grantors have duly executed this Indenture as of the day and year first above written.

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_

STATE OF NEW YORK        )  
COUNTY OF NEW YORK    ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2000 before me, the undersigned, a notary public in \_\_\_\_\_ and for the State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, grantors have duly executed this Indenture as of the day and year first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION

By: \_\_\_\_\_

STATE OF NEW YORK        )  
COUNTY OF DUTCHESS    ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2000 before me, the undersigned, a notary public in and for the State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public

Schedule A

[Insert Description of Roseton Property]

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment Agreement") dated \_\_\_\_\_ by and among Central Hudson Gas & Electric Corporation, a New York corporation, Consolidated Edison Company of New York, Inc., a New York corporation, Niagara Mohawk Power Corporation, a New York corporation (each a "Seller," and collectively, "Sellers"), and \_\_\_\_\_, a \_\_\_\_\_ [corporation] ("Buyer"). Sellers and Buyer are referred to individually as a "Party," and collectively as the "Parties."

WITNESSETH:

WHEREAS, Sellers and Buyer are parties to that certain Asset Purchase and Sale Agreement, dated August 7, 2000 (as amended, supplemented or otherwise modified from time to time, the "Asset Sale Agreement");

WHEREAS, pursuant to the Asset Sale Agreement, Buyer has agreed to assume from Sellers the Assumed Obligations (as defined in the Asset Sale Agreement) and Sellers have agreed to retain the Retained Liabilities (as defined in the Asset Sale Agreement); and

WHEREAS, it is the intention of the Parties that by the execution and delivery of this Assignment Agreement, Sellers will assign to Buyer and Buyer will assume and agree to discharge when due, without recourse to Sellers, all Assumed Obligations, as more particularly described and set forth in Section 2.3 of the Asset Sale Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sellers and Buyer hereby agree as follows:

1. Capitalized terms which are used but not defined in this Assignment Agreement shall have the meaning ascribed to such terms in the Asset Sale Agreement.
2. Each Seller hereby sells, assigns, conveys, transfers and delivers to Buyer all of the right, title and interest that such Seller possesses and has the right to transfer in, to, and under the Transferable Permits, the Transferred SO<sub>2</sub> Allowances, the Transferred NO<sub>x</sub> Allowances, the Contracts, the third-party warranties and guarantees, and all other intangible personal property included in the Auctioned Assets.
3. Buyer hereby assumes and agrees to discharge when due, without recourse to any Seller or Sellers, all liabilities and obligations of any Seller or Sellers constituting the Assumed Obligations. Notwithstanding anything to the contrary herein, Buyer shall not assume or perform any of the Retained Liabilities.
4. Neither the making nor the acceptance of this Assignment Agreement shall enlarge, restrict or otherwise modify the terms of the Asset Sale Agreement or constitute a

waiver or release by Sellers or Buyer of any liabilities, duties or obligations imposed upon either of them by the terms of the Asset Sale Agreement, including, without limitation, the representations and warranties and other provisions which the Asset Sale Agreement provides shall survive the date hereof.

5. In the event that any provision of this Assignment Agreement be construed to conflict with a provision of the Asset Sale Agreement, the provision in the Asset Sale Agreement shall be deemed controlling.

6. This Assignment Agreement shall bind and shall inure to the benefit of the respective Parties and their respective successors and permitted assigns.

7. Nothing in this Assignment Agreement is intended to confer upon any other person except Buyer and Sellers any rights or remedies hereunder or shall create any third party beneficiary rights in any person.

8. This Assignment Agreement shall be governed and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

9. This Assignment Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed and delivered by the Parties as of the date first above written.

Attest: CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:

Attest: CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:

Attest: NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:

Attest: [BUYER]

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:



STATE OF NEW YORK )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary



STATE OF NEW YORK

)

) SS:

COUNTY OF \_\_\_\_\_

)

On this \_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

BILL OF SALE

THIS BILL OF SALE is made as of the \_\_\_ day of \_\_\_\_\_ by Central Hudson Gas & Electric Corporation, a New York corporation, Consolidated Edison Company of New York, Inc., a New York corporation, and Niagara Mohawk Power Corporation, a New York corporation (each a "Seller," and collectively, "Sellers"), for the benefit of \_\_\_\_\_, a \_\_\_\_\_ [corporation] ("Buyer").

WITNESSETH:

WHEREAS, pursuant to that certain Asset Purchase and Sale Agreement, dated August 7, 2000 (as amended, supplemented or otherwise modified from time to time, the "Asset Sale Agreement"), by and among Sellers and Buyer, each Seller has agreed to sell, assign, convey, transfer and deliver all of its right, title and interest in and to the Auctioned Assets (as defined in the Asset Sale Agreement) to Buyer, and Buyer has agreed to purchase, assume and acquire such Auctioned Assets from each Seller; and

WHEREAS, pursuant to the Asset Sale Agreement, Sellers have entered into this Bill of Sale as evidence of such conveyances to Buyer.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, each Seller hereby agrees as follows:

1. Defined Terms. Capitalized terms which are used but not defined in this Bill of Sale shall have the meaning ascribed to such terms in the Asset Sale Agreement.

2. Assignment. Each Seller does hereby sell, assign, convey, transfer and deliver to Buyer all of such Seller's right, title and interest in and to all of the Auctioned Assets.

3. Retained Assets Not Assigned. Notwithstanding anything expressed herein to the contrary, the Retained Assets are specifically excluded from the Auctioned Assets and shall be retained by such Seller following the Closing Date.

4. Disclaimers. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE V OF THE ASSET SALE AGREEMENT, THE AUCTIONED ASSETS ARE BEING SOLD AND TRANSFERRED "AS IS, WHERE IS", AND SUCH SELLER IS NOT MAKING ANY OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING SUCH AUCTIONED ASSETS (INCLUDING ANY RELATING TO LIABILITIES, OPERATIONS OF THE GENERATING FACILITIES, CONDITION, VALUE OR QUALITY OF THE AUCTIONED ASSETS OR THE PROSPECTS (FINANCIAL OR OTHERWISE), RISKS OR OTHER INCIDENTS OF THE AUCTIONED ASSETS) OR WITH RESPECT TO THE ASSET SALE AGREEMENT OR THE ANCILLARY AGREEMENTS TO WHICH SUCH SELLER IS A PARTY OR THE TRANSACTIONS

CONTEMPLATED THEREBY. SUCH SELLER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE AUCTIONED ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR THE APPLICABILITY OF ANY GOVERNMENTAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO ANY ENVIRONMENTAL LAWS, OR WHETHER SUCH SELLER POSSESSES SUFFICIENT REAL PROPERTY OR PERSONAL PROPERTY TO OPERATE THE AUCTIONED ASSETS. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 5.10 OF THE ASSET SALE AGREEMENT, SUCH SELLER FURTHER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING THE ABSENCE OF HAZARDOUS SUBSTANCES OR LIABILITY OR POTENTIAL LIABILITY ARISING UNDER ENVIRONMENTAL LAWS WITH RESPECT TO THE AUCTIONED ASSETS, ALL OF WHICH ARE HEREBY EXPRESSLY WAIVED BY BUYER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SUCH SELLER MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE INFORMATION SET FORTH IN, OR CONTEMPLATED BY, THE CONFIDENTIAL MEMORANDUM.

5. Binding Effect; Assignment. This Bill of Sale and all of the provisions hereof shall be binding upon Sellers and their respective successors and permitted assigns and shall inure to the benefit of Buyer and its successors and permitted assigns.

6. No Third Party Beneficiary. Nothing in this Bill of Sale is intended to confer upon any other person except Buyer and Sellers any rights or remedies hereunder or shall create any third party beneficiary rights in any person.

7. Governing Law. This Bill of Sale shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

8. Construction. This Bill of Sale is delivered pursuant to and is subject to the terms of the Asset Sale Agreement. In the event of any conflict or ambiguity between the terms of the Asset Sale Agreement and the terms of this Bill of Sale, the terms of the Asset Sale Agreement shall control.

9. Counterparts. This Bill of Sale may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Bill of Sale has been duly executed and delivered by Sellers as of the date first above written.

Attest: CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:

Attest: CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:

Attest: NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:

ACCEPTED AND AGREED TO  
THIS \_\_\_\_ DAY OF \_\_\_\_\_

Attest: [BUYER]

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Name:  
Title:



STATE OF NEW YORK )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF \_\_\_\_\_                )

On this \_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary



AFTER RECORDING  
PLEASE RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EASEMENT AGREEMENT  
(Roseton and Danskammer Stations)**

THIS EASEMENT AGREEMENT (the "Agreement"), is dated as of \_\_\_\_\_, and is entered into by and between \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ and having an office at \_\_\_\_\_ ("Buyer") and CENTRAL HUDSON GAS & ELECTRIC CORPORATION, a New York corporation and having an office at 284 South Avenue, Poughkeepsie, New York 12601 ("Central Hudson"). Buyer and Central Hudson may hereinafter be referred to individually as a "Party" and collectively as the "Parties."

**RECITALS**

A. Buyer and Central Hudson have entered into an Asset Purchase and Sale Agreement for the Danskammer Generating Station and Related Assets dated August 7, 2000 (the "Danskammer Asset Purchase and Sale Agreement") and Buyer on one hand and Central Hudson, Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation on the other have entered into an Asset Purchase and Sale Agreement for the Roseton Generating Station and Related Assets dated August 7, 2000 (the "Roseton Asset Purchase and Sale Agreement," together with the Danskammer Asset Purchase and Sale Agreement, the "Asset Purchase and Sale Agreements"), for the sale of the generating stations known as the Roseton Station (as defined in the Roseton Asset Purchase and Sale Agreement) and the Danskammer Station (as defined in the Danskammer Asset Purchase and Sale Agreement), which stations are located on those certain parcels of real property which have been conveyed to Buyer pursuant to the Asset Purchase and Sale Agreements by virtue of deeds recorded immediately prior hereto, such parcels of real property being more particularly described in Exhibit A attached hereto (the "Buyer's Real Property").

B. Central Hudson intends to continue to operate its transmission and distribution business on and from those certain parcels of real property adjoining the Buyer's Real Property, which parcels have been retained by Central Hudson, and/or have been acquired by Central Hudson contemporaneously with the conveyances contemplated by the Asset Purchase and Sale Agreements, and are more particularly described in Exhibit B attached hereto (the "Central Hudson Real Property").

C. Central Hudson will continue to own and operate certain assets used in the conduct of its transmission and distribution business which are located upon the Buyer's Real Property, and Central Hudson requires Access (as defined below) to, and certain other rights with respect to, the Buyer's Real Property in connection therewith. Furthermore, Central Hudson and Buyer have entered into an Interconnection Agreement (the "Interconnection Agreement"), dated as of \_\_\_\_\_, pursuant to which Central Hudson has agreed to provide certain Interconnection Service to Buyer required for Buyer's conduct of its generation business at the Roseton Station and the Danskammer Station.

D. In connection with its use and operation of the Roseton Station and the Danskammer Station, Buyer requires access to, and certain other rights with respect to, the Central Hudson Real Property.

E. In order for the Parties each to (i) enjoy the full benefit of their respective property rights, real or personal, and conduct their respective businesses thereat (ii) fulfill legal requirements, and (iii) comply with their respective agreements under the Interconnection Agreement, each Party requires certain easements, licenses, rights-of-way and/or attachment rights in, on, over and above, or with respect to, real and or personal property of the other Party.

## AGREEMENT

NOW, THEREFORE, the Parties, in consideration of the mutual covenants and agreements contained herein and in the Asset Purchase and Sale Agreements and the Interconnection Agreement, and for One Dollar (\$1.00) and other good and valuable consideration, the receipt whereof and sufficiency of which are hereby acknowledged, each intending to be legally bound and to bind their respective successors and assigns, hereby mutually agree as follows:

### 1. DEFINITIONS

1.1 Definitions. Any capitalized terms which are used but not defined in the body of this Agreement shall have the meanings given to such terms in the attached Schedule 1.1.

### 2. EASEMENTS

2.1 Grant of Easements to Central Hudson. Buyer does hereby give, grant, bargain, sell, assign and convey unto Central Hudson, the following easements on the Buyer's Real Property for the following purposes:

(a) An easement and right-of-way, as more particularly described in Exhibit C attached hereto, for the use, operation and maintenance of, and access to, a transmission line corridor from the Danskammer electrical substation to the

Central Hudson Real Property, and other functions as Central Hudson may determine from time to time.

(b) A twenty (20) foot wide easement and right-of-way, as more particularly described in Exhibit D attached hereto, for use of an access road from Danskammer Road to the transmission line corridor easement area referenced at subparagraph 2.1(a) above.

(c) An easement and right-of-way, as more particularly described in Exhibit E attached hereto, for the use, operation and maintenance of, and access to, overhead transmission lines to the Danskammer electrical substation.

(d) An easement and right-of-way, as more particularly described in Exhibit F, for the use, operation and maintenance of the Danskammer electrical substation (the “Danskammer Substation Easement Area”).

(e) An easement and right-of-way, as more particularly described in Exhibit G, for access to the Danskammer electrical substation.

(f) An easement and right-of-way, as more particularly described in Exhibit H (excluding, however, the footprint of the Danskammer Station), for the use, operation and maintenance of electric transmission lines from the Danskammer electrical substation to and under the Hudson River.

(g) An easement and right-of-way, as more particularly described in Exhibit I, for the use, operation and maintenance of, and access to, the Danskammer natural gas regulator station.

(h) A twenty (20) foot wide easement and right-of-way, as more particularly described in Exhibit J, for an access road from River Road to the Danskammer electrical substation.

(i) A ten (10) foot wide easement and right-of-way, as more particularly described in Exhibit K, for the use, operation and maintenance of the MPR gas pipeline to the Roseton natural gas regulator station and the Danskammer natural gas regulator station.

(j) An easement and right-of-way, as more particularly described in Exhibit L, for the use, operation and maintenance of, and access to, the Roseton natural gas regulator station.

(k) A ten (10) foot wide easement and right-of-way, as more particularly described in Exhibit M, for the use, operation and maintenance of, and access to, that portion of the MPR gas pipeline lying east of the railroad.

(l) A twenty (20) foot wide easement and right-of-way, as more particularly described in Exhibit N, for the use, operation and maintenance of, and access to, an underground cable duct bank system running from the Roseton Station to the Central Hudson Real Property.

(m) A one hundred and fifty (150) foot wide easement and right-of-way, as more particularly described in Exhibit O attached hereto, for the use, operation and maintenance of, and access to, a transmission line corridor, and other functions as Central Hudson may determine from time to time.

(n) An easement of Access to, and the right to use, the parking lots, access roads, driveways and other such facilities located upon the Buyer's Real Property.

(o) An easement of Access to the Buyer's Real Property for the purposes of exercising any of the rights granted in this Section 2.1, in the Interconnection Agreement or the Asset Purchase and Sale Agreements.

(p) Central Hudson's exercise of the rights, easements, privileges and licenses granted to it pursuant to this Section 2.1 shall be limited to Qualified Personnel or employees of contractors employed by Central Hudson who, in either event, are under Central Hudson's and/or its contractors' direct supervision and whose duties include, or who are engaged for the purpose of, Use of the rights granted pursuant to this Section 2.1.

(q) The easements granted pursuant to this Section 2.1 shall expressly include Central Hudson's right to lease, license or otherwise permit Affiliates or third parties to use Central Hudson's facilities upon such terms and for such purposes as Central Hudson may determine from time to time, subject to the terms and conditions of this Agreement.

2.2 Reservation by Buyer of Certain Rights. Buyer reserves to itself, from the easements granted pursuant to Section 2.1 hereof, the following rights, subject, however, to the provisions of the final paragraph of this Section 2.2:

(a) the right to (i) keep and maintain Buyer's Real Property and all improvements and facilities owned by Buyer and located upon the Buyer's Real Property in their present locations, and (ii) operate and maintain all improvements and facilities owned by Buyer and located upon the Buyer's Real Property in a manner consistent with past practice; and

(b) the right to have Access to all portions of the Buyer's Real Property (including those subject to the easements in favor of Central Hudson created hereby) for all purposes deemed reasonably necessary or convenient by Buyer in the operation and conduct of its generation business or in order to perform any act permitted,

or fulfill any obligation of Buyer required, pursuant to the Interconnection Agreement, including, without limitation, maintenance of the Buyer's Real Property in the manner described in the Interconnection Agreement.

(c) Buyer's exercise of the rights reserved to Buyer in this Section 2.2, and the rights, privileges and licenses granted to Buyer in Section 2.3 shall be exclusively limited to Qualified Personnel or employees of contractors employed by Buyer who, in either event, are under Buyer's and/or its contractors' direct supervision and whose duties include, or who are engaged for the purpose of, Use of the property described in clause (a) of this Section and the rights granted pursuant to Section 2.3.

2.3 Grant of Easements, Right, Privilege and License from Central Hudson to Buyer. Central Hudson does hereby grant to Buyer the following easements, rights, privileges and licenses on and with respect to the Central Hudson Real Property: (a) two (2) two hundred (200) foot wide easements and rights-of-way for the use, operation and maintenance of, and access to, two (2) 345 KV transmission lines from the Roseton Station to and upon the Central Hudson Real Property, and a twenty (20) foot wide easement and right-of-way for the use, operation and maintenance of, and access to, a cable duct bank system from the Roseton Station to and upon the Central Hudson Real Property, all as more particularly described in Exhibit P; and (b) an easement of Access to and upon the Central Hudson Property for the purposes of exercising any of the rights granted to the Buyer in the Interconnection Agreement or in the Asset Purchase and Sale Agreements.

2.4 General Scope of Easements.

(a) Except as otherwise expressly provided herein, each easement and each right, privilege and license granted hereby is and shall be a perpetual grant, transfer, conveyance and right of Access to and Use (subject to the terms of this Agreement) to the Grantee thereof and to any future owner of the real property, improvements and facilities benefited thereby. Notwithstanding the foregoing, all easements, rights, privileges and licenses granted by this Agreement are and shall be subject to the terms and conditions of the Interconnection Agreement, and in the event of any inconsistency between the terms and conditions of the Interconnection Agreement and the terms of this Agreement, the terms of the Interconnection Agreement shall control.

(b) Any easement or right, privilege and license granted hereunder for purposes of enabling a Party to exercise any right or fulfill any obligation set forth in the Interconnection Agreement will continue for the term of the Interconnection Agreement, and will continue thereafter if and only to the extent that the right or obligation (i) shall by its express terms survive the termination or expiration of the Interconnection Agreement or (ii) is necessary for the conduct of business by Grantee. In the event of the termination or expiration of an easement or right, privilege and license granted hereunder for purposes of enabling a Grantee to exercise any right or fulfill any

obligation set forth in the Interconnection Agreement, all equipment and facilities installed or maintained by such Grantee on the real property of the other Party pursuant to said terminated or expired easement or right, privilege and license shall, at the request of the other Party, be removed at the sole cost and expense of such Grantee, and such Grantee shall, at its sole cost and expense repair any damage to the real property and/or equipment and facilities of the other Party damaged as a result of such removal.

(c) All equipment and facilities installed or maintained by Grantee pursuant to an easement or right, privilege and license granted hereunder shall be maintained by Grantee in accordance with Good Utility Practice and the Interconnection Agreement, and Grantee shall make all repairs and replacements necessary to keep such equipment and facilities in such condition.

(d) Buyer may not Use any portion of Buyer's Real Property burdened by any easement, right or privilege granted to Central Hudson hereunder if such Use would materially adversely affect the Use and enjoyment by Central Hudson of the rights granted to it hereunder, or materially increase the costs or risks associated with such Use.

(e) All easements granted herein shall be deemed easements appurtenant to the parcel of real property benefited thereby and shall run with such real property and shall be deemed covenants running with the real property burdened thereby.

2.5 Interpretation. The following shall apply in interpreting any easement and any right, privilege and license granted pursuant to this Agreement:

(a) Each easement and each right, privilege and license granted herein is irrevocable except by written agreement of the Parties.

(b) With respect to any easement created by this Agreement, the words "in," "upon," "to," "on," "over," "above," "through" and/or "under" shall be interpreted to include all of such terms.

(c) Each easement and each right, privilege and license granted herein may be enjoyed without charge or fee to Grantee of the easement.

(d) Each easement and each right, privilege and license granted herein is also a grant of the additional right of Access over Grantor's property to accomplish the purpose of such easement or right, privilege and license, to perform any obligations hereunder or in the Interconnection Agreement, and to comply with any legal requirements affecting Grantee or its property and/or improvements.

(e) Any easement granted to Central Hudson pursuant to Section 2.1 includes the right to (i) trim, cut, treat and/or remove, by manual, mechanical, and chemical means, any and all trees, brush, structures and other obstructions within the

easement area, as well as such trees, brush, structures and vegetation outside of the easement area deemed reasonably necessary or desirable by Central Hudson for the safe and secure operation of its facilities; and (ii) obtain Access to Buyer's Real Property for the purpose of performing the aforementioned acts.

(f) Each easement granted herein shall include the right to construct, install, maintain, repair and replace any and all pipes, conduits, poles, wires and cables to transport electricity, telephone, telegraph and other electronic signals, water, coolant, waste water and fuel to and from the various parcels described herein as well as for storm and sanitary sewer purposes; and the right to maintain fences, berms, walls, gates and security equipment and alarms; such scope is not intended to be all inclusive but to set forth examples of the types of utilities, services and rights which are permitted within the easements and rights of way. It is intended that there shall be included within such grant and definition any and all rights and easements needed for the construction, operation, maintenance, repair, alteration and renovation of the facilities in such easement areas; whether any such rights and easements are presently in use, or needed in the future.

## 2.6 Rules and Regulations.

Each Party may promulgate reasonable rules regulating the conduct of the other Party in the exercise of rights under this Agreement provided such rules and regulations do not unreasonably interfere with or impede the affected Party's rights and easements as set forth herein or in the Interconnection Agreement.

## 2.7 No Obstruction.

(a) No Party hereto shall obstruct the easements or the rights, privileges and licenses granted or created pursuant to this Agreement or render them impassable or unusable in any way or otherwise in any way interfere with the right to the Use and enjoyment of the easements or rights, privileges and licenses granted or created pursuant to this Agreement.

(b) No Party hereto shall make any changes to the topography or accesses on or to its respective real property, including grading or drainage that could reasonably be expected to adversely affect another Party's facilities, common use drainage systems, or pollution control systems, or the exercise of any right or fulfillment of any obligation in this Agreement or in the Interconnection Agreement, without the prior written consent of the other Party, which consent shall not unreasonably be withheld, delayed or conditioned.

### 3. TAXES, ASSESSMENTS AND OTHER CHARGES

#### 3.1 Real Estate Taxes.

(a) Buyer, with respect to the Buyer's Real Property and Central Hudson, with respect to the Central Hudson Real Property, shall pay and discharge all of the following ("Real Estate Taxes") whether or not now within the contemplation of the Parties hereto: (i) all real estate taxes, assessments (both general and special), other governmental impositions and charges, taxes, rents, levies and sums of every kind or nature whatsoever, extraordinary as well as ordinary, as shall at any time be imposed by any governmental or public authority on, or become a lien in respect of, the Buyer's Real Property or the Central Hudson Real Property, as the case may be, or any part thereof, or which may become due and payable with respect thereto, and any and all taxes assessments and charges levied, assessed or imposed upon the Buyer's Real Property or the Central Hudson Real Property, as the case may be, in lieu of or in addition to, the foregoing, under or by virtue of any present or future laws, rules, requirements, orders, directives, ordinances or regulations of the United States of America or of the State or of any subdivision thereof, or of any lawful governmental authority whatsoever, and any interest or penalties thereon, and (ii) all other taxes (excluding gains, sales and income taxes but including occupancy taxes which are measured by income) measured by ownership of the Buyer's Real Property or the Central Hudson Real Property, as the case may be. Buyer shall pay and discharge all levies and assessments for water, water meter (including any expenses incident to the installation, repair or replacement of any water meter) and sewer and all rents with respect to water and sewer which provide service to the Buyer's Real Property.

(b) The above notwithstanding, Central Hudson shall be obligated to reimburse to the Buyer that portion of the Real Estate Taxes payable with respect to the Buyer's Real Property that is attributable to Central Hudson's Retained Assets (as defined in the Asset Purchase and Sale Agreements) and any other improvements owned by Central Hudson and now or hereafter located within any of the easements on the Buyer's Real Property created pursuant to Section 2.1 hereof, such portion to be computed as follows: (i) the net book cost of such Retained Assets and other improvements (as determined and established in Central Hudson's filings with the Public Service Commission of the State of New York), multiplied by (ii) the Town of Newburgh equalization rate applicable to such Retained Assets and other improvements, multiplied by (iii) the tax rate applicable to such Retained Assets and other improvements. Furthermore, to the extent that the Real Estate Taxes payable with respect to the Buyer's Real Property includes taxes attributable to improvements owned by Central Hudson and now or hereafter located upon the Central Hudson Real Property, Central Hudson shall reimburse the Buyer for the portion of such Real Estate Taxes paid by Buyer that is attributable to such improvements in accordance with the formula set forth above. In the event that the Buyer is able to obtain the benefit of a reduction in Real Estate Taxes attributable to the Buyer's Real Property, Central Hudson shall be entitled to a proportionate reduction in its share thereof. Central Hudson

shall be obligated to make its required reimbursements to the Buyer within thirty (30) days after receipt from the Buyer of copies of the relevant tax bills, evidence of payment of the pertinent Real Estate Taxes and a written statement and calculation setting forth Central Hudson's proportionate share of such Real Estate Taxes, calculated as set forth herein.

3.2 Personal Property Taxes. Buyer and Central Hudson shall, respectively, pay and discharge all of the following ("Personal Property Taxes") whether or not now within the contemplation of the Parties hereto: all taxes and assessments which shall or may be charged, levied, assessed or imposed upon, or become a lien upon, the personal property of Buyer or Central Hudson, as the case may be, Used in the operation or in connection with the business conducted at the Buyer's Real Property or the Central Hudson Real Property, as the case may be.

3.3 Timing of Payment. Subject to the provisions of Section 3.5, Buyer and Central Hudson shall each comply with its covenant to pay and discharge all Real Estate Taxes and Personal Property Taxes by paying all such taxes directly to the appropriate taxing authorities prior to the expiration of the period within which payment is permitted without penalty or interest. Buyer and Central Hudson shall within twenty (20) days of written request of the other Party, produce the most recent official receipts from the appropriate taxing authorities evidencing such payment, certified by Buyer or Central Hudson, as the case may be, to the other Party hereto. In the event that Buyer shall fail to timely pay any Real Estate and/or Personal Property Taxes owed by it, Central Hudson may (but shall not be obligated to) make such payment on behalf of the Buyer and Buyer shall promptly reimburse Central Hudson therefor, with interest from the date of demand at the rate set forth in Section 6.3.

3.4 Cooperation with respect to Tax Statements. Buyer and Central Hudson will cooperate with each other in obtaining and/or retaining any tax abatement for which the Buyer's Real Property or Central Hudson Real Property may be eligible. Upon written request of the Party seeking an abatement, the other Party or Parties hereto will execute and file any and all documents and instruments reasonably necessary to obtain and retain such abatement, without the assumption of any liabilities or obligations, provided that the Party seeking such abatement shall reimburse the cooperating Party or Parties for any reasonable expenses that such cooperating Party or Parties may incur in connection therewith.

3.5 Tax Contests. Buyer, with respect to the Buyer's Real Property, and Central Hudson, with respect to the Central Hudson Real Property:

(a) May contest in good faith by appropriate proceedings diligently and continuously conducted, at its or their sole cost and expense, any Real Estate Tax or charge or Personal Property Tax or charge, or similar tax or charge subsequent to January 1, 2002 and, where permitted by law, pay the same under protest.

(b) Shall pay and discharge such contested items as finally adjudicated or settled, with interest and penalties, and all other charges directed to be paid in or by any such adjudication or settlement.

(c) On and after January 1, 2002, may, in its or their sole discretion, consolidate any proceeding to obtain a reduction in the assessed valuation with any similar proceeding or proceedings brought by it or them relating to any one or more other tax years.

(d) Shall indemnify and hold the non-contesting Party harmless from and against all liability, loss, cost or expense arising out of the contest.

3.6 Refunds. Any refunds from any contest undertaken pursuant to Section 3.5 shall belong wholly to the Party or Parties that paid the tax.

#### 4. MECHANICS' LIENS

4.1 Notice Regarding Labor and Material. Notice is hereby given that no Party hereto shall be liable for any labor or materials furnished or to be furnished to or for another Party hereto or to any other persons or entities claiming under such other Party on credit, and that no mechanics' or other lien for any such labor or material furnished to a Party or such other persons or entities shall attach to or affect any property interest of any other Party.

#### 4.2 Disposition of Liens.

(a) Central Hudson shall forthwith take such action necessary to discharge, remove or satisfy any lien filed against the Buyer's Real Property or any portion thereof for any labor or materials furnished or to be furnished for or on behalf of Central Hudson, or any person or entity holding any portion thereof through or under Central Hudson.

(b) Buyer shall forthwith take such action necessary to discharge, remove or satisfy any lien filed against the Central Hudson Real Property or any portion thereof for any labor or materials furnished or to be furnished for or on behalf of Buyer, or any person or entity holding any portion thereof through or under Buyer.

(c) If either Central Hudson or Buyer, as the case may be, shall fail to discharge, remove or satisfy any such lien which it is obligated to discharge, remove or satisfy hereunder within thirty (30) days after notice of the existence of the lien has been given to such defaulting Party, the non-defaulting Party or parties may, upon notice to the defaulting Party, pay the amount of such lien or discharge the same by deposit or bonding, and the amount so paid or deposited, or the premium paid for such bond, with interest at the rate provided for defaults in Section 6.3 hereof, shall be paid by the defaulting Party upon demand to the non-defaulting Party who effected such cure.

(d) The defaulting Party shall defend, indemnify and save harmless the non-defaulting Party from and against all liability, loss, cost or expense (including reasonable attorneys' fees) arising out of any liens which the defaulting Party is obligated to discharge, remove or satisfy.

## 5. CONDEMNATION

5.1 Right to Participate. In the event the Buyer's Real Property or the Central Hudson Real Property, or any part thereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain or any agreement with those authorized to exercise such right (any such matter being hereinafter referred to as a "Taking" or property "Taken"), whether such Taking be a permanent taking or a temporary Taking, any person or entity having an interest in the award or awards shall have the right to participate in any such condemnation proceedings or agreement for the purpose of protecting its interest hereunder. Each Party so participating shall pay its own expenses.

5.2 Total Taking. A "Total Taking" shall be deemed to have occurred as to the property of any Party (which means the Buyer's Real Property, as to Buyer, and the Central Hudson Real Property, as to Central Hudson) when the entire property of such Party shall be Taken or a substantial part of such property shall be Taken and the untaken portion of the property would, following the completion of restoration, be unsuitable for the operation and the Use thereof in the manner so operated and Used prior to the Taking. Upon a Total Taking, this Agreement shall terminate with respect to the property Taken except with respect to the disposition of the award and this Agreement shall continue with respect to the property not Taken.

5.3 Disposition of Award. In the event of a Taking, each Party shall be entitled to share in the awards to the extent of its interest in the property subject to the Taking, and for consequential damages to and dilution of value of the relevant property not so Taken. For purposes hereof, Central Hudson shall have the exclusive right to any award attributable to a Taking of the Danskammer Substation Easement Area (and all improvements thereon), or any portion thereof, as fully as if Central Hudson had owned such property in fee.

5.4 Notice of Taking. In the event the Buyer's Real Property or the Central Hudson Real Property, or any part thereof, shall be the subject of any condemnation proceedings or the subject of any eminent domain proceedings, and if any Party shall receive actual notice of such proceedings, the Party receiving such notice shall notify the other Party of the existence of such proceedings. Such notification shall occur within thirty (30) days of the receipt of such actual notice.

## 6. DEFAULTS

6.1 Events of Default. Each and every one of the following events shall constitute an Event of Default ("Event of Default") under this Agreement:

(a) If a Party fails to make any payment due the other Party within twenty (20) days of written demand for such payment;

(b) If a mechanics' lien or other lien for labor or materials furnished to a Party is filed against the property or improvements of that Party and is not discharged, removed or satisfied within the time period specified in Section 4.2(c) hereof or if a Party fails, within twenty (20) days of written notice from the other Party, to make any payment due from such Party to any third party and such failure could result in the imposition of a lien or other encumbrance on the property or improvements of a Party (other than those contemplated by Section 4.2(c) hereof) unless the payment of such amount is contested in accordance with Section 3.5 hereof, in which case, the provisions of Section 3.5 shall control; and

(c) If a Party fails to perform any non-monetary obligations hereunder, and said Party fails to cure such default within thirty (30) days of receipt of written notice stating with particularity the nature of the default; provided, however, if such default is of such a nature that it cannot reasonably be cured within thirty (30) days following receipt of such notice, an Event of Default shall not have occurred if the defaulting Party shall within such thirty (30) days commence the necessary cure and shall at all times thereafter diligently and continuously prosecute such cure to completion, provided that the cure is completed no later than one hundred eighty (180) days after receipt of the default notice.

6.2 Right of Self Help. A non-defaulting Party may at its election following the occurrence of a non-monetary Event of Default and the thirtieth (30th) day after the receipt by the defaulting Party of the written notice specified in paragraph 6.1(c) hereof, undertake the cure of such default on behalf of the defaulting Party. A non-defaulting Party is granted an easement to enter upon, through or under the property or improvements of the defaulting Party to effect such cure. Following the occurrence of an Event of Default involving the payment of money to a person or entity not Party to this Agreement, a non-defaulting Party may make such payment on behalf of the defaulting Party. All monies paid by the non-defaulting Party and all reasonable costs and expenses (including, reasonable attorneys' fees) incurred by it, as the case may be, in effecting such cure or payment, shall be paid by the defaulting Party upon written demand, together with interest from the date of such demand at the rate set forth in Section 6.3.

6.3 Interest. Following the occurrence of an Event of Default involving the nonpayment of money by the defaulting Party to the non-defaulting Party, all monies owed to the non-defaulting party shall bear interest at the rate equal to one and

one-half percent (1.5%) per month accruing on the due date, provided, however, that such late payment charge shall not exceed the maximum charge which may be collected under State law.

6.4 Enforcement Rights. In addition to any other rights expressly set forth in this Agreement, but without limitation, enforcement of this Agreement may be had by legal or equitable proceedings against any defaulting Party either to specifically enforce, restrain or enjoin the violation of any restriction, covenant, agreement, term, representation or warranty herein contained or to recover damages. The above notwithstanding, termination of this Agreement shall not be available as a remedy in any proceedings against any defaulting Party.

6.5 No Forfeiture. Except by enforcement of a judgment lien against such property, nothing contained in this Agreement shall create any reversion, condition or right of re-entry or other provisions for forfeiture under which any Party can be cut off, subordinated or otherwise disturbed in the possession of its property.

6.6 Independent Covenants. None of the rights and easements granted by this Agreement and none of the performances required by this Agreement shall be dependent upon the performance of any other term, promise, or condition of this Agreement or any documents executed concurrently or in connection with this Agreement, and such rights, easements and requirements or performance shall continue in effect irrespective of whether anything else in this Agreement or such other documents has been breached or has been terminated. The separateness and independent survival of the rights, easements and requirements of performance under this Agreement are essential terms hereof without which this Agreement would not have been made.

## 7. INDEMNIFICATION AND INSURANCE

7.1 Buyer's Indemnification. Buyer shall indemnify, hold harmless, and defend Central Hudson and its Affiliates, as the case may be, and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors and permitted assigns from and against any and all claims, liabilities, costs, damages, and expenses (including, without limitation, reasonable attorney and expert fees, and disbursements incurred by any of them in any action or proceeding between Central Hudson and a third party or Buyer) for damage to property or injury to or death of any person, including Central Hudson's employees or any third parties, to the extent caused by the breach of this Agreement by Buyer or the negligence or willful misconduct of Buyer and/or its officers, directors, employees, agents, contractors, subcontractors or invitees arising out of or connected with Buyer's performance of this Agreement, or the exercise by Buyer of its rights hereunder.

7.2 Central Hudson's Indemnification. Central Hudson shall indemnify, hold harmless, and defend Buyer and its Affiliates, as the case may be, and their

respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors and permitted assigns from and against any and all claims, liabilities, costs, damages, and expenses (including, without limitation, reasonable attorney and expert fees, and disbursements incurred by any of them in any action or proceeding between Buyer and a third party or Central Hudson) for damage to property or injury to or death of any person, including Buyer's employees or any third parties, to the extent caused by the breach of this Agreement by Central Hudson or the negligence or willful misconduct of Central Hudson and/or its officers, directors, employees, agents, contractors, subcontractors or invitees arising out of or connected with Central Hudson's performance of this Agreement, or the exercise by Central Hudson of its rights hereunder.

7.3 Survival. The provisions of Sections 7.1 and 7.2 shall survive termination, cancellation, suspension, completion or expiration of this Agreement.

7.4 Insurance Coverage. The Parties shall maintain at their own cost the following insurance: (a) standard Commercial General Liability insurance with limitations not less than Two Hundred Million Dollars (\$200,000,000.00) in the aggregate; (b) All-Risk Property insurance in amounts not less than one hundred percent (100%) of the full replacement cost of the improvements located upon each Party's real property; (c) Worker's compensation insurance as required by prevailing law and Employer's liability insurance with limits of not less than Twenty-five Million Dollars (\$25,000,000.00); and (d) such other insurance as is customary in the electric utility industry.

7.5 Certificate of Insurance. The Parties agree to furnish each other with certificates of insurance evidencing the insurance coverage obtained in accordance with this Article 7, and the Parties agree to notify and send copies to the other of any policies maintained hereunder upon written request by a Party. Each Party must notify the other Party within five (5) business days of receiving notice of cancellation, change, amendment or renewal of any insurance policy required pursuant to Section 7.4 above.

7.6 Additional Insureds and Waiver. Each Party and its affiliates shall be named as additional insureds on the general liability insurance policies obtained in accordance with Section 7.4, above, as regards liability under this Agreement; and each general liability insurance policy shall contain a waiver of subrogation and each Party shall waive its rights of recovery against the other for any loss or damage covered by such policy.

## 8. MISCELLANEOUS

8.1 Effective Date. This Agreement shall become effective at the time the Closing becomes effective pursuant to the Asset Purchase and Sale Agreements (the "Effective Date").

8.2 Exhibits. All exhibits attached to this Agreement are part of this Agreement and the material contained in such exhibits shall be construed and interpreted as if contained within the text of the Agreement.

8.3 Headings. The Article and Section headings of this Agreement are for convenience and reference only and in no way define, limit or describe the scope and intent of this Agreement, nor in any way affect this Agreement.

8.4 Interpretation. When a reference is made in this Agreement to an Article, Section, Schedule or Exhibit, such reference shall be to an Article or Section of, or Schedule or Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” or equivalent words. The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Unless otherwise expressly stated herein, the word “day” shall mean any calendar day including weekends and holidays. Any agreement, instrument, statute, regulation, rule or order defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument, statute, regulation, rule or order as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes, regulations, rules or orders) by succession of comparable successor statutes, regulations, rules or orders and references to all attachments thereto and instruments incorporated therein. References to a person are also to its permitted successors and assigns. Each Party acknowledges that it has been represented by counsel in connection with the review and execution of this Agreement and, accordingly, there shall be no presumption that this Agreement or any provision hereof be construed against the Party that drafted this Agreement.

8.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

8.6 Entire Agreement. This Agreement, the Asset Purchase and Sale Agreements and the Ancillary Agreements (as defined in the Asset Purchase and Sale Agreements) including the Exhibits, Schedules, documents, certificates and instruments referred to herein or therein and other contracts, agreements and instruments contemplated hereby or thereby, embody the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein or therein.

8.7 Amendment and Modification, Extension, Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing signed on behalf of each of the Parties. Either Party may (i) extend the time for the performance of any of the obligations or other acts of the other Party, (ii) waive any inaccuracies in the representations and warranties of the other Party contained in this Agreement or (iii) waive compliance by the other Party with any of the agreements or conditions contained in this Agreement. Any agreement on the part of a Party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such Party. The failure of a Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

8.8 Binding Effect. The covenants, conditions, restrictions, encumbrances, easements, license and agreements set forth in this Agreement shall attach to, burden, and run with the land and the Buyer's Real Property and the Central Hudson Real Property or the applicable portion or portions thereof, and shall be appurtenant to the Buyer's Property or the Central Hudson Real Property, as appropriate and, together with the remainder of this Agreement, shall be binding upon the Parties hereto and their respective successors, assigns, grantees, transferees and tenants and, together with the remainder of this Agreement, shall inure to the benefit and Use of the Parties hereto and their respective heirs, successors, assigns, grantees, transferees and tenants. Each Grantee of any portion of or interest in the property and each mortgagee which succeeds to the fee simple ownership of any portion of the property shall be deemed, by the acceptance of the deed conveying fee simple title to such person, to have agreed to perform each and every undertaking created hereunder attributable to the portion of the property in which such Grantee or mortgagee has acquired an interest.

8.9 Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

8.10 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

8.11 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

if to Central Hudson, to:

Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, New York 12601-4879  
Telecopier: (914) 486-5782  
Attention: Ronald P. Brand, Senior Vice President

with a copy to:

Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, D.C. 20037  
Telecopier: (202) 887-0689  
Attention: Kenneth M. Simon, Esq.

if to Buyer, to:

Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, Texas 77002  
Telecopier: (713) 767-8513  
Attention: Edward P. Hermann  
Vice President – Project Acquisitions

with a copy to:

Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, Texas 77002  
Telecopier: (713) 767-8510  
Attention: Tim Beverick, Esq.

8.12 Independent Contractor Status. Nothing in this Agreement shall be construed as creating any relationship between Central Hudson and Buyer other than that of independent contractors.

8.13 Conflicts. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Asset Purchase and Sale Agreements, the terms of this Agreement shall prevail.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Central Hudson and Buyer have caused this Easement Agreement to be signed by their respective duly authorized officers as of the date first above written.

[BUYER]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CENTRAL HUDSON GAS & ELECTRIC  
CORPORATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF                            )

On this \_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF )  
 ) SS:  
COUNTY OF )

On this \_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

## Schedule 1.1

## Definitions

“Access” means, subject to the conditions set forth in this Agreement and a Party’s right to impose reasonable security and safety restrictions protecting its officers, employees, agents, consultants, contractors, subcontractors, invitees, property and confidential information, full and unimpeded access, in common with Grantor over and through existing roads, paths, walkways, corridors, hallways, doorways, and other means of entry or exit, as exist now and from time to time on Grantor’s property or, where no means of access exists, over and through those areas of Grantor’s property or improvements which are (i) reasonably necessary or convenient for achieving Grantee’s underlying purposes, and (ii) least likely, out of the alternatives reasonably available, to impede or damage the property or operation of any Party hereto. Access shall also include access and right-of-way for Grantee’s employees, agents, consultants, contractors, subcontractors, vehicles, trucks, trailers, heavy machinery, equipment, materials, and all other items reasonably necessary or convenient for achieving Grantee’s underlying purposes.

“Affiliate” has the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934.

“Agreement” means this Easement Agreement.

“Asset Purchase and Sale Agreements” has the meaning set forth in the first recital of this Agreement, as such Asset Purchase and Sale Agreements may be amended or modified.

“Buyer” shall have the meaning set forth in the introductory paragraph of this Agreement and shall include its permitted successors and assigns.

“Buyer’s Real Property” means the real property described in Exhibit A, and any improvements or betterments thereto now or hereinafter situated thereon.

“Central Hudson” shall have the meaning set forth in the introductory paragraph of this Agreement and shall include its permitted successors and assigns.

“Central Hudson Real Property” means the real property described in Exhibit B, and any improvements or betterments thereto nor or hereinafter situated thereon.

“Closing” has the meaning set forth in the respective Asset Purchase and Sale Agreements.

“Danskammer Asset Purchase and Sale Agreement” shall have the meaning set forth in the introductory paragraph of this Agreement.

“Danskammer Substation Easement Area” shall have the meaning set forth in Section 2.1(d).

“Distribution of Electric Current” means local transmission and distribution of electricity to Central Hudson’s end users.

“Distribution Facilities” means towers, lines of towers, poles, lines of poles, supporting structures, cables, crossarms, overhead and underground wires, guys, braces, ducts, conduits, cables, anchors, lightning protective wires, and all related above-ground and underground facilities, appurtenances and equipment, including all additions, replacements and expansions thereto, now or hereafter installed or located on the Buyer’s Real Property for Distribution of Electric Current. Distribution Facilities do not include Transmission Facilities.

“Effective Date” has the meaning set forth in Section 8.1.

“FERC” means the Federal Energy Regulatory Commission or its successors.

“Generating Facilities” means the Stations and any additional generating plants, turbines or other generating facilities constructed by Buyer after the Effective Date at the site of the Stations.

“Good Utility Practice” shall have the meaning given it by the Interconnection Agreement.

“Grantee” means the Party or Parties who enjoy the principal benefit of the referenced easement, license, right (including attachment rights) privilege or right-of-way.

“Grantor” means the owner or owners of the property and/or improvement granting the referenced easement, license, right (including attachment rights), privilege or right-of-way.

“Interconnection Agreement” means the Interconnection Agreement dated as of \_\_\_\_\_, between Central Hudson and Buyer.

“Interconnection Service” shall have the meaning given it by the Interconnection Agreement.

“Party” or “Parties” shall have the meaning set forth in the introductory paragraph of this Agreement.

“Qualified Personnel” means individuals who possess any required licenses and trained for their positions and duties by Buyer and/or Central Hudson pursuant to Good Utility Practice.

“Roseton Asset Purchase and Sale Agreement” shall have the meaning set forth in the introductory paragraph of this Agreement.

“State” means the State of New York.

“Stations” means the Roseton Station (as defined in the Roseton Asset Purchase and Sale Agreement) and the Danskammer Station (as defined in the Danskammer Asset Purchase and Sale Agreement).

“Transmission of Electric Current” means the transmission of such current typically over long distances and at voltages not commonly used for service to end use customers.

“Transmission Facilities” means towers, lines of towers, poles, lines of poles, supporting structures, cables, crossarms, overhead and underground wires, guys, braces, ducts, conduits, cables, anchors, lightning protective wires, and all related above-ground and underground facilities, appurtenances and equipment, including all additions, replacements and expansions thereto, now or hereafter installed or located on the Buyer’s Real Property and/or which Central Hudson may reasonably require now and from time to time on the Buyer’s Real Property for the Transmission of Electric Current. Transmission Facilities do not include Distribution Facilities.

“Transmission System” shall have the meaning set forth in the Interconnection Agreement.

“Use” means to operate, maintain, repair, upgrade, clean, install, add to, alter, remove, inspect, construct, modify, restore, rebuild, replace, relocate and expand (but if any such addition, relocation or expansion would unreasonably or materially burden Grantor’s Property, in each case, the express, prior written consent of Grantor shall be required, which consent shall not unreasonably be withheld, delayed or conditioned) (all of the foregoing to be in accordance with Good Utility Practice).

LIST OF EXHIBITS

- Exhibit A – Buyer’s Real Property
- Exhibit B – Central Hudson Real Property
- Exhibits C-P – Descriptions of Easements and Rights-of-Way

## Survey Description

All those parcels of land situate in the Town of Newburgh, County of Dutchess and State of New York, bounded and described as follows:

## Parcel 1

Beginning at the southwesterly corner of the herein described parcel, said point being at the intersection of the northerly line of lands now or formerly of Amerada Hess Corporation and the centerline of River Road, thence along the centerline of River Road the following five (5) courses and distances:

1. North 23°-58'-06" East 92.30 feet,
2. North 26°-12'-36" East 415.37 feet,
3. North 06°-40'-24" West 107.80 feet,
4. North 17°-35'-24" West 531.00 feet, thence leaving said centerline of River Road,
5. South 88°-13'-54" East 28.39 feet, to a point on the easterly line of River Road, thence along said easterly line of River Road the following eight (8) courses and distances:
  6. North 16°-30'-34" West 27.81 feet,
  7. North 04°-36'-36" East 179.41 feet,
  8. North 25°-57'-11" East 168.53 feet,
  9. North 27°-23'-11" East 60.03 feet,
  10. North 19°-43'-36" East 71.98 feet,
  11. North 11°-36'-26" East 259.68 feet,
  12. 207.64 feet on a curve to the right having a radius of 200.90 feet and a long chord of North 41°-13'-16" East 198.55 feet,
  13. North 70°-50'-06" East 319.12 feet,
  14. 397.50 feet on a curve to the left having a radius of 245.00 feet and a long chord of North 24°-21'-19" East 355.31 feet to a point on the easterly line of Danskammer Road, thence along the southerly line of said parcel and crossing Danskammer Road,
  15. North 02°-47'-40" West 77.74 feet, more or less to a point West at the southeasterly corner of the former Roseton School Parcel, now R.T.I.C., thence along the southerly line of said parcel and along the northerly line of River Road a.k.a. Soap Hill Road, the following seven (7) courses and distances:
    16. North 61°-26'-30" West 45.10 feet,
    17. North 68°-23'-20" West 16.32 feet,
    18. North 69°-02'-40" West 33.12 feet,
    19. North 68°-51'-10" West 14.87 feet,
    20. North 61°-27'-20" West 9.11 feet,
    21. North 62°-18'-20" West 68.14 feet,
    22. North 67°-16'-40" West 60.65 feet,
    23. North 70°-39'-40" West 215.24 feet,

EXHIBIT A

24. North 80°-21'-40" West 168.19 feet to the southeasterly corner of the Roseton substation (a 29.17 acre parcel to be retained by Central Hudson Gas and Electric Corporation), thence along the easterly line of said 29.17 acre parcel the following six (6) courses and distances:
25. North 25°-43'-20" East 407.40 feet,
26. South 72°-24'-40" East 275.00 feet,
27. North 80°-15'-10" East 27.50 feet,
28. North 11°-42'-10" East 174.73 feet,
29. North 07°-45'-10" East 38.63 feet,
30. North 08°-37'-20" East 95.23 feet,
31. North 09°-47'-10" East 230.14 feet to the southerly corner of lands formerly of Ostrander (to be retained by Central Hudson Gas and Electric Corporation), thence along the southerly line of said Ostrander Parcel,
32. North 79°-22'-30" East 417.50 feet to the southerly corner of lands formerly of Horace (to be retained by Central Hudson Gas and Electric Corporation), thence along the southerly line of said Horace Parcel,
33. North 80°-14'-30" East 182.90 feet, thence along the easterly line of said Horace Parcel in part and along the easterly line of lands now or formerly of Grove,
34. North 48°-13'-00" East 531.28 feet, thence on a connection course of
35. North 42°-49'-27" West 5.59 feet to a point on the southerly line of a 4.92 acre parcel of land conveyed by New York Trap Rock Corporation to Central Hudson Gas and Electric Corporation, thence along the northerly line of lands now of formerly of Grove and the southerly line of the aforementioned 4.92 acre parcel,
36. North 89°-49'-30" West 308.04 feet,
37. North 89°-49'-13" West 295.13 feet to a 4.1 acre parcel of land formerly of Deyo and Tuckosh (to be retained by Central Hudson Gas and Electric Corporation), thence along the easterly line of said Deyo and Tuckosh parcel,
38. North 03°-51'-13" West 295.13 feet to a point on the southerly line of lands now or formerly of New York Trap Rock Corporation (Tilcon), thence along the southerly line of said lands now or formerly of New York Trap Rock Corporation (Tilcon), the following ten (10) courses and distances.
39. South 89°-49'-13" East 295.13 feet,
40. South 89°-47'-09" East 527.41 feet,
41. North 67°-17'-10" East 74.26 feet,
42. North 30°-09'-09" East 96.00 feet,
43. North 34°-30'-09" East 61.13 feet,
44. North 72°-21'-40" East 79.36 feet,
45. North 86°-18'-10" East 94.95 feet,
46. North 50°-28'-10" East 52.73 feet,
47. North 89°-29'-36" East 703.23 feet,
48. South 71°-59'-31" East 839.04 feet to a point on the westerly line of a ten foot wide strip of land- reputedly of Central Hudson Gas and Electric Corp. lying contiguous to the westerly line of lands of

EXHIBIT A

- CSX Rail Corp., thence continuing,
49. South 71°-59'-31" East 10.12 feet to the aforementioned westerly line of lands now or formerly of CSX Rail Corp., thence along the aforementioned westerly line of lands now or formerly of CSX Rail Corp. the following ten (10) courses and distances:
  50. South 27°-01'-46" West (South 27°-16'-46" West Deed) 684.24 feet, more or less,
  51. South 27°-01'-46" West 277.23 feet, more or less,
  52. North 62°-58'-14" West 20.5 feet,
  53. South 27°-01'-46" West 500 feet, more or less,
  54. South 62°-58'-14" East 20.5 feet,
  55. South 27°-01'-46" West 1125.15 feet to the northerly line of lands formerly of the Jova Brick Works (now RTIC), thence continuing along the aforementioned westerly line of lands now or formerly of CSX Rail Corp.
  56. South 27°-01'-46" West 565.84 feet,
  57. 846.30 feet on a curve to the right, having a radius of 2815.50 feet on a curve to the right and a long chord of South 35°-38'-26" West 843.11 feet,
  58. South 44°-15'-06" West 488.41 feet to a point on the southerly line of lands formerly of the Jova Brick Works (now RTIC) said point also being on the northerly line of lands formerly of the Atlantic Refining Company (now RTIC), thence continuing along the aforementioned westerly line of lands now or formerly of CSX Rail Corp.,
  59. South 44°-15'-06" West 1310.89 feet to a point on the aforementioned northerly line of lands now or formerly of Amerada Hess Corporation, thence along said northerly line of lands now or formerly of Amerada Hess Corporation,
  60. North 49°-50'-24" West 888.84 feet to the point of beginning.
  61. Containing 227.34 acres more or less.

June 16, 2000.

Being the same Parcels conveyed by:

Jova Brick Company, Inc.	68.70 ± Acre	Liber 1955	Page 972
Atlantic Richfield	38.22 ± Acre		
Arthur V. Bernabei	0.164 Acre	Liber 2047	Page 1102
Marlboro School District	5.04 Acre	Liber 2026	Page 615
A. Armstrong Rice and Lester Rice	4.86 Acre		
Peter S. Brooks	68.94 Acre	Liber 040	Page 648
Anna Rice (13.4 Ac. Deed)			
corrected to	11.25 Acre	Liber 1464	Page 215
Anna Rice	8.93 Acre	Liber 1431	Page 269,

EXHIBIT A

		Liber 1129	Page 316
New York Trap Rock Corp.	14.1+ 4.92 Ac	Liber 4504	Page 79
Anne A. Rice & Charles L. Rice	1.29 Acre	Liber 1129	Page 316
United Hudson Realty Corp.	0.6 Acre		
Ten Foot strip along CSX Corp.		Liber 845	Page 133.

Excepting these parcels conveyed by Central Hudson Gas and Electric Corporation to the Town of Newburgh, by deed dated November 27, 1978 and recorded in the Orange County Clerk's Office in Liber 2190 of Deeds at Page 211. Containing 0.21 acres, more or less and parcel dated December 15, 1980 and recorded in Liber 2190 of Deeds at Page 216. Containing 1.91 acres, more or less.

Also subject to the rights of the People of the State of New York and to that portion of River Road where the aforedescribed 227± acre parcel runs to the centerline of River Road.

Survey Description  
Parcel 2  
47.3 Acres West Side of River Road

Beginning at the northwesterly corner of the herein described parcel at the southerly line of Soap Hill Road at its intersection with the easterly line of lands now or formerly of the Cedar Hill Cemetery Association, thence along the southerly line of Soap Hill Road and later on, River Road, the following thirteen (13) courses and distances:

1. South 73°-34'-34" East 253.46 feet,
2. South 71°-03'-24" East 102.68 feet,
3. South 69°-26'-44" East 96.11 feet,
4. South 75°-41'-54" East 104.84 feet,
5. South 81°-22'-54" East 95.73 feet,
6. South 76°-59'-24" East 102.76 feet,
7. South 68°-54'-24" East 94.85 feet,
8. South 62°-23'-24" East 57.28 feet,
9. 63.70 feet on a curve to the right having a radius of 127.59 feet and a long chord of South 48°-05'-14" East 63.05 feet,
10. South 33°-46'-59" East 50.45 feet,
11. 356.05 feet on a curve to the right having a radius of 195.00 feet and a long chord of South 18°-31'-34" West 308.61 feet,
12. South 70°-50'-06" West 319.12 feet,
13. 56.07 feet on a curve to the right having a radius of 250.90 feet and a long chord of South 64°-25'-58" West 55.95 feet to a point on the northerly line of lands now or formerly of the Church of Our Lady of Mercy, thence along the northerly, westerly and southerly line of said lands now or formerly of the Church of Our Lady of Mercy the following three (3) courses and distances:
14. North 64°-37'-34" West 275.68 feet,
15. South 28°-27'-36" West 293.03 feet,
16. South 80°-38'-34" East 274.98 feet to a point on the westerly line of River Road, thence along said westerly line of River Road the following eight (8) courses and distances:
17. South 11°-36'-26" West 233.84 feet,
18. South 19°-43'-36" West 65.08 feet,
19. South 27°-23'-11" West 46.76 feet,
20. South 27°-23'-11" West 10.99 feet,
21. South 25°-57'-11" West 67.27 feet,

## EXHIBIT A

22. South 25°-57'-11" West 110.81 feet,
23. South 04°-36'-36" West 198.20 feet,
24. South 16°-30'-34" East 119.97 feet, thence leaving said westerly line of River Road,
25. South 88°-13'-54" East 26.25 feet to a point in the centerline of River Road, thence along the centerline of River Road the following three (3) courses and distances:
  26. South 17°-35'-24" East 431.00 feet,
  27. South 06°-40'-24" East 107.80 feet,
  28. South 26°-12'-36" West 90.53 feet to the southeasterly corner of lands conveyed by the estate of Rozner to Roseton Tenants in Common, thence along the southerly line of said parcel and also along the northerly line of lands now or formerly of Venuti,
29. North 75°-07'-24" West 150.00 feet to the easterly line of lands now or formerly of Hess Oil and Chemical Corp., thence along the easterly and northerly line of lands now or formerly of Hess Oil and Chemical Corp. the following two (2) courses and distances:
  30. North 26°-12'-36" East 91.00 feet,
  31. North 75°-07'-24" West 769.43 feet to a stonewall intersection and the northeasterly corner of lands now or formerly of Hudson Oaks Partnership, thence continuing along the northerly line of lands now or formerly of Hudson Oaks Partnership and generally along a stonewall, the following three (3) courses and distances:
    32. North 74°-21'-54" West 315.90 feet,
    33. North 75°-47'-04" West 158.80 feet,
    34. North 76°-51'-04" West 59.86 feet to lands now or formerly of the aforementioned Cedar Hill Cemetery Association, thence along the easterly line of lands now or formerly of the Cedar Hill Cemetery Association;
  35. North 28°-02'-01" East 1812.93 feet to a point on the northwesterly line of a 25 foot wide strip of lands now or formerly of R.T.I.C., thence along said northwesterly line of lands now or formerly of R.T.I.C.,
  36. North 10°-38'-29" West 386.67 feet to a point on the southerly line of the aforementioned Soap Hill Road, thence along said southerly line of Soap Hill Road,
  37. South 73°-48'-04" East 28.02 feet to a point on the northeasterly line of the aforementioned 25 foot wide strip said point also being at the northwesterly corner of a triangular-shaped parcel of lands now or formerly of the Cedar Hill Cemetery Association, thence along the northeasterly line of the aforementioned 25 foot wide strip of lands now or formerly of R.T.I.C. and along the northwesterly line of the triangular-shaped parcel now or formerly of the Cedar Hill Cemetery Association,
  38. South 10°-38'-29" East 342.79 feet and thence along the easterly line of the aforementioned triangular-shaped parcel now or formerly of the Cedar Hill Cemetery Association,
  39. North 28°-02'-01" East 312.50 feet to the point of beginning.

EXHIBIT A

Containing 47.30 acres, more or less.

Bearings rotated from deed to N.Y. State (East) Grid (1927).

Subject to utility easements to be retained by Central Hudson Gas and Electric Corporation.

Subject to the rights of the People of the State of New York in and to that portion of River Road that abuts the aforescribed 47.30 acre parcel. Specifically courses No. 26, 27 and 28.

Being the same as the premises conveyed to the Roseton Tenants in Common by:

1. Jova Brick Company, Liber 1955 Page 972.
2. Mary Nameth, Liber 2145 Page 481.
3. Smith, Liber 1926 Page 1008.
4. Grove, Liber 1844 Page 24.
5. DeFazio and Lamey, Liber 1865 Page 576.
6. Meehan, Liber 2109 Page 289.
7. Powell, Liber 2274 Page 222.
8. Estate of Rozner, Liber 3577 Page 132 Roseton-Tenants-in-Common.

June 20, 2000.

Survey Description  
Parcel 3 (Walker Parcel - Marlboro Turnpike)

Beginning at the southwesterly corner of the herein described parcel, said point being on the centerline of the Marlboro Turnpike at its intersection with the northerly line of a 1 acre parcel of lands now or formerly of Central Hudson Gas and Electric Corporation (formerly Cacciatore), to be retained by Central Hudson Gas and Electric Corporation, thence along the aforementioned centerline of Marlboro Turnpike,

1. North 22°-08'-20" East 52.40 feet to a point on the southerly line of lands now or formerly of Hellmuth, thence along the southerly line of lands now or formerly of Hellmuth,
2. South 85°-16'-58" East 262.01 to the southeasterly corner of lands now or formerly of Hellmuth, thence along the easterly (rear) lot lines of lots fronting on Marlboro Turnpike (Hellmuth, Smith, DeSantis, Salzman, Ferrara) the following four (4) courses and distances:
  3. North 22°-08'-20" East 250.13 feet,
  4. North 70°-22'-58" West 27.25 feet,
  5. North 22°-08'-20" East 250.00 feet,
  6. North 49°-22'-02" East 268.10 feet, thence continuing along the northerly line of lands now or formerly of Ferrara the following two (2) courses and distances:
    7. North 23°-50'-58" West 197.16 feet,
    8. North 41°-50'-58" West 92.08 feet to a point on the aforementioned centerline of the Marlboro Turnpike, thence along the aforementioned centerline of the Marlboro Turnpike,
  9. North 48°-09'-20" East 50.00 feet to a point on the southerly line of lands now or formerly of Reilly, thence along the southerly line of lands now or formerly of Reilly, the following two (2) courses and distances:
    10. South 41°-50'-58" East 100.00 feet,
    11. South 23°-50'-58" East 190.00 feet to the southeasterly corner of lands now or formerly of Reilly, thence along the easterly (rear) lot lines fronting on Marlboro Turnpike (Reilly, Durkin, Sweetman, Seibert, and Tauffner) the following courses and distances:
      12. North 54°-58'-02" East 527.30 feet,
      13. North 55°-02'-02" East 529.40 feet,
      14. North 55°-02'-02" East 52.40 feet to a point on the westerly line of lands now or formerly of DiStefano, thence along said westerly line of lands now or formerly of DiStefano the following two (2) courses and distances:
        15. South 04°-05'-58" East 8.96 feet (Deed = 10.7'),
        16. South 30°-34'-02" West 562.2 feet, thence continuing along said westerly line of lands now or formerly of DiStefano, in part, and also along the westerly line of lands now or formerly of Tilcon Corporation (formerly N.Y. Trap Rock Corp.),
      17. South 03°-16'-58" East 767.50 feet to a point at the northeasterly corner of a 4.1± acre parcel of lands to be retained by Central Hudson Gas and Electric Corporation (formerly Deyo and

EXHIBIT A

Tuckosk), thence along the northerly, westerly and southerly line of said 4.1± acre parcel to be retained by Central Hudson Gas and Electric Corporation, the following three (3) courses and distances:

18. South 80°-21'-02" West 473.00 feet,
19. South 09°-38'-58" East 246.90 feet,
20. South 80°-21'-02" West 25.00 feet to a point on the easterly line of a 10.6± acre parcel to be retained by Central Hudson Gas and Electric Corporation, thence along the easterly and northerly line of said 10.6 acre parcel to be retained by Central Hudson Gas and Electric Corporation, the following four (4) courses and distances:
  21. North 31°-23'-58" West 86.10 feet,
  22. North 11°-53'-58" West 34.20 feet,
  23. North 73°-38'-58" West 324.50 feet and
  24. North 85°-16'-58" West 542.40 feet to the point of beginning.

Containing 20.35 acres, more or less.

Being the same premises conveyed by Henry L. Walker and Helen Walker to Central Hudson Gas and Electric Corporation by deed dated May 17, 1960 and recorded in the Orange County Clerk's Office in Liber 1550 of Deeds at Page 353.

Bearings rotated into N.Y.S. (East) Coordinate System (1927).

Adjoining owners recited are per tax record information as of June 9, 2000. No deed research or investigation performed.

June 12, 2000.

Survey Descriptions  
Parcels East of CSX Rail Corp.

All those parcels of land, now or formerly under the waters of Hudson River, situated in the Town of Newburgh, County of Orange, bounded and described as follows:

Parcel "A" (Conversion)

Parcel 4

Beginning at a point in the division line between grants of land under water to J.C. Bancroft Davis by patent dated June 25, 1869 and Gouverneur M. Armstrong and others by patent dated November 13, 1869 at its intersection with the easterly right-of-way line of the Penn Central Railroad, said point 49.56 feet as measured along said division line from its intersection with the centerline of said railroad at station 326+601.0; thence into the waters of Hudson River and along said division line;

1. South 43°-00'-20" East, 369.93 feet to the northeasterly corner of said grant to J.C. Bancroft Davis; thence along the easterly line of said grant
2. South 55°-44'-40" West 1,273.75 feet to its intersection with the division line between the lands of Central Hudson Gas and Electric Corporation, by deed dated June 24, 1966 and filed in the Orange County Clerk's Office in Liber 1747 of Deeds at Page 830 on the north and Hess Oil & Chemical Corporation on the south; thence along said division line,
3. North 49°-50'-20" West 226.07 to the beforementioned easterly right-of-way line of the Penn Central Railroad; thence along said right-of-way line,
4. North 44°-15'-10" East 1,299.41 feet to the point of beginning.

Containing 8.76 acres, more or less.

Being a portion of the grant of land under water to J.C. Bancroft Davis by patent dated June 25, 1869.

Parcel "B" (Conversion)

Parcel 6

Beginning at a point in the division line between grants of land under water to J.C. Bancroft Davis by patent dated June 25, 1869 and Gouverneur M. Armstrong and others by patent dated November 13, 1869 at its intersection with the easterly right-of-way line of the Penn Central Railroad, said point being 33.04 feet as measured along said division line from its intersection with the centerline of said railroad at station 326+601; thence along said easterly right-of-way line the following five (5) courses and distances;

1. North 44°-15'-10" East 492.08 feet,
2. 753.03 feet on a curve to the left, having a radius of 2,898.00 feet and a long chord of North 36°-48'-30" East 750.92 feet,
3. South 60°-38'-10" East 16.50 feet,
4. 118.73 feet on a curve to the left, having a radius of 2,914.50 feet and a long chord of North 28°-11'-

EXHIBIT A

- 50" East 118.71 feet.
5. North 27°-01'-50" East 554.30 feet to the division line between lands of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation, as tenants in common, by deed dated May 14, 1968 on the south and Central Hudson Gas and Electric Corporation on the north; thence along said division line,
  6. South 64°-57'-10" East 143.02 feet, thence continuing along said division line partially on land and partially into the waters of the Hudson River,
  7. South 43°-00'-20" East 451.71 feet to the exterior line of said grant of land under water to Gouverneur M. Armstrong and others; thence along said exterior line
  8. South 38°-18'-22" West 1,239.88 feet and
  9. South 52°-29'-44" West 700.00 feet to the beforementioned division line between the grants of land under water to Gouverneur M. Armstrong and J.C. Bancroft Davis; thence along said division line,
  10. North 43°-00'-20" West 336.45 feet to the point of beginning.

Containing 20.01 acres, more or less.

Being a portion of the grant of land under water to Gouverneur M. Armstrong and Others dated November 13, 1869 and also lands above water lying easterly of the railroad.

Parcel "C" (Fee)

Parcel 5

Beginning at a point in the exterior line of a grant of land under water to Gouverneur M. Armstrong and Others by patent dated November 13, 1869 said point being, South 59°-04'-41" East 395.49 feet from station 326+601.0+ of the centerline of the Penn Central Railroad; thence along said exterior grant line,

11. North 52°-29'-40" East 394.39 feet; thence departing from said grant line
12. South 46°-03'-40" East 160.86 feet;
13. South 43°-52'-10" West 390.00 feet and
14. North 46°-03'-40" West 220.00 feet to the point of beginning.

Containing 74,269.00 sq. ft. or 1.705 acres, more or less.

Parcel "C" is below the mean highwater line.

All bearing referred to New York State (East) Grid Co-ordinate System.

References to Penn Central Railroad now CSX Rail Corp. See Letters Patent, People of the State of New York to Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation as Tenants in Common. March 29, 1971. Recorded in Book of Patents (Department of State) April 20, 1972 Book No. 81 at Page 70 and 74. Also recorded May 18, 1971 in the Orange County Clerk's Office in Liber 1873 of Deeds at Page 233 through 240.

June 14, 2000.

EXHIBIT A

Hayward and Pagan Associates  
Survey Description

Central Hudson Gas & Electric

Danskammer Plant  
(East of lands of CSX Rail Corp.)

Parcel 7

Beginning at a point on the easterly line of lands formerly of Penn Central Railroad now CSX Rail Corp. with its intersection with the division line between lands of Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc. and Niagara Mohawk Power Corporation, as tenants in common, by deed dated May 14, 1969 on the south and Central Hudson Gas and Electric Corporation on the north, said point also being on the northwesterly projection of the northerly line of Parcel "B" (Conversion Grant) lands under waters of the Hudson River, Letters Patent dated April 20, 1971 Book 81 Page 70 also filed in the Orange County Clerk's Office May 18, 1971 in Liber 1873 of Deeds at Page 233, thence along the aforementioned easterly line of lands now or formerly of CSX Rail Corp.,

1. North 27°-01'-46" East 3,082.60 feet to the southwesterly corner of lands underwater conveyed by Central Hudson Gas and Electric Corporation to New York Trap Rock Corporation by deed dated August 30, 1960 and recorded in the Orange County Clerk's Office in Liber 1567 of Deeds at Page 416, thence through the waters of the Hudson River and along the southerly line of the aforementioned lands now or formerly of New York Trap Rock Corporation,
2. South 62°-58'-16" East 490.64 feet, thence continuing through the waters of the Hudson River the following three courses and distances:
3. South 11°-50'-00" West 1,586.71 feet,
4. South 38°-18'-16" West 1,734.12 feet to the northeasterly corner of the aforementioned Conversion Grant, thence along the northerly line of said Conversion Grant, partially under the waters of the Hudson River and partially uplands,
5. North 43°-00'-24" West 451.71 feet and
6. North 64°-57'-14" West 143.02 feet to the point of beginning.

Containing 52.08 acres, more or less. (Partially under the waters of the Hudson River). Formerly grant to Gouverneur M. Armstrong ANO., dated November 13, 1869.

This description is based partially on surveys performed by Hayward and Pakan Associates, deeds and maps of surveys performed by others.

For a true delineation of the prior water grant an application should be made to N.Y. State Department of Transportation, Department of Waterways Maintenance.

June 16, 2000.

Survey Description  
Parcel 8

Parcel to be retained by Central Hudson Gas and Electric Corporation - (Switchyard and others)

All that parcel of land situate in the town of Newburgh, County of Orange and state of New York bounded and described as follows:

Beginning at a point on the northerly line of River Road (also known as Soap Hill Road), said point being at the southwesterly corner of the former Roseton School Parcel thence running along the northerly line of River Road (also known as Soap Hill Road) the following 13 courses and distances:

- (1) North 77°-45'-30" West 37.38 feet,
- (2) North 74°-46'-50" West 92.54 feet,
- (3) North 73°-14'-50" West 84.62 feet,
- (4) North 72°-26'-10" West 119.58 feet,
- (5) North 75°-36'-10" West 100.11 feet,
- (6) North 70°-13'-20" West 100.11 feet,
- (7) North 72°-26'-00" West 25.25 feet,
- (8) North 77°-23'-50" West 42.28 feet,
- (9) North 71°-18'-20" West 65.30 feet,
- (10) North 75°-34'-50" West 26.25 feet,
- (11) North 80°-05'-50" West 48.69 feet,
- (12) North 83°-21'-20" West 65.22 feet,
- (13) North 78°-39'-20" West 19.27 feet, to the easterly line of lands now or formerly of Beretta thence along the said easterly line of lands now or formerly of Beretta the following seven courses and distances:
  - (14) North 73°-01'-30" West 6.17 feet,
  - (15) North 70°-31'-00" West 2.69 feet,
  - (16) North 10°-28'-50" West 2.58 feet,
  - (17) North 23°-16'-40" West 172.28 feet,
  - (18) North 22°-16'-20" West 19.73 feet,
  - (19) North 22°-47'-10" West 202.55 feet,
  - (20) North 23°-21'-10" West 148.30 feet, to a point on the easterly side of the Old Marlboro Turnpike. thence along said easterly side of the Old Marlboro Turnpike the following eleven (11) courses and distances:
    - (21) North 54°-52'-20" East 33.43 feet,
    - (22) North 49°-00'-20" East 86.21 feet,
    - (23) North 44°-27'-30" East 130.55 feet,
    - (24) North 43°-22'-10" East 28.15 feet,
    - (25) North 43°-15'-50" East 103.07 feet,
    - (26) North 39°-46'-20" East 68.84 feet,
    - (27) North 35°-41'-36" East 96.95 feet,
    - (28) North 27°-27'-49" East 43.07 feet,
    - (29) North 22°-22'-56" East 182.47 feet,
    - (30) North 22°-44'-23" East 131.80 feet,
    - (31) South 86°-23'-15" East 0.59 feet to the southwesterly corner of lands formerly of Cacciatore (now Central Hudson Gas and Electric Corporation) thence continuing along the aforementioned easterly side

- of Old Marlboro Turnpike and the westerly line of the former Cacciatore Parcel,
- (32) North 22°-36'-29" East 206.37 feet to a point on the southerly line of lands of Central Hudson Gas and Electric Corporation (formerly Walker) thence along said southerly line of the former Walker Parcel. The following eight courses and distances
- (33) South 85°-16'-58" East 225.00 feet,
- (34) South 85°-16'-58" East 295.71 feet,
- (35) South 73°-38'-58" East 324.50 feet,
- (36) South 11°-53'-58" East 34.20 feet,
- (37) South 31°-23'-58" East 86.10 feet,
- (38) North 80°-21'-02" East 25.00 feet,
- (39) North 09°-38'-58" West 246.90 feet,
- (40) North 80°-21'-02" East 473.00 feet to a point on the easterly line of lands now or formerly of Tilcon (formerly New York Trap Rock Corporation), thence along the westerly and southerly line of said lands now or formerly of Tilcon, the following four courses and distances:
- (41) South 04°-45'-00" East 140.14 feet,
- (42) South 03°-51'-13" East 295.13 feet,
- (43) South 89°-49'-13" East 295.13 feet,
- (44) South 89°-49'-30" East 58.04 feet, to the northwesterly corner of lands now or formerly of Grove thence along the westerly and southerly line of lands now or formerly of Grove the following two courses and distances:
- (45) South 21°-41'-35" West 260.20 feet,
- (46) South 89°-28'-40" East 84.00 feet to a point on the easterly line of lands to be conveyed by Central Hudson Gas and Electric Corporation (formerly Peter S. Brooks) thence along said westerly line of said Brooks Parcel the following seven courses and distances:
- (47) South 48°-13'-00" West 174.58 feet,
- (48) South 80°-14'-30" West 182.90 feet,
- (49) South 79°-22'-30" West 417.50 feet,
- (50) South 09°-47'-10" West 230.14 feet,
- (51) South 08°-37'-20" West 95.23 feet,
- (52) South 07°-45'-10" West 38.63 feet,
- (53) South 11°-42'-10" West 174.73 feet to the northerly line of the former Roseton School (Marlboro School District), thence along the northerly and westerly line of said former Roseton School Parcel the following three courses and distances:
- (54) South 80°-15'-10" West 27.50 feet,
- (55) North 72°-24'-40" West 275.00 feet and
- (56) South 25°-43'-20" West 407.40 feet to the point beginning

Containing 51.70 acres, more or less.

The aforementioned 51.70 acre parcel has been constructed by combining deeds of record and maps provided by Central Hudson Gas and Electric Corporation. No field surveys have been performed by this office. Bearings conform to N.Y.S. (East) grid system of 1927.

HAYWARD AND PAKAN ASSOCIATES

EXHIBIT B

Being the sum of the following parcels conveyed by:

Fargo	-	Liber 1924	Page 960,	Liber 1924	Page 957
Deyo and Tuckosh	-	Liber 3390	Page 70		
Gibney	-	Liber 2213	Page 1069		
Ostrander Ferguson	-	Liber 2217	Page 599		
Horace	-	Liber 3285	Page 108		

July 17, 2000

Survey Description  
R.O.W. 1

Proposed easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York, bounded and described as follows:

Beginning at a point on the division line between lands now or formerly of CSX Rail Corp. on the east and lands now or formerly of Central Hudson Gas and Electric Corporation on the west, said point having a coordinate in the New York State (East) grid system of North 573,282.30 feet and East 599,990.34 feet, thence through the said lands of Central Hudson Gas and Electric Corporation the following thirteen (13) courses and distances;

1. North 65°-42'-12" West 3.15 feet to the northeast corner of a chain link fence around a gas regulator station, thence along said fence the following two (2) courses and distances;
2. North 65°-42'-12" West 40.30 feet,
3. South 25°-58'-48" West 11.00 feet,
4. North 62°-35'-30" West crossing a paved access road at 37.14 feet, a total distance of 677.30 feet, thence along a line being 100 feet southerly of the existing centerline of the Pleasant Valley - Marlboro 132 KV Transmission Line the following course,
5. North 72°-12'-00" West 1,647.93 feet, thence along a former division line (lands formerly of Fargo),
6. North 08°-55'-30" East 138.38 feet, thence along former division lines (lands formerly of Ostrander & Horace),
7. North 79°-22'-30" East 395.53 feet,
8. South 72°-12'-00" East 668.63 feet, thence keeping 5 feet northwest of an existing gas main,
9. North 57°-47'-15" East 76.11 feet, thence keeping 5 feet northeast of said gas main,
10. South 27°-22'-00" East 82.71 feet,
11. South 72°-12'-00" East crossing said access road of 545.24 feet,
12. South 76°-53'-38" East 425.81 feet, thence keeping 5 feet northerly of said gas main, in part,
13. South 82°-12'-00" East 358.82 feet to a point on the first mentioned division line, thence along the first mentioned division line the following three (3) courses and distances;
14. South 27°-01'-46" West 104.17 feet,
15. South 62°-58'-14" East 20.50 feet and
16. South 27°-01'-46" West 428.67 feet to the point of beginning.

Containing 830,415 sq. ft. or 19.064 Acres more or less.

Subject to : in part, the P.A.S.N.Y. Easement.

July 14, 2000.

Survey Description  
R.O.W. 2

Proposed 20 feet wide easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York the centerline of which is described as follows:

Beginning at a point within the lands now or formerly of Central Hudson Gas and Electric Corporation on the centerline of existing pavement of an access road at its intersection with the northerly line of R.O.W. 1, said point being distant South 72°-12'-00" East 17.33 feet from the southeasterly end of an 82.71 foot course in said R.O.W. 1, said point of beginning having a coordinate in the New York State (East) grid system of North 574,072.90 feet and East 598,941.36 feet, thence along the centerline of said paved access road the following seven (7) courses and distances;

1. North 14°-23'-00" West 86.29 feet,
2. North 03°-25'-00" West 39.94 feet,
3. North 27°-00'-00" West 117.43 feet,
4. North 33°-00'-00" West 42.58 feet,
5. North 44°-25'-00" West 103.10 feet,
6. North 54°-00'-00" West 51.74 feet and
7. North 73°-00'-00" West 25.20 feet to a point on the easterly edge of pavement of Danskammer Road.

Containing about 9,326 sq. ft. or 0.214 Acre more or less.

July 14, 2000.

EXHIBIT E  
Overhead Electric Transmission Line Corridor  
from East property line of CSA Rail Corp. to Danskammer Plant

Survey Description  
R.O.W. 3

Proposed easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York bounded and described as follows:

Beginning at a point on the division line between lands now or formerly of CSX Rail Corp. on the west and lands now or formerly of Central Hudson Gas and Electric Corporation on the east, at its intersection with easement 5 to the south, said point having a coordinate in the New York State (East) grid system of North 573,295.34 feet and East 600,108.13 feet, thence along said division line;

1. North 27°-01'-46" East 466.67 feet, thence through the lands of said Central Hudson Gas and Electric Corporation the following five (5) courses and distances;
2. South 62°-27'-30" East 357.39 feet to a point being the northwest corner of a chain link fence and the northwest corner of easement 4, thence along said fence and easement 4 on the following two (2) courses and distances;
3. South 70°-41'-20" West 44.85 feet,
4. South 27°-14'-32" West 360.38 feet, thence along said easement 5 the following two (2) courses and distances;
5. South 27°-40'-00" West 74.26 feet and
6. North 62°-20'-00" West 324.27 feet to the point of beginning.

Containing 152,579 sq. ft. or 3.503 Acres more or less.

July 14, 2000.

Survey Description  
R.O.W. 4

Proposed easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York bounded and described as follows:

Beginning at a point 42.56 feet west of the west wall of the Danskammer Plant, said point being distant North  $70^{\circ}-05'-06''$  West 42.88 feet from the northwest corner of said plant, said point having a coordinate in the New York State (East) grid system of North 573,505.75 feet and East 600,714.81 feet, thence keeping 42.56 feet west of said plant and through lands now or formerly of Central Hudson Gas and Electric Corporation the following eight (8) courses and distances;

1. South  $26^{\circ}-54'-28''$  West 375.78 feet said point being distant North  $17^{\circ}-34'-03''$  West 60.75 feet from the southwest corner of said Danskammer Plant, thence
2. South  $63^{\circ}-15'-52''$  West along a chain link fence in part and along right-of-way 5, 57.75 feet, thence continuing along said fence and said right-of-way the following three (3) courses and distances;
3. North  $62^{\circ}-45'-23''$  West 77.27 feet,
4. North  $22^{\circ}-12'-08''$  East 25.82 feet,
5. North  $33^{\circ}-50'-53''$  West 7.94 feet, thence continuing along said fence and along right-of-way 3 the following two (2) courses and distances;
6. North  $27^{\circ}-14'-32''$  East 360.38 feet,
7. North  $70^{\circ}-41'-20''$  East 44.85 feet, thence continuing along said chain link fence and the prolongation thereof,
8. South  $62^{\circ}-44'-43''$  East 87.43 feet to the point of beginning.

Containing 48,966 sq. ft. or 1.124 Acre more or less.

July 14, 2000.

Survey Description  
R.O.W. 5

Proposed easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York bounded and described as follows:

Beginning at a point on the division line between lands now or formerly of CSX Rail Corp. on the west and lands of Central Hudson Gas and Electric Corporation on the east, said point having a coordinate in the New York State (East) grid system of North 573,277.53 feet and East 600,099.04 feet, thence along said division line;

1. North 27°-01'-46" East 20.00 feet, thence through lands now or formerly of Central Hudson Gas and Electric Corporation the following eight (8) courses and distances; the first two of which runs along easement 3;
2. South 62°-20'-00" East 324.27 feet,
3. North 27°-40'-00" East 74.26 feet to the south-west corner of chain link fence and easement 4, thence along said fence and easement 4 the following three (3) courses and distances;
4. South 33°-50'-53" East 7.94 feet,
5. South 22°-12'-08" West 25.82 feet,
6. South 62°-45'-23" East 77.27 feet, thence continuing along said easement 4 and along said chain link fence in part,
7. North 63°-15'-52" East 57.75 feet,
8. South 27°-40'-00" West 112.30 feet and
9. North 62°-20'-00" West 444.38 feet to the point of beginning.

Containing 15,332 sq. ft. or 0.352 Acre more or less.

Note: The aforescribed 0.352 acre parcel straddles the prolongation easterly of the centerline of an existing paved railroad crossing.

July 14, 2000.

R.O.W. No. 6A  
Danskammer-Northerly Oilostatic Cable

All that permanent easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York being ten feet in width whose centerline is described as follows:

Beginning at a point on the northwesterly line of R.O.W. No. 4 (Danskammer Substation) said point being distant South 70°-41'-20" West 15.92 feet from the most northerly point of R.O.W. No. 4 (Course No. 4 a fence corner), said point of beginning also being distant North 69°-54'-00" West 143.11 feet from the northwesterly corner of the Danskammer Generating Station (Unit #2), thence through the lands now or formerly of Central Hudson Gas and Electric Corporation the following five (5) courses and distances;

1. North 27°-03'-23" East 29.95 feet,
2. 99.85 feet on a curve to the right having a radius of 75.00 feet and a long chord of North 65°-11'-42" East 92.63 feet,
3. South 76°-40'-00" East 232.95 feet,
4. 38.38 feet on a curve to the right having a radius of 75.00 feet and a long chord of South 62°-00'-30" East 37.96 feet and
5. South 47°-21'-00" East 201.58 feet to a point on the easterly line of lands now or formerly of Central Hudson Gas and Electric Corporation.

Bearings conform to N.Y.S. (East) Grid (1927).

This centerline location is based partially on field surveys and mark-out of said cable, and also partially from record plans.

July 24, 2000.

R.O.W. No. 6B  
Danskammer Plant-Southerly Oilostatic Cable

All that permanent easement and right-of-way situate in the Town of Newburgh, County of Orange and State of New York whose centerline is described as follows:

Beginning at a point on the easterly fence line of the Danskammer Substation and on the easterly line of R.O.W. No. 4, said point of beginning being distant North 26°-54'-28" East 26.22 feet from the southerly end of course No. 1 of R.O.W. No. 4, said point of beginning also being distant North 04°-29'-52" West 81.68 feet from the southwesterly corner of the Danskammer Generating Station (Unit 4) thence through the lands now or formerly of Central Hudson Gas and Electric Corporation the following five (5) courses and distances;

1. 25.85 feet on a curve to the right having a radius of 40.00 feet and a long chord of South 04°-44'-47" West 25.40 feet,
2. South 23°-15'-31" West 38.16 feet,
3. 58.95 feet on a curve to the left, having a radius of 40.00 feet and a long chord of South 18°-57'-44" East 53.76 feet,
4. South 61°-11'-00" East 86.46 feet and
5. South 63°-00'-00" East 171.03 feet to a point on the easterly line of lands now or formerly of Central Hudson Gas and Electric Corporation.

Bearings conform to N.Y.S. (East) Grid (1927).

The aforescribed centerline is based partially on field surveys and mark-out of said cable, and also partially from record plans.

July 24, 2000.

Survey Description  
R.O.W. 7

Proposed easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York bounded as described as follows:

Beginning at a point on the division line between lands now or formerly of CSX Rail Corp. on the east and lands now or formerly of Central Hudson Gas and Electric Corporation on the west, at its intersection with easement 1 to the north, said point having a coordinate in the New York State (East) grid system of North 573,282.30 feet and East 599,990.34 feet, thence along said division line;

1. South 27°-01'-46" West 135.45 feet, thence through said lands of Central Hudson Gas and Electric Corporation the following six (6) courses and distances;
2. North 63°-29'-10" West 1.01 feet to the southeast corner of a chain link fence, thence along said fence the following four (4) courses and distances;
3. North 63°-29'-10" West 29.13 feet,
4. North 01°-18'-19" West 23.58 feet,
5. North 25°-58'-48" East 112.91 feet,
6. South 65°-42'-12" East 40.30 feet and
7. South 65°-42'-12" East 3.15 feet to the point of beginning.

Containing 5,565 sq. ft. or 0.128 Acre more or less.

July 14, 2000.

Survey Description  
R.O.W. 8

Proposed 20 feet wide easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York bounded and described as follows:

Beginning at a point on the southeasterly line of River Road, said point having a coordinate in the New York State (East) grid system of North 572,225.87 feet and East 597,169.08 feet, thence through the lands now or formerly of Central Hudson Gas and Electric Corporation, running generally along the centerline of a paved access road the following thirty three (33) courses and distances;

1. South 43°-39'-04" East 148.40 feet to the southwest corner of a guard shack, thence along the southerly side of said guard shack,
2. South 43°-35'-56" East 9.17 feet,
3. South 49°-54'-59" East 48.41 feet,
4. South 04°-38'-04" West 34.60 feet,
5. South 06°-44'-57" East 155.70 feet,
6. North 81°-11'-53" East 243.67 feet,
7. North 81°-00'-21" East 99.42 feet,
8. North 83°-29'-45" East 99.52 feet,
9. South 85°-33'-01" East 85.93 feet,
10. South 77°-17'-52" East 77.05 feet,
11. South 70°-38'-59" East 91.36 feet,
12. South 68°-21'-10" East 89.32 feet,
13. South 64°-38'-20" East 102.56 feet,
14. South 61°-18'-30" East 79.75 feet,
15. South 59°-49'-45" East 83.29 feet,
16. South 58°-39'-41" East 189.94 feet,
17. South 54°-23'-16" East 220.03 feet,
18. South 49°-17'-33" East 46.56 feet to a road intersection,
19. North 85°-07'-30" East 74.84 feet,
20. North 67°-29'-16" East 116.97 feet,
21. North 58°-05'-44" East 119.20 feet,
22. North 46°-59'-56" East 94.94 feet,
23. North 43°-11'-45" East 77.51 feet,
24. North 39°-18'-55" East 118.00 feet,
25. North 34°-55'-40" East 47.05 feet,
26. North 28°-59'-36" East 197.87 feet,
27. North 27°-55'-46" East 540.29 feet,
28. North 26°-43'-00" East 537.75 feet,
29. North 23°-01'-18" East 73.35 feet,
30. North 18°-19'-34" East 49.28 feet,
31. North 11°-45'-14" East 83.19 feet,
32. North 16°-34'-21" East 105.61 feet and
33. North 26°-50'-53" East 30.15 feet to a point on R.O.W. 1, the last mentioned point being distant North 62°-35'-30" West 37.14 feet along said R.O.W. 1 from its intersection with R.O.W. 7.

July 14, 2000.

EXHIBIT K  
Gas Main west side of CSX Rail Corp. from crossing under  
track northerly to Danskammer Gas Regulator Station

Survey Description  
R.O.W. 9

Proposed 10 foot wide gas main easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York, the centerline of which is described as follows:

Beginning at a point on the southerly line of the Roseton gas regulator station at its intersection with the centerline of an existing gas main (MPR), said point having a coordinate in the New York State (East) grid system of North 571,821.41 feet and East 598,461.88 feet, thence through lands now or formerly of Central Hudson Gas and Electric Corporation and along the centerline of said easement the following eighteen (18) courses and distances;

1. South 02°-31'-55" East 63.50 feet,
2. South 49°-30'-17" East 202.34 feet,
3. South 37°-08'-57" East 66.13 feet,
4. North 87°-12'-13" East 89.88 feet,
5. North 88°-28'-59" East 181.51 feet,
6. North 42°-59'-24" East 141.41 feet,
7. North 39°-12'-28" East 203.86 feet,
8. North 33°-13'-36" East 239.34 feet,
9. North 28°-13'-25" East 189.11 feet,
10. North 30°-06'-41" East 220.44 feet,
11. North 29°-24'-44" East 216.42 feet,
12. North 27°-57'-37" East 93.92 feet,
13. North 73°-58'-00" East crossing under an access road, 42.51 feet,
14. South 63°-21'-00" East 5.51 feet to a "T" in said gas main, thence continuing northerly ,
15. North 26°-55'-00" East 411.29 feet,
16. North 27°-29'-23" East 74.10 feet,
17. North 17°-30'-05" West 44.06 feet and
18. North 34°-44'-00" East 21.77 feet to the southwest corner of the Danskammer gas regulator station, R.O.W. 7, the last mentioned point marked by the corner of a chain link fence.

Together with access across the strip of land lying between the above described R.O.W. 9 and the access road R.O.W. 8.

July 14, 2000.

Survey Description  
R.O.W. 10

Proposed easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York bounded and described as follows:

Beginning at a point on the southerly line of the Roseton gas regulator station, said station marked by a chain link fence, at its intersection with the centerline of an existing gas main (MPR), said point having a coordinate in the New York State (East) grid system of North 571,821.41 feet and East 598,461.88 feet, thence through lands now or formerly of Central Hudson Gas and Electric Corporation and along said fence the following five (5) courses and distances;

1. South 88°-09'-39" West 37.11 feet,
2. North 01°-20'-29" West 102.95 feet,
3. North 87°-42'-32" East 69.27 feet,
4. South 01°-44'-25" East 103.50 feet and
5. South 88°-09'-39" West 32.87 feet to the point of beginning.

Containing 7,187 sq. ft. or 0.165 Acre more or less.

July 14, 2000.

MPR Gas Main from west property line of CSX Rail Corp. easterly under track to west shore of Hudson River and under waters of the Hudson River to easterly line of Water Grant

Survey Description  
R.O.W. 11

Proposed 10 foot wide gas main easement and right-of-way, situate in the Town of Newburgh, County of Orange and State of New York, the centerline of which is described as follows:

Beginning at a "T" in an existing gas main (reference R.O.W. 9), said point having a coordinate in the New York State (East) grid system of North 572,682.74 feet and East 599,682.27 feet, thence through lands now or formerly of Central Hudson Gas and Electric Corporation, crossing under lands now or formerly CSX Rail Corp. and continuing through said lands of Central Hudson Gas and Electric;

1. South 63°-21'-00" East 271.30 feet and
2. South 59°-31'-42" East 429.68 feet to the westerly end of a previous gas main easement (MPR) at the division line between the Hudson River on the east and lands now or formerly of Central Hudson Gas and Electric Corporation on the west.

July 14, 2000.

R.O.W. No. 13  
Fibre Optic/Telecommunications  
Roseton Plant to Switchyard

All that permanent easement and right-of-way twenty feet in width situate in the Town of Newburgh, County of Orange and State of New York whose centerline is described as follows:

Beginning at a point on the northwesterly side of the Roseton Generating Station, said point being mid-way between two (2) existing manholes, said point being distant North 63°-44'-00" East 7.66 feet from one of the aforementioned manholes, thence through the lands now or formerly of Roseton Tenants-in-Common,

1. North 17°-37'-00" West 231.20 feet (crossing River Road, in part) thence continuing through lands of the Roseton Tenants-in-Common on the south side of River Road (also known as Soap Hill Road) being Parcel Two to be conveyed, the following six (6) courses and distances;
2. North 37°-43'-00" West 100.00 feet,
3. North 59°-25'-00" West 85.00 feet,
4. North 68°-21'-45" West 85.59 feet to an existing manhole,
5. North 75°-53'-30" West 470.00 feet,
6. North 75°-53'-30" West 70.00 feet and
7. North 00°-06'-00" East 24.64 feet to a point on the southerly line of River Road (also known as Soap Hill Road), said point of ending being distant South 73°-34'-34" East 221.61 feet as measured along the aforementioned southerly line of River Road (also known as Soap Hill Road) from the point of beginning of Parcel 2 to be conveyed.

Bearings conform to N.Y.S. (East) Grid (1927).

The aforescribed right-of-way has been prepared by partial field surveys and record drawings.

Courses number 2, 3 and 4 are chords of an arc as shown on record plans (no radius given).

Course number 5 ends at a proposed manhole structure (not recovered).

Being a portion of the premises conveyed by the Jova Brick Company, Inc. to Roseton Tenants-in-Common. Liber 1955 Page 972.

July 24, 2000.

R.O.W. No. 12  
N.Y. Trap Rock/Walker 150 feet wide

All that permanent easement and right-of-way situate in the Town of Newburgh, County of Orange, 150 feet in width, bounded and described as follows:

Beginning at a point on the easterly line of a 20.35 acre parcel to be conveyed by Central Hudson Gas and Electric Corporation said line being the intersection of the easterly line of lands formerly of Walker to the west and the westerly line of lands of Tilcon (N.Y. Trap Rock Corporation) to the southeast and DiStefano (Edward J. & Matilda S. Clark) to the northeast said point being distant South 03°-16'-50" East 120 feet (more or less) from the southerly end of course number 16 of the 20.35 acre parcel to be conveyed, thence along the aforementioned westerly line of lands now or formerly of Tilcon (N.Y. Trap Rock Corporation),

1. South 03°-16'-58" East 647.50 feet to the northerly line of a 51.70 acre parcel to be retained by Central Hudson Gas and Electric Corporation, thence along said northerly line (also formerly Rose Meehan),
2. South 80°-21'-02" West 150.93 feet, thence through the aforementioned 51.70 acre parcel the following two (2) courses and distances;
3. North 03°-16'-58" West 645.55 feet and
4. North 79°-37'-02" East 151.16 feet to the point of beginning.

Containing 2.23 acres, more or less.

Bearings conform to N.Y.S. (East) Grid (1927).

Intending to be the westerly and southerly projection of the proposed Danskammer-Manchester 115 KV Electric Transmission line easement and right-of-way granted by New York Trap Rock Corporation to Central Hudson Gas and Electric Corporation by deed September 21, 1960 and recorded October 6, 1960 in the Orange County Clerk's Office in Liber 1569 of Deeds at Page 248.

Being a portion of the lands conveyed by Henry L. Walker and Helen Walker to Central Hudson Gas and Electric Corporation by deed dated May 17, 1960 and recorded in the Orange County Clerk's Office in Liber 1550 of Deeds at Page 353.

July 24, 2000.

R.O.W. No. 14  
Roseton Switchyard - Transmission and Fiber Optic

All that permanent easement and right-of-way situate in the Town of Newburgh, County of Orange and State of New York bounded and described as follows:

Beginning at a point on the northerly line of River Road (also known as Soap Hill Road) said point of beginning being distant the following two (2) courses and distances from the southwesterly corner of the former Roseton School Site and the southeasterly corner of a 51.7 acre parcel of land to be retained by Central Hudson Gas and Electric Corporation, 1. North 77°-45'-30" West 37.38 feet and, 2. North 74°-46'-50" West 38.77 feet, thence along the aforementioned northerly line of River Road (also known as Soap Hill Road) the following four (4) courses and distances;

1. North 74°-46'-50" West 53.77 feet,
2. North 73°-14'-50" West 84.62 feet,
3. North 72°-26'-10" West 119.58 feet
4. North 75°-36'-10" West 8.39 feet thence through the lands of Central Hudson Gas and Electric Corporation the following five (5) courses and distances;
5. North 24°-35'-33" West 83.88 feet,
6. North 57°-45'-00" East 306.19 feet,
7. North 12°-25'-27" East 46.30 feet,
8. North 52°-23'-18" East 421.96 feet,
9. South 66°-18'-29" East 295.44 feet to a point on the easterly line of the aforementioned 51.7 acre parcel to be retained by Central Hudson Gas and Electric Corporation, thence along said easterly line the following three (3) courses and distances;
10. South 08°-37'-20" West 20.74 feet,
11. South 07°-45'-10" West 38.63 feet,
12. South 11°-42'-10" West 146.01 feet, thence through the aforementioned 51.7 acre parcel to be retained by Central Hudson Gas and Electric Corporation the following two (2) courses and distances;
13. North 66°-18'-29" West 223.25 feet,
14. South 52°-23'-18" West 79.06 feet to a point on the northerly line of the aforementioned Roseton School Site, thence along the northerly and westerly line of the aforementioned Roseton School Site the following two (2) courses and distances;
15. North 72°-24'-40" West 29.38 feet,
16. South 25°-43'-20" West 53.74 feet, thence through the aforementioned 51.7 acre parcel to be retained by Central Hudson Gas and Electric Corporation the following two (2) courses and distances;
17. South 52°-23'-18" West 206.89 feet and
18. South 20°-02'-10" West 185.47 feet to the point of beginning.

Containing 4.51 acres, more or less.

Bearings conform to N.Y.S. (East) Grid (1927).

The aforescribed 4.51 acre parcel is based partially on field surveys and partially by record plans.

Subject to two (2) easements granted to Power Authority State of New York (No.'s 3508 and 1443).

July 24, 2000.

GUARANTEE AGREEMENT

THIS GUARANTEE AGREEMENT (the "Agreement"), dated August \_\_, 2000, by and between Dynegy Holdings, Inc., a Delaware corporation ("Guarantor"), Central Hudson Gas & Electric Corporation, a New York corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison"), and Niagara Mohawk Power Corporation, a New York corporation ("Niagara Mohawk") (each a "Seller," and collectively, "Sellers"). Guarantor and Sellers are referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, Central Hudson, Con Edison, Niagara Mohawk and Dynegy Power Corp., a Delaware corporation and a wholly-owned subsidiary of Guarantor ("Buyer"), are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Roseton Asset Sale Agreement"), pursuant to which Buyer has agreed to purchase, and Central Hudson, Con Edison and Niagara Mohawk have agreed to sell, the Auctioned Assets (as defined in the Roseton Asset Sale Agreement);

WHEREAS, Central Hudson and Buyer are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Danskammer Asset Sale Agreement") (the Danskammer Asset Sale Agreement and the Roseton Asset Sale Agreement are referred to herein collectively as the "Asset Sale Agreements"), pursuant to which Buyer has agreed to purchase, and Central Hudson has agreed to sell, the Auctioned Assets (as defined in the Danskammer Asset Sale Agreement);

WHEREAS, as a condition precedent to and in consideration of Sellers' entering into the respective Asset Sale Agreements, Guarantor has agreed to guarantee payment and performance of Buyer's covenants, agreements, obligations, liabilities, representations and warranties under the Asset Sale Agreements, any Ancillary Agreement or any other agreement or instrument related thereto or entered into in connection therewith; and

WHEREAS, Guarantor will benefit from the transactions contemplated by the Asset Sale Agreements.

NOW, THEREFORE, the Parties agree as follows:

**Section 1. Definitions.** Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the respective Asset Sale Agreements. For purposes of this Agreement, the term "Buyer" shall include Buyer, any Affiliate of Buyer that enters into any Ancillary Agreement and any of their respective successors and assigns under the Asset Sale Agreements or any Ancillary Agreement.

**Section 2. Guarantee.** Guarantor absolutely, irrevocably and unconditionally guarantees, as a primary obligor and not merely as a surety, (a) the due and punctual payment of (i) each payment required to be made by Buyer under the Asset Sale

Agreements or any Ancillary Agreement, when and as due, including payments in respect of reimbursement of disbursements and interest thereon and (ii) all other monetary obligations, including indemnities, fees, costs and expenses, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of Buyer, when and as due, under the Asset Sale Agreements, any Ancillary Agreement or any other agreement or instrument related thereto (all such obligations referred to in this clause (a) being collectively referred to as the “Monetary Obligations”) and (b) the due and punctual performance and observance of, and compliance with, all covenants, agreements, obligations, liabilities, representations and warranties of Buyer under or pursuant to the Asset Sale Agreements, any Ancillary Agreement or any other agreement or instrument related thereto (all such obligations referred to in the preceding clauses (a) and (b) being collectively referred to as the “Obligations”). Guarantor further agrees that the Obligations may be extended, amended, modified or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension, amendment, modification or renewal of any Obligation by any Seller or Sellers and Buyer.

Section 3. Obligations Not Waived. To the fullest extent permitted by applicable law, Guarantor waives all notices whatsoever with respect to this Agreement or with respect to the Obligations, including presentment to, demand of payment from and protest to Buyer of any of the Obligations, and notice of acceptance of its guarantee and notice of protest for nonpayment. To the fullest extent permitted by applicable law, the obligations of Guarantor hereunder shall not be affected by (a) the failure of any Seller or Sellers to assert any claim or demand or to enforce or exercise any right or remedy against Buyer in respect of the Obligations or otherwise under the provisions of the Asset Sale Agreements, any Ancillary Agreement or otherwise or, in each case, any delay in connection therewith, or (b) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, this Agreement, the Asset Sale Agreements, any Ancillary Agreement or any other agreement.

Section 4. Continuing Guarantee of Payment and Performance. Guarantor further agrees that its guarantee constitutes a continuing guarantee of payment and performance when due, and not of collection, and Guarantor further waives any right to require that any resort be had by any Seller or Sellers to any security.

Section 5. No Discharge or Diminishment of Guarantee.

(a) The obligations of Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination, or be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever, or otherwise be affected, for any reason (other than the performance in full of all Obligations, including the indefeasible payment in full in cash of all Monetary Obligations, and the termination of all the Obligations), including:

- (i) any claim of waiver, release, surrender, alteration or compromise of any of the Obligations;
- (ii) the invalidity, illegality or unenforceability of the Obligations;

(iii) the occurrence or continuance of any event of bankruptcy, reorganization, insolvency, receivership or other similar proceeding with respect to Buyer or any other person (for purposes hereof, "person" means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization or Governmental Authority), or the dissolution, liquidation or winding up of Buyer or any other person;

(iv) any permitted assignment or other transfer of this Agreement by any Seller or Sellers or any permitted assignment or other transfer of the Asset Sale Agreements or any Ancillary Agreement in whole or in part;

(v) any sale, transfer or other disposition by Guarantor of any direct or indirect interest it may have in Buyer or any other change in ownership or control of Buyer; or

(vi) the absence of any notice to, or knowledge on behalf of, Guarantor of the existence or occurrence of any of the matters or events set forth in the foregoing clauses.

(b) Without limiting the generality of the foregoing, the obligations of Guarantor hereunder shall not be discharged or impaired or otherwise affected by the failure of any Seller or Sellers to assert any claim or demand or to enforce any remedy under the Asset Sale Agreements, any Ancillary Agreement or any other agreement, by any waiver or modification of any provision thereof, by any default, failure or delay, willful or otherwise, in the performance of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of Guarantor or that would otherwise operate as a discharge of Guarantor as a matter of law or equity (other than the performance in full of all Obligations, including the indefeasible payment in full in cash of all Monetary Obligations, and the termination of all the Obligations).

Section 6. Defenses Waived. To the fullest extent permitted by applicable law, Guarantor waives any defense based on or arising out of the unenforceability of the Obligations or any part thereof from any cause. Sellers may compromise or adjust any part of the Obligations, make any other accommodation with Buyer or exercise any other right or remedy available to it against Buyer, without affecting or impairing in any way the liability of Guarantor hereunder except to the extent all the Obligations have been fully and finally performed, including the indefeasible payment in full of all Monetary Obligations, and terminated. To the fullest extent permitted by applicable law, Guarantor waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of Guarantor against Buyer or any security. Guarantor waives each right and all defenses to which it may be entitled under applicable law as in effect or construed from time to time.

Section 7. Representations and Warranties of Guarantor. Guarantor represents and warrants to Sellers as follows:

(a) Organization. Guarantor is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite

corporate power and authority to own, lease and operate its properties and to carry on its business as is now being conducted.

(b) Authority Relative to this Agreement. Guarantor has all necessary corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution and delivery by Guarantor of this Agreement and performance by Guarantor of its obligations hereunder have been duly and validly authorized by the Board of Directors of Guarantor and no other corporate proceedings on the part of Guarantor are necessary to authorize this Agreement or performance by Guarantor of its obligations hereunder. This Agreement has been duly and validly executed and delivered by Guarantor and this Agreement constitutes a valid and binding agreement of Guarantor, enforceable against Guarantor in accordance with its terms.

(c) Consents and Approvals; No Violation.

(i) Subject to obtaining the Buyer Required Regulatory Approvals, neither the execution and delivery of this Agreement by Guarantor nor performance by Guarantor of its obligations hereunder will (i) conflict with or result in any breach of any provision of the organizational or governing documents or instruments of Guarantor, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Guarantor or any of its subsidiaries is a party or by which any of their respective assets may be bound or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Guarantor, or any of its assets, except in the case of clauses (ii) and (iii) for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, have a material adverse effect on the ability of Guarantor to discharge its obligations under this Agreement (a "Guarantor Material Adverse Effect").

(ii) No declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for performance by Guarantor of its obligations hereunder, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made would not, individually or in the aggregate, have a Guarantor Material Adverse Effect.

Section 8. Agreement to Perform and Pay; Subordination. In furtherance of the foregoing and not in limitation of any other right that Sellers have at law or in equity against Guarantor by virtue hereof, upon the failure of Buyer, to perform or pay any Obligation when and as the same shall become due, Guarantor hereby promises to and will forthwith, as the case may be, (a) perform, or cause to be performed, such unperformed Obligations and (b) pay, or cause to be paid, to Sellers in cash the amount of such unpaid Monetary Obligations. Upon payment by Guarantor of any sums to Sellers as provided above, all rights of Guarantor against Buyer, arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full in cash of all the Monetary Obligations. If any amount shall erroneously be paid to Guarantor on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of Buyer, such amount shall be held in trust for the benefit of

Sellers and shall forthwith be paid to Sellers to be credited against the payment of the Monetary Obligations or performance in accordance with the terms of the Asset Sale Agreements or any Ancillary Agreement, as applicable.

Section 9. Information. Guarantor assumes all responsibility for being and keeping itself informed of Buyer's financial condition and assets, and of all other circumstances bearing upon the risk of nonperformance of the Obligations (including the nonpayment of Monetary Obligations) and the nature, scope and extent of the risks that Guarantor assumes and incurs hereunder, and agrees that Sellers do not have any duty to advise Guarantor of information known to it regarding such circumstances or risks.

Section 10. Termination and Reinstatement. The guarantee made hereunder (a) shall terminate when all the Obligations have been (i) performed in full, including the indefeasible payment in full in cash of the Monetary Obligations or (ii) terminated and (b) shall continue to be effective or be reinstated, as the case may be, if at any time any payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by Sellers upon the bankruptcy or reorganization of Buyer or Guarantor or for any other reason.

Section 11. Assignment; No Third Party Beneficiaries. This Agreement and all of the provisions hereunder shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, and nothing herein express or implied will give or be construed to give any other person any legal or equitable rights hereunder. Neither this Agreement nor any of the rights, interests and obligations hereunder shall be assigned by Guarantor, including by operation of law, without the prior written consent of Sellers; provided, however, that no assignment or transfer of rights or obligations by Guarantor shall relieve it from the full liabilities and the full financial responsibility, as provided for under this Agreement, unless and until the transferee or assignee shall agree in writing to assume such obligations and duties and Sellers have consented in writing to such assumption.

Section 12. Amendment and Modification; Extension; Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing signed on behalf of each of the Parties. Any agreement on the part of a Party to any extension or waiver in respect of this Agreement shall be valid only if set forth in an instrument in writing signed on behalf of such Party. The failure of a Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

Section 13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

Section 14. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of the times of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

if to Central Hudson, to:

Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, NY 12601-4879  
Telecopier: (914) 486-5782  
Attention: Ronald P. Brand, Senior Vice President

with a copy to:

Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526  
Telecopier: (202) 887-0689  
Attention: Kenneth M. Simon, Esq.

if to Con Edison to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, NY 10003  
Telecopier: (212) 677-0601  
Attention: General Counsel

with a copy to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, New York 10003  
Telecopier: (212) 529-7182  
Attention: Vice President, Energy Management

if to Niagara Mohawk, to:

Niagara Mohawk Power Corporation  
300 Erie Boulevard West  
Syracuse, NY 13202  
Telecopier: (315) 428-6407  
Attention: Gregory Barone, Esq.

with a copy to:

Sullivan & Cromwell  
1701 Pennsylvania Avenue, N.W.

Washington, DC 20006  
Telecopier: (202) 293-6330  
Attention: Janet T. Geldzahler, Esq.

if to Guarantor, to:

c/o Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, TX 77002  
Telecopier: (713) 767-5813  
Attention: Edward P. Hermann  
Senior Director – Project Acquisitions

with a copy to:

Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, TX 77002  
Telecopier: (713) 767-5810  
Attention: Tim Beverick, Esq.

Section 15. Jurisdiction and Enforcement.

(a) Each of the Parties irrevocably submits to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the Parties agrees to commence any action, suit or proceeding relating hereto in the United States District Court for the Southern District of New York or, if such suit, action or proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, Dutchess County. Each of the Parties further agrees that service of process, summons, notice or document by hand delivery or U.S. registered mail at the address specified for such Party in Section 14 (or such other address specified by such Party from time to time pursuant to Section 14) shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled equitable relief, including without limitation, an injunction or injunctions to

prevent breaches of this Agreement and to specifically enforce the terms and provisions of this Agreement, this being in addition to any other remedy to which they are justly entitled to, whether at law or in equity.

Section 16. Survival of Agreement. All covenants, agreements, representations and warranties made by Guarantor herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by Sellers and shall unconditionally survive the consummation of the transactions contemplated by the Asset Sale Agreements, regardless of any investigation made by Sellers, and shall continue in full force and effect as long as any Obligations remain outstanding.

Section 17. Effectiveness; Counterparts. This Agreement shall become effective when executed by the Parties. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 18. Rules of Interpretation. The rules of interpretation specified in Section 12.8 of the respective Asset Sale Agreements shall be applicable to this Agreement.

Section 19. Severability.

(a) If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

(b) In the event that the provisions of this Agreement are claimed or held to be inconsistent with any other agreement or instrument evidencing the Obligations, the terms of this Agreement shall remain fully valid and effective.

Section 20. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties in respect of the matters contemplated hereby. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the matters contemplated hereby.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Guarantee Agreement has been duly executed and delivered by the Parties as of the date first above written.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY HOLDINGS, INC.

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

INTERCONNECTION AGREEMENT

By and Between

CENTRAL HUDSON GAS AND ELECTRIC CORPORATION

and

---

Dated \_\_\_\_\_, 2000

# INTERCONNECTION AGREEMENT

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## INTERCONNECTION AGREEMENT

This Interconnection Agreement ("Agreement") dated as of \_\_\_\_\_, 2000 by and between Central Hudson Gas & Electric Corporation ("Central Hudson") a New York corporation, and \_\_\_\_\_ ("Generator") a \_\_\_\_\_ [corporation]. Central Hudson and Generator are each referred to herein as a "Party," and collectively referred to herein as the "Parties."

### WITNESSETH:

WHEREAS, Central Hudson and Generator have entered into an Asset Purchase and Sale Agreement for the Danskammer Generating Station and Related Assets dated August 7, 2000 ("Danskammer APSA") and Central Hudson, The Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation and the Generator have entered into an Asset Purchase and Sale Agreement for the Roseton Generating Station and Related Assets ("Roseton APSA") dated August 7, 2000 (collectively "APSAs");

WHEREAS, Central Hudson intends to continue to operate its transmission and distribution businesses from their present locations;

WHEREAS, Generator requires Interconnection Service from Central Hudson for the Danskammer Generating Station and the Roseton Generating Station (collectively the "Generating Stations");

WHEREAS, Central Hudson requires access to parts of the Generator's facilities, and Generator requires access to parts of Central Hudson's facilities; and

WHEREAS, the Parties have agreed in the APSAs to execute this Agreement in order to provide Interconnection Service to Generator and to define continuing responsibilities and obligations of the Parties with respect to the use of the other Party's property, assets and facilities as set forth herein.

NOW THEREFORE, in consideration of the mutual representations, covenants and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties hereto agree as follows:

### ARTICLE 1 DEFINITIONS

Capitalized terms used in this Agreement shall have the meanings specified or referred to in Schedule 1.

ARTICLE 2  
TERM AND TERMINATION

2.1 Term. This Agreement shall become effective at the time that the Closing becomes effective (“Effective Date”), and unless terminated sooner in accordance with the terms of this Agreement, shall continue in full force and effect until the earlier to occur of (i) the permanent cessation by the Generator of the power generation functions of the Generating Stations or (ii) the permanent cessation of the interconnection functions of the Transmission System.

2.2 Change in Law. If (a) the FERC, any state or state regulatory commission or the NYISO implements a change in any law, regulation, rule or practice, or (b) Central Hudson’s compliance with a change in any law or regulation, which compliance, in either case, affects, or may reasonably be expected to affect, Central Hudson’s performance under this Agreement, the Parties shall negotiate in good faith any amendments to this Agreement that are necessary to adapt the terms of this Agreement to such change, and Central Hudson shall file such amendments with the FERC. If the Parties are unable to reach agreement on such amendments, either Party shall have the right to make a unilateral filing with the FERC to modify this Agreement pursuant to Sections 205 or 206 or any other applicable provision of the Federal Power Act and the FERC rules and regulations thereunder; provided that the other Party shall have the right to oppose such filing and to participate fully in any proceeding established by the FERC to address such amendments.

2.3 Effect after Termination. The applicable provisions of this Agreement shall continue in effect after cancellation or termination hereof to the extent necessary to effectuate the interpretation and enforcement of this Agreement and provide for final billings, billing adjustments and payments pertaining to liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect.

ARTICLE 3  
CONTINUING OBLIGATIONS AND RESPONSIBILITIES

3.1 Interconnection Service

3.1.1 Subject to the terms and conditions of the Agreement, Central Hudson shall (a) permit the Generating Stations to continue to be interconnected to the Transmission System at the Point of Interconnection, and (b) provide Interconnection Service at the Point of Interconnection. Central Hudson agrees to permit Generator to interconnect the Generating Stations as long as Generator

continues to operate such facilities pursuant to NY System Requirements and Good Utility Practice.

3.1.2 Interconnection Service shall not include, and Central Hudson shall not be responsible under this Agreement for (a) transmission service, losses or ancillary services associated with the use of the Transmission System and/or the Interconnection Facilities for the delivery of capacity, energy and/or ancillary services produced by the Generating Facilities or delivered to the Generating Facilities, or (b) providing or procuring capacity, energy and/or ancillary services to the Generator or the Generating Facilities.

3.1.3 The Generator's interconnection to the Transmission System of any new or expanded generating capacity of the Generating Stations shall (a) be subject to NY System Requirements and/or FERC requirements governing interconnections and (b) require a separate interconnection agreement mutually agreed to by the Parties in writing.

### 3.2 New Construction or Modifications

#### 3.2.1 Central Hudson Construction or Modifications

(a) Central Hudson shall make such additions, modifications, replacements and improvements to the Interconnection Facilities as are required by NY System Requirements or Good Utility Practice to enable Central Hudson to provide Interconnection Service in compliance with this Agreement. Generator shall pay all reasonable Costs incurred by Central Hudson for such additions, modifications, replacements or improvements.

(b) Except with respect to operation and maintenance done in the ordinary course of business or to respond to abnormal or emergency conditions, if any additions, modifications, replacements or improvements to the Interconnection Facilities undertaken by Central Hudson might reasonably be expected to affect Generator's operation of one or both of the Generating Stations, Central Hudson shall provide one hundred twenty (120) days written notice to Generator prior to undertaking such additions, modifications, replacements or improvements. Any such additions, modifications, replacements or improvements shall comply with NY System Requirements and Good Utility Practice. The Parties shall mutually agree to the scheduling of such addition, modification, replacement or improvement to minimize any adverse impact on the Generating Stations. Generator shall be deemed to have accepted Central Hudson's proposed additions, modifications, replacements or improvements unless Generator gives Central Hudson written notice of its objections within thirty (30) days after receipt of Central Hudson's

notice. If Generator submits written objections within such 30 day period, Central Hudson shall reasonably cooperate with Generator to address its reasonable concerns. Generator's acceptance or deemed acceptance of Central Hudson's proposed additions, modifications, replacements or improvements shall not be construed, with respect thereto, as: (i) confirmation or endorsement of the design; (ii) a warranty of any kind including safety, durability or reliability; or (iii) responsibility for strength, details of design, adequacy or capability.

### 3.2.2 Generator Construction or Modifications

(a) If Generator plans any additions, modifications, or replacements to one or both Generating Stations that will not increase capacity, but could reasonably be expected to affect the Transmission System or the Interconnection Facilities or Central Hudson's access rights as provided under this Agreement, Generator shall give Central Hudson reasonable notice, but not less than one hundred twenty (120) days prior written notice and Generator shall comply with all applicable NY System Requirements with respect to such proposed additions, modifications, or replacements. All such additions, modifications, or replacements shall (i) comply with NY System Requirements and Good Utility Practice, (ii) be accompanied by appropriate information and operating instructions, and (iii) be subject to the review and acceptance of Central Hudson, which review shall be based on NY System Requirements and Good Utility Practice and which acceptance shall not unreasonably be withheld or delayed. Central Hudson shall be deemed to have accepted Generator's proposed additions, modifications or replacements unless Central Hudson gives Generator written notice of its objections within thirty (30) days after receipt of the Generator's notice.

(b) Central Hudson's acceptance of Generator's plans and specifications for any proposed additions, modifications, or replacements to the Generating Facilities and Central Hudson's participation in any interconnected operations with Generator are not and shall not be construed as: (i) confirmation or endorsement of the design of the Generating Facilities; (ii) a warranty of any kind including safety, durability or reliability of the Generating Facilities; or (iii) responsibility for strength, details of design, adequacy, or capability of the Generating Facilities.

(c) Central Hudson shall inform Generator of any additions, modifications, or replacements to the Transmission System or Interconnection Facilities, that will be necessary as a result of the addition, modification, or replacement to one or both Generating Stations made pursuant to Section 3.2.2 (a). Generator shall compensate Central Hudson for all reasonable Costs it incurs associated with any modifications, additions, or replacements made to the Interconnection Facilities or Transmission System related to any additions,

modifications, or replacements to the Generating Facilities. Central Hudson shall provide an estimate to Generator as early as practicable, but in any event not less than sixty (60) days prior to the initiation of such addition, modification or replacement.

(d) Generator shall modify, at its sole cost and expense, the Generating Facilities as may be reasonably required to conform with NY System Requirements and Good Utility Practice or to conform with additions, modifications, or replacements of the Transmission System or the Interconnection Facilities, required by NY System Requirements and Good Utility Practice or implemented in accordance with this Agreement, (including, without limitation, changes to the voltages at which the Transmission System is operated), provided, however, that Generator shall not be obligated under this Agreement to modernize, expand or upgrade the Generating Facilities unless the failure to modernize, expand or upgrade is reasonably likely to have a material adverse effect on the operation of Central Hudson's Facilities.

(e) Upon completion of any addition, modification, or replacement to the Generating Facilities that may reasonably be expected to affect the Transmission System or the Interconnection Facilities, but no later than ninety (90) days thereafter, Generator shall issue "as built" drawings to Central Hudson. Upon completion of any addition, modification, or replacement to the Interconnection Facilities, that may reasonably be expected to affect the operation of the Generating Stations, but no later than ninety (90) days thereafter, Central Hudson shall issue "as built" drawings to the Generator.

### 3.3 Access, Easements, Conveyances, Licenses, and Restrictions

3.3.1 The Parties hereby grant to each other such licenses, access and other rights to the Generating Stations and the Interconnection Facilities as may be necessary for either Party's performance of their respective obligations under this Agreement. Such access shall be provided in a manner so as not to unreasonably interfere with the ongoing business operations, rights, and obligations of the other Party and shall be subject to the safety and security practices of the Party granting such access. Access shall only be granted to Qualified Personnel.

3.3.2 A Party shall not restrict a Party's rights hereunder to access the other Party's property, facilities, or equipment without prior written notification except in an Emergency, in which case the restricted access shall last no longer than three (3) days, unless an alternate means of access is provided.

3.3.3 The Parties' rights with respect to access to their respective facilities properties shall also be governed by the Easements.

#### 3.4 Facility and Equipment Maintenance

3.4.1 Central Hudson shall provide Interconnection Service at the Point of Interconnection in a safe and efficient manner and pursuant to NY System Requirements and Good Utility Practice. Generator shall be responsible for all reasonable Costs incurred by Central Hudson to provide Interconnection Service and to Maintain the Interconnection Facilities pursuant to this Agreement.

3.4.2 Generator shall Maintain the Generating Facilities in a safe and efficient manner, as required by and in accordance with NY System Requirements and Good Utility Practice, provided, however, that Generator shall not be obligated to modernize, expand or upgrade the Generating Facilities unless the failure to modernize, expand or upgrade is reasonably likely to have a material adverse affect on the operation of the Interconnection Facilities or the Transmission System.

3.4.3 Unless otherwise specified herein, or unless the Parties mutually agree to a different arrangement, neither Party shall be responsible for the maintenance of the other Party's equipment or property regardless of its location.

3.4.4 In addition to the requirements set forth elsewhere in this Agreement, each Party shall Maintain its equipment and facilities and perform its maintenance obligations that could reasonably be expected to affect the operations of the other Party in a safe and efficient manner and pursuant to NY System Requirements and Good Utility Practice.

3.5 Central Hudson Facilities and the Generator Equipment Unless otherwise agreed to by the Parties, the Party owning Central Hudson Facilities or the Generator Equipment shall Maintain those facilities and shall do so pursuant to NY System Requirements and Good Utility Practice and shall make such additions, modifications, replacements and improvements as are required by NYISO requirements and Good Utility Practice or which are necessary to maintain Interconnection Service, provided, however, that the Generator shall not be obligated under this Agreement to modernize, expand or upgrade the Generator Equipment unless the failure to modernize, expand or upgrade is reasonably likely to have a material adverse effect on the operation of the Transmission System or Interconnection Facilities.

#### 3.6 Equipment Testing Obligations

3.6.1 For reliability purposes with respect to the Interconnection Facilities and the Transmission System, Central Hudson may reasonably request, pursuant to NY System Requirements, or Good Utility Practice, that Generator test, calibrate, verify, or validate the Generating Facilities or its equipment, and Generator shall promptly comply with such a request. Generator shall be responsible for all costs of testing, calibrating, verifying or validating its facilities.

3.6.2 At Central Hudson's request, Generator shall supply to Central Hudson at no cost, copies of inspection reports, installation and maintenance documents, test and calibration records, verifications, and validations pursuant to the foregoing Section 3.6.1. Central Hudson shall supply to Generator, at Generator's request and at no cost to Generator, copies of inspection reports, installation and maintenance documents, test and calibration records, verifications, and validations that Central Hudson has which are related to the Interconnection Facilities.

### 3.7 Inspections

3.7.1 Central Hudson shall, at its expense, have the right to inspect or observe all maintenance activities, equipment tests, installation work, construction work, and modification work to the Generating Facilities (including work at the substations located at the sites of the Generating Stations). Such access by Central Hudson shall be exercised in a manner which does not unreasonably interfere with Generator's ongoing business operations, rights and obligations and shall be subject to Generator's safety and security practices. If Central Hudson observes any deficiencies or defects with respect thereto that might reasonably be expected to adversely affect the Transmission System or the Interconnection Facilities, Central Hudson shall notify the Generator, and Generator shall immediately make any corrections necessitated by NY System Requirements, Good Utility Practice or both. Notwithstanding the foregoing in this Section 3.7.1, Central Hudson shall have no liability whatsoever for any failure to fully or adequately observe any deficiency, it being agreed that Generator shall be fully responsible and liable for all such deficiencies, activities, equipment tests, installation, construction or modification.

3.7.2 Generator shall, at its expense, have the right to inspect or observe all maintenance activities, equipment tests, installation work, construction work, and modification work conducted by Central Hudson to the Interconnection Facilities. Such access by Generator shall be exercised in a manner which does not unreasonably interfere with Central Hudson's ongoing business operations, rights and obligations and shall be subject to Central Hudson's safety and security practices. If Generator observes any deficiencies or defects with respect thereto that might reasonably be expected to adversely affect the Generating Stations, Generator shall notify Central Hudson, and Central Hudson shall immediately make any

corrections necessitated by applicable NY System Requirements, or Good Utility Practice or both. Notwithstanding the foregoing in this Section 3.7.2, Generator shall have no liability whatsoever for any failure to fully or adequately observe any deficiency, it being agreed that Central Hudson shall be fully responsible and liable for all such deficiencies, activities, equipment tests, installation, construction or modification.

### 3.8 Information Reporting Obligations

3.8.1 In order to provide Interconnection Service hereunder, Central Hudson may request, and Generator shall promptly provide, all relevant information, documents, or data regarding the Generating Facilities that would be expected to materially affect the Transmission System, and which is reasonably requested by the FERC, NERC, NPCC, NYISO, NYSRC, the NYPSC, any other state or federal agency having jurisdiction over Central Hudson or Generator, or the Transmission Operator, which disclosure shall be subject to Article 6 of this Agreement regarding the disclosure of commercially sensitive information.

3.8.2 Generator shall promptly supply accurate, complete, and reliable information in response to reasonable information requests for real time data and other data from Central Hudson necessary for operations, maintenance, compliance with NYISO Requirements or regulatory requirements, or analysis of the Interconnection Facilities or the Transmission System. Such information may include metered values for MWh and MVar, voltage, current, automatic voltage regulator status, automatic frequency control, dispatch, frequency, breaker status indication, digital fault recordings, or any other information reasonably required for reliable operation of the Transmission System pursuant to NY System Requirements and Good Utility Practice. At minimum, Generator shall satisfy the telemetry requirements set forth in Schedule F.

3.8.3 Information pertaining to generation operating parameters shall be gathered and electronically transmitted directly to Central Hudson's energy management system using a mutually acceptable communications protocol.

3.8.4 Generator shall be responsible for the maintenance, and any required replacements or upgrades of the field devices and equipment owned or controlled by Generator used to gather information regarding generation operating parameters.

3.8.5 Unless otherwise agreed to by the Parties, Generator shall Maintain, at its expense, operating telephone links to the NYISO, Central Hudson and the Transmission Operator, to provide information deemed necessary by them,

or as reasonably deemed necessary by Central Hudson in accordance with NY System Requirements, Good Utility Practice or both to integrate operation of the Generating Stations with the Transmission System, provided, however, that Generator shall not be obligated under this Agreement to modernize, expand or upgrade the Generator's facilities unless the failure to modernize, expand or upgrade is reasonably likely to have a material adverse effect on the operation of the Transmission System. Generator shall use communication links at the Generating Stations (or successor systems as may reasonably be required by Central Hudson) and shall maintain the availability of such systems to operate during normal and abnormal conditions including blackouts.

### 3.9 Local Services

#### 3.9.1 General

(a) The Parties agree that, due to the integration of certain control schemes of the Generating Stations and the Transmission System, it is cost effective to provide each other with the services set forth in Sections 3.10 and 3.11 in accordance with the terms and conditions set forth therein.

(b) The Parties shall ensure, in accordance with Good Utility Practice, that services provided by one Party to the other Party pursuant to Sections 3.10 and 3.11 shall be available at all times and in the manner and at the prices specified herein. Notwithstanding the foregoing and subject to Section 3.9.1(c) below, either Party may change the services, provided that (1) there is no cost to the receiving Party as a result of such change, (2) the quality, reliability and integrity of the replacement services is equivalent to the existing service, and (3) there is otherwise no materially adverse effect on the receiving Party.

(c) Neither Party shall terminate any services set forth in Sections 3.10 and 3.11 below that it agrees to provide to the other Party, without the other Party's prior written consent, which consent shall not be unreasonably withheld or delayed, provided, however, if a Party receiving a service under Sections 3.10 or 3.11 no longer needs or desires a particular service, said Party shall notify the other Party and the providing Party shall terminate said services as soon thereafter as practicable.

#### 3.9.2 Temporary Suspension of Local Services

(a) The Party providing a service set forth in Sections 3.10 or 3.11 below shall notify and obtain approval, which approval shall not be unreasonably withheld or delayed, from the receiving Party of any scheduled temporary

suspension of services at least five (5) business days in advance of such suspension. Such notification shall include an estimated time duration for a return to normal conditions.

(b) In the event of any unplanned or forced suspension of the services set forth in Sections 3.10 or 3.11, below, the providing Party shall immediately notify the other Party first verbally and then in writing. The providing Party shall use all reasonable efforts to minimize the duration of said suspension.

(c) The Parties agree to complete any repairs, modifications or corrections, in accordance with Good Utility Practice, that are necessary to restore to the other Party as soon as reasonably practicable any services set forth in Sections 3.10 or 3.11 below that have been suspended.

3.10 Central Hudson Provided Services. Schedule E sets forth the local services Central Hudson shall provide to the Generator pursuant to the terms of this Agreement. Subject to Section 3.9 above, Central Hudson shall provide Generator with the local services set forth in Schedule E at no cost, at the seasonal levels in existence for the twelve (12) months immediately prior to the Closing, and in consideration of the local services Generator shall provide Central Hudson in accordance with Section 3.11 below.

3.11 Generator Provided Services. Schedule E sets forth the local services Generator shall provide to Central Hudson pursuant to the terms of this Agreement. Subject to Section 3.9 above and except as otherwise expressly stated in Schedule E, Generator shall provide Central Hudson with the local services set forth in Schedule E at no cost, at the seasonal levels in existence for the twelve (12) months immediately prior to Closing, and in consideration of the local services Central Hudson shall provide Generator in accordance with Section 3.10 above.

### 3.12 Metering and Telemetering

3.12.1 With respect to Interchange Meters located at the Point of Interconnection for the Roseton Generation Station, Generator shall, at Generator's expense: (a) own, Maintain, and repair, all such Interchange Meters, instrument transformers and appurtenances associated with such Interchange Meters, and real time telemetry, (b) conduct meter accuracy and tolerance tests, and (c) prepare all calibration reports required for equipment that measures energy transfers at the Point of Interconnection of the Roseton Generating Station. All meter accuracy and tolerance testing hereunder shall be in accordance with NY System Requirements and Good Utility Practice and shall be conducted, at Central Hudson's request, in the presence of Central Hudson's representative.

3.12.2 With respect to the Interchange Meters located at the Point of Interconnection of the Danskammer Generating Station, Central Hudson shall, at Generator's expense: (a) own, Maintain and repair, all such Interchange Meters, instruments transformers and appurtenances associated with such Interchange Meters, and real time telemetry, (b) conduct meter accuracy and tolerance tests, and (c) prepare all calibration reports required for equipment that measures energy transfers at the Point of Interconnection of the Danskammer Generating Station. All meter accuracy and tolerance testing hereunder shall be in accordance with NY System Requirements and Good Utility Practice and shall be conducted, at Generator's request, in the presence of Generator's representative.

3.12.3 Generator shall own and Maintain, at the Generator's expense, equipment for redundant real-time communications and transmission of telemetry, hourly MWh information, and such other information as required by the NYISO or Transmission Operator, or as reasonably required by Central Hudson in accordance with NY System Requirements and Good Utility Practice.

### 3.13 Emergency Procedure

3.13.1 Central Hudson, through the Transmission Operator, shall provide Generator with prompt verbal notification of Emergencies with regard to the Transmission System which may reasonably be expected to affect Generator's immediate operation of the Generating Stations or Generator Equipment, and Generator shall provide Central Hudson with prompt verbal notification of Emergencies with regard to the Generating Stations which may reasonably be expected to affect Interconnection Service or the Transmission System. Such notification shall describe the Emergency, the extent of damage or deficiency, the anticipated length of an outage and the corrective action taken and/or to be taken. The verbal notification shall be followed as soon as practicable (but no later than 24 hours after the verbal notification) with written notification.

3.13.2 If an Emergency in the good faith judgment of a Party endangers or could endanger life or property, the Party recognizing the problem shall take such action as may be reasonable and necessary to prevent, avoid, or mitigate injury, danger, or loss. If, however, the Emergency involves transmission or electrical equipment, Generator shall (i) notify the Transmission Operator as soon as practicable, and (ii) prior to performing any switching operations, obtain the consent of such personnel if time permits under the circumstances.

3.13.3 Central Hudson may, consistent with NY System Requirements and Good Utility Practice, have the Transmission Operator take whatever actions or inactions it deems necessary during an Emergency to: (a) preserve public safety; (b) preserve the integrity of the Transmission System, (c)

limit or prevent damage; or (d) expedite restoration of service. If any action or inaction by Central Hudson or the Transmission Operator under this Section 3.13 results in the discontinuation, curtailment, interruption or reduction of Interconnection Service, Central Hudson shall use reasonable efforts consistent with NY System Requirements and Good Utility Practice to restore Interconnection Service as promptly as practicable and to minimize the effect of such restoration of service on the applicable Generating Station.

### 3.14 Interconnection Service Interruptions

3.14.1 If at any time, in the reasonable exercise of the NYISO's judgment, or the Transmission Operator's judgment exercised in accordance with NY System Requirements or Good Utility Practice on a non-discriminatory basis, a condition exists, including the operation of Generator's equipment, which might reasonably be expected to have a materially adverse affect on the quality of service rendered by Central Hudson (including services rendered to transmission or distribution customers) or interferes with the safe and reliable operation of the Transmission System, Central Hudson may discontinue, curtail, reduce and/or interrupt Interconnection Service until the condition has been corrected.

3.14.2 Unless the NYISO, the Transmission Operator or Central Hudson perceives that an Emergency exists or the risk of one is imminent, Central Hudson shall give Generator reasonable notice of its intention to discontinue, curtail, interrupt or reduce Interconnection Service in response to the interfering condition and, where practical, allow suitable time for Generator to remove the interfering condition if it is the result of Generator's operations, before the discontinuation, curtailment, interruption or reduction commences. Central Hudson's judgment with regard to the interruption of service under this paragraph shall be made pursuant to NY System Requirements and Good Utility Practice. In the case of such interruption, Central Hudson shall immediately confer with Generator regarding the conditions causing such interruption and its recommendation concerning timely correction thereof. In the event Interconnection Service is interrupted under this section due to Generator's failure to operate and Maintain the Generating Facilities pursuant to NY System Requirements or Good Utility Practice, Generator shall compensate Central Hudson for all costs reasonably incurred by Central Hudson attributable to the interruption and restoration of Interconnection Service. Central Hudson shall use reasonable efforts consistent with NY System Requirements and Good Utility Practice to restore Interconnection Service interrupted, curtailed or reduced pursuant to this Section 3.14 as promptly as practicable and to minimize the effect of such restoration of service on the Generating Stations.

### 3.15 Unit Status Notification

3.15.1 Generator acknowledges that Central Hudson requires information regarding the status of the Generating Stations for Transmission System reliability purposes. Accordingly, by 12:00 p.m. of each day, the Generator shall provide Central Hudson the following information regarding the status of each of the Generating Stations for the following day: availability to provide energy and capacity; scheduled on and off times; synchronization, planned outages or deratings; and generation restrictions and limitations. Generator shall immediately notify Central Hudson of any changes to the information provided pursuant to the foregoing sentence.

3.15.2 In circumstances such as forced outages, Generator shall notify Central Hudson of temporary interruption of generation from the Generating Stations as soon as practicable; and it shall provide Central Hudson, as soon as practicable, with a schedule of when generation will be resumed.

### 3.16 Scheduled Maintenance Notification and Coordination

3.16.1 Local Routine Inspection and Maintenance. The Parties agree that, due to the integration of certain control and protective relaying schemes between the Generating Stations and the Interconnection Facilities, it will be necessary for them to cooperate in the inspection, maintenance and testing of these areas of integration. Each Party will provide advance notice to the other Party before undertaking any work in these areas, especially in electrical circuits involving circuit breaker trip and close contacts, current transformers or potential transformers and such work will be performed in accordance with NY System Requirements and Good Utility Practice.

3.16.2 Transmission System Maintenance. Central Hudson shall consult with Generator regarding timing of scheduled maintenance of the Interconnection Facilities or the transmission facilities of the Transmission System which Central Hudson or the Transmission Operator performs and which might reasonably be expected to affect the Generating Stations. Central Hudson shall, to the extent practicable, schedule any testing, shutdown, or withdrawal of said facilities to coincide with Generator's scheduled outages for the Generating Stations. To facilitate such consultation and to the extent the information is not available from the NYISO or the Transmission Operator, as applicable, in a timely manner in October of each year, or on another date mutually acceptable to the Parties, Generator shall furnish Central Hudson with non-binding preliminary generator maintenance schedules covering the upcoming two years and any material changes thereto. In the event Central Hudson is unable to schedule the outage of its facilities to coincide with Generator's schedule, Central Hudson shall notify Generator as soon as practicable of the reasons for the facilities' outage, of the time scheduled for the outage to take place, and of its expected duration.

### 3.17 Safety

3.17.1 General. Central Hudson agrees with respect to the Interconnection Facilities and the Transmission System, and Generator agrees with respect to the Generating Stations, that all work performed by either Party on such facilities which could reasonably be expected to affect the operations of the other Party shall be performed in accordance with all applicable NY System Requirements and Good Utility Practice. Central Hudson and Generator are solely responsible and assume all liabilities for the safety and supervision of their own employees, agents, representatives, and subcontractors. Central Hudson and Generator agree that any work performed by one Party which could reasonably be expected to affect the operation of the other Party shall be performed in accordance with all applicable laws, rules and regulations pertaining to the occupational safety regulations and standards under the Occupational Safety and Health Act of 1970 and the National Electric Safety Code.

3.17.2 Switching Tagging and Grounding. Each Party shall comply with the Switching, Tagging and Grounding Rules. Central Hudson will notify Generator of any changes in its Switching, Tagging and Grounding Rules. Generator shall be responsible for all switching, tagging and grounding on Generator's side of the Point of Interconnection except for Central Hudson Facilities, and, Central Hudson shall be responsible for all switching, tagging and grounding on its side of the Point of Interconnection except for Generator Equipment.

### 3.18 Environmental Compliance and Procedures

3.18.1 Each Party shall be responsible for complying with all Environmental Laws applicable to it with respect to its facilities or property.

3.18.2 A Party shall notify the other Party first verbally and then in writing, of any Releases of a Hazardous Substance or any type of remediation activities related thereto as soon as possible but no later than twenty-four (24) hours after the occurrence if within the reasonable judgment of the Party said activities could reasonably be expected to have a material adverse effect upon the operations of the other Party and shall promptly furnish to the other Party copies of any reports filed with any governmental agencies covering such events. This Section 3.18.2 does not affect any allocation of liability with respect to the Generating Stations pursuant to the APSAs.

3.18.3 Neither Party shall knowingly take any actions which might reasonably be expected to have a material adverse environmental impact upon the

operations of the other Party without prior written notification and agreement between the Parties as to actions to be taken.

3.19 Coordination Committee. The Parties shall establish a coordination committee consisting of one representative for each Party (“Coordination Committee”). The Coordination Committee shall act only by unanimous agreement or consent. The Parties shall designate their respective representatives to the Coordination Committee, plus an alternate by written notice. Each Party’s representative on the Coordination Committee is authorized to act on behalf of such Party with respect to any matter arising under this Agreement which is to be decided by the Coordination Committee, however, the Coordination Committee shall not have any authority to modify or otherwise alter the rights and obligations of the Parties hereunder. The Coordination Committee shall develop and implement suitable policies and procedures with which to coordinate the interaction of the Parties with respect to the performance of their duties and obligations under this Agreement.

## ARTICLE 4 OPERATIONS

### 4.1 General

4.1.1 The Parties agree to operate their respective equipment that could reasonably be expected to have a material effect on the operations of the other Party in a safe and efficient manner and in accordance with NY System Requirements and Good Utility Practice, and otherwise in accordance with the terms of this Agreement.

4.1.2 Generator shall comply with the requests, orders, and directives of Central Hudson with respect to Interconnection Service to the extent such requests, orders or directives are (a) issued pursuant to NY System Requirements or Good Utility Practice, (b) not discriminatory; and (c) otherwise in accordance with this Agreement or applicable tariffs.

4.1.3 In the event Generator believes that a request, order, or directive of Central Hudson exceeds the limitations in this Section 4.1, it shall nevertheless comply with the request, order, or directive pending resolution of the dispute under Article 12. The Parties agree to cooperate in good faith to expedite the resolution of any disputes arising under this Section 4.1.

### 4.2 Generator's Operating Obligations

4.2.1 General. Generator shall request permission from the Transmission Operator or the NYISO, as applicable, prior to opening and/or closing synchronizing circuit breakers in accordance with applicable switching and operations procedures and Good Utility Practice.

(a) Generator shall carry out all switching orders from the NYISO and Transmission Operator, in a timely manner and in accordance with NY System Requirements and Good Utility Practice.

(b) Generator shall (i) comply with Central Hudson's system restoration plan and black start criteria applicable to the Generating Stations as configured as of the Effective Date or (ii) if the Generating Stations' configuration is modified, provide alternative service restoration and black start capability in accordance with NY System Requirements and Central Hudson's requirements with respect to the Danskammer Generating Station. Generator shall ensure that operating personnel at the Generating Stations are trained to implement such system restoration or black start plans.

(c) The electricity supplied by Generator to the Point of Interconnection shall be in the form of three-phase 60 Hertz alternating current at the nominal system voltage.

(d) Generator's equipment shall conform with Good Utility Practice for harmonic distortion and voltage fluctuation.

4.2.2 Voltage or Reactive Control Requirements. Unless otherwise agreed to by the Parties or authorized or directed by the NYISO, Generator shall operate the Generating Stations with automatic voltage regulators in service at all times. The voltage regulators will control voltage at the Points of Interconnection consistent with the range of voltage prescribed by the NYISO or the Transmission System Operator in accordance with NY System Requirements and Good Utility Practice.

(a) Generator will operate the Generating Stations in accordance with prescribed voltage schedules pursuant to Section 4.2.2 to the extent the Generating Stations are operating within their reactive generating capability and not violating any electrical constraints. Should Generator fail to comply with such voltage schedules, the NYISO or the Transmission Operator, as applicable, shall provide written notice to the Generator of such failure. Generator shall promptly commence appropriate action after receiving such notice from the NYISO or the Transmission Operator. If Generator does not promptly remedy a failure to comply with such voltage schedules, the Transmission Operator or the NYISO may then

take any necessary action at Generator's expense to remedy such failure, including the installation of capacitor banks or other reactive compensation equipment necessary to ensure the proper voltage or reactive supply at the Generating Facilities including, at a minimum, by installing such equipment outside any building housing the Generating Facilities. Central Hudson shall make, to the extent feasible, reasonable efforts to minimize the impact of such action on the operation of the Generating Stations.

(b) Generator shall notify the Transmission Operator if (a) any or all generating units reaches a VAR limit, (b) there is any deviation from the voltage schedules prescribed pursuant to Section 4.2.2 which is outside the limits permitted by NY System Requirements or Good Utility Practice, or (c) any automatic voltage regulator is removed from or restored to service.

(c) The Transmission Operator or the NYISO may from time to time, pursuant to NY System Requirements or Good Utility Practice, request or direct Generator to adjust system generator controls that impact the Transmission System, such as excitation, droop, and automatic generation control settings and Generator shall comply with such request or directions.

(d) Generator acknowledges that the Transmission Operator may have the right, to the extent authorized or directed by the NYISO or required by Good Utility Practice, to require reduced or increased generation of the Generating Stations in accordance with NY System Requirements, or in accordance with applicable rules of the Transmission Operator.

4.3 Auditing of Accounts and Records. The Parties shall have the right, during normal business hours, to audit each other's accounts and records pertaining to transactions under this Agreement, upon twenty (20) days prior written notice, at the offices where such accounts and records are maintained, provided, however, that the audit shall be limited to those portions of the accounts and records that are related to services provided to the other Party under this Agreement. Any such audit of a Party's accounts and records will be at the expense of the auditing Party, shall not be made more frequently than once in any twelve (12) month period, and no such audit may be made with respect to accounts and records relating to periods more than twenty-four (24) months prior to the date of the audit notice. The Party being audited will be entitled to review the audit report and any supporting materials. The Party conducting the audit shall maintain the confidentiality of all information obtained during the audit in compliance with Article 6 of this Agreement. To the extent that audited information includes confidential information, the auditing Party shall designate an independent auditor at its expense to perform such audit.

ARTICLE 5  
COST RESPONSIBILITIES AND BILLING PROCEDURES

5.1 Cost Responsibilities for Interconnection Service. Except as otherwise expressly stated herein, Generator shall not be responsible for any costs arising from Central Hudson's provision of Interconnection Service or local services to Generator, except for those costs specified in Sections 3.2.1, 3.2.2, 3.4.1, 3.12 and 3.14 or arising from the liability or indemnification provisions of this Agreement.

5.2 Cost Responsibilities for Local Services. Except as otherwise expressly provided herein or agreed to by the Parties, each Party shall be responsible for the costs for local services provided to the other Party in Sections 3.10 and 3.11 as set forth in said sections.

5.3 Billing Procedures

(a) Within ten (10) days after the first day of each calendar month, each Party shall provide the other Party with a written invoice for any payments due from the other Party for services provided in the previous month.

(b) Each invoice shall (i) delineate the month in which the services were provided, (ii) fully describe the services rendered, (iii) be itemized to reflect the services performed or provided, and (iv) provide reasonable detail as to the calculation of the amount involved.

(c) All invoices shall be paid within fifteen (15) days after receipt, but not earlier than the 25<sup>th</sup> day of the month in which the invoice is rendered. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank designated in writing by such Party. Payment of invoices shall not relieve the paying Party from any responsibilities or obligations it has under this Agreement, nor shall such payment constitute a waiver of any claims arising hereunder.

5.3.2 To the extent that, for any billing period, a Party is obligated to pay the other Party amounts due and calculated pursuant to Section 5.3, such Party may use such amounts as a set-off against any amounts owed to the other Party under this Section 5.3.

5.3.3 Interest on any unpaid amounts shall be calculated in accordance with the methodology specified for interest on refunds in FERC regulations at 18 C.F.R. §35.19a(a)(2)(iii). Interest on delinquent amounts shall be calculated from the due date of the bill to the date of payment. When payments are

made by mail, bills shall be considered as having been paid on the date of receipt by the other Party.

5.4 Billing Disputes. In the event of a billing dispute between the Parties, each Party shall continue to provide services as long as the other Party continues to make all payments not in dispute. Payment of invoices by either Party shall not relieve the paying Party from any responsibilities or obligations it has under this Agreement; nor shall it constitute a waiver of any claims arising hereunder.

## ARTICLE 6 CONFIDENTIALITY

6.1 Confidentiality Obligations of Central Hudson. Central Hudson shall hold in confidence, unless compelled to disclose by judicial or administrative process or other provisions of law, all documents and information furnished by Generator in connection with this Agreement marked “Confidential” or “Proprietary.” Except to the extent that such information or documents are (i) generally available to the public other than as a result of a disclosure by Central Hudson in breach of this Agreement, (ii) available to Central Hudson on a non-confidential basis prior to disclosure to Central Hudson by Generator, or (iii) available to Central Hudson on a non-confidential basis from a source other than Generator, provided that such source is not known, and by reasonable effort could not be known, by Central Hudson to be bound by a confidentiality agreement with Generator or otherwise prohibited from transmitting the information to Central Hudson by a contractual, legal or fiduciary obligation, Central Hudson shall not release or disclose such information to any other person, except to its employees, representatives or agents on a need-to-know basis, in connection with this Agreement who has not first been advised of the confidentiality provisions of this Section 6.1 and has agreed in writing to comply with such provisions. In no event shall such information be disclosed in violation of the requirements of FERC Orders 889 and 889-A, and any successor thereto. Central Hudson shall promptly notify Generator if it receives notice or otherwise concludes that the production of any information subject to this Section 6.1 is being sought under any provision of law and Central Hudson shall use reasonable efforts in cooperation with Generator to seek confidential treatment for such confidential information provided thereto.

6.2 Confidentiality Obligations of Generator. Generator shall hold in confidence, unless compelled to disclose by judicial or administrative process or other provisions of law, all documents and information furnished by Central Hudson in connection with this Agreement marked “Confidential” or “Proprietary.” Except to the extent that such information or documents are (i) generally available to the public other than as a result of a disclosure by Generator in breach of this Agreement, (ii) available to Generator on a non-confidential basis

prior to disclosure to Generator by Central Hudson, or (iii) available to Generator on a non-confidential basis from a source other than Central Hudson, provided that such source is not known, and by reasonable effort could not be known, by Generator to be bound by a confidentiality agreement with Central Hudson or otherwise prohibited from transmitting the information to Generator by a contractual, legal or fiduciary obligation, Generator shall not release or disclose such information to any other person, except to its employees, representatives or agents on a need-to-know basis, in connection with this Agreement who has not first been advised of the confidentiality provisions of this Section 6.2 and has agreed in writing to comply with such provisions. In no event shall such information be disclosed in violation of the requirements of FERC Orders 889 and 889-A, and any successor thereto. Generator shall promptly notify Central Hudson if it receives notice or otherwise concludes that the production of any information subject to this Section 6.2 is being sought under any provision of law and Generator shall use reasonable efforts in cooperation with Central Hudson to seek confidential treatment for such confidential information provided thereto.

6.3 Confidentiality of Audits. The independent auditor performing any audit, as referred to in Section 4.3, shall be subject to a confidentiality agreement between the auditor and the Party being audited. Such audit information shall be treated as confidential except to the extent that its disclosure is required by regulatory or judicial order, for reliability purposes pursuant to NY System Requirements or Good Utility Practice, and pursuant to the NYPSC's and FERC's rules and regulations. Except as provided herein, neither Party will disclose the audit information to any third party, without the other Party's prior written consent. Audit information in the hands of the Party not being audited shall be subject to all provisions of Section 6.1 or 6.2, above, as applicable.

6.4 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for the other Party's breach of its obligations under Section 6.1 or 6.2, above, as applicable. Each Party accordingly agrees, subject to Article 8, that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party breaches or threatens to breach its obligations under Section 6.1 or 6.2 of this Agreement, as applicable, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law.

## ARTICLE 7 EVENTS OF DEFAULT

7.1 Events of Default. Each of the following shall constitute an Event of Default by the defaulting Party under this Agreement:

(a) The failure by a Party to pay any amount due within twenty (20) calendar days after receipt of written notice of nonpayment by the other Party, unless the payment of such amount is disputed in good faith, in which event Section 5.4 shall apply;

(b) A Party's breach of any material term or condition of this Agreement, including but not limited to any material breach of a representation, warranty or covenant made in this Agreement which, after receiving written notice of the breach from the non-breaching Party (such notice to set forth in reasonable detail the nature of the default and, where known and if applicable, the steps necessary to cure such default), (i) the breaching Party fails to cure, if curable, within thirty (30) days following receipt of the notice or (ii) if such default is of such a nature that it cannot be cured within thirty (30) days following receipt of such notice, the breaching Party fails within such thirty (30) days to commence the necessary cure and fails at any time thereafter diligently and continuously to prosecute such cure to completion provided that the cure is completed no later than 180 days after the receipt of the default notice;

(c) The appointment of a receiver, liquidator or trustee for either Party, and such receiver, liquidator or trustee is not discharged within sixty (60) days;

(d) The entry of a decree or decrees adjudicating a Party as bankrupt or insolvent, and such decree or decrees are not stayed or discharged within sixty (60) days; or

(e) The filing of voluntary petitions for bankruptcy under any federal or state bankruptcy law by a Party.

## 7.2 Remedies

7.2.1 If the breaching Party disputes that an Event of Default under Section 7.1.(b) has occurred, the breaching Party shall nonetheless comply with this Section 7.2 pending the resolution of the dispute. If it is determined that no breach or Event of Default under Section 7.1(b) existed, the Party alleging the default shall pay and reimburse the other Party for all reasonable costs and expenses incurred by it to cure the alleged default.

7.2.2 Upon the occurrence of an Event of Default, the non-defaulting Party may (i) exercise all such rights and remedies as may be available to it at law or equity including seeking to recover damages caused by such Event of Default, subject to Article 8 of this Agreement; and/or (ii) terminate this Agreement. The Parties shall not discontinue the performance of any one or more

of their obligations hereunder due to the occurrence of an Event of Default during the pendency of any dispute regarding such Event of Default and until such dispute is finally resolved except that Central Hudson may suspend or interrupt service if necessary for the safe and reliable operation of the Interconnection Facilities or the Transmission System.

7.2.3 Notwithstanding the foregoing, upon the occurrence of any Event of Default, the non-defaulting Party shall be entitled to commence an action to require the defaulting Party to remedy such default by specific performance of its duties and obligations hereunder in accordance with the terms and conditions hereof.

7.2.4 Notwithstanding anything in this Agreement to the contrary, in the event the Generator's failure to comply with the provisions of Sections 4.1 and 4.2 of this Agreement is reasonably likely to have an immediate and material adverse effect on Central Hudson or the Transmission System, Central Hudson shall have the right to take immediately reasonable steps and to exercise immediately all remedies available under this Agreement, or at law or in equity, including the right, after providing as much notice as is practicable under the circumstances and complying with the applicable FERC notice requirements regarding termination of service, to disconnect the applicable Generating Station from the Transmission System.

## ARTICLE 8 LIMITATION OF LIABILITY

8.1 Limitation of Central Hudson's Liability. Central Hudson does not guarantee the non-occurrence of, or warrant against, and will have no liability hereunder for, and the Generator will release Central Hudson from all claims or damages associated with, any interruption in the availability of the Interconnection Facilities, Interconnection Service or local services pursuant to Section 3.10 or damages to the Generator's facilities, except to the extent such interruption or damage is caused by Central Hudson's gross negligence or willful misconduct in the performance of its obligations under this Agreement.

8.2 Limitation on Generator's Liability. Generator does not guarantee the non-occurrence of, or warrant against, and will have no liability under this Agreement for, and Central Hudson will release Generator from all claims or damages arising under this Agreement which are associated with any interruption in the availability of the Generating Stations or local services pursuant to Section 3.11, any reduction, curtailment, interruption or reduction of energy from the Generating Stations, or damage to Central Hudson's facilities, except to the extent such

interruption or damage is caused by Generator's gross negligence or willful misconduct in the performance of its obligations under the Agreement.

8.3 Consequential Damages. Except for indemnity obligations set forth in Article 9, neither Party, nor their respective officers, directors, agents, employees, Affiliates, or successors or assigns of any of them, shall be liable to the other Party or its Affiliates, officers, directors, agents, employees, successors or assigns for claims, suits, actions or causes of action for incidental, punitive, special, indirect, multiple or consequential damages (including, without limitation, replacement power costs, lost revenues, claims of customers, attorneys' fees and litigation costs) connected with, or resulting from, performance or non-performance of this Agreement, or any actions undertaken in connection with or related to this Agreement, including, without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty or strict liability. The provisions of this Section 8.3 shall apply regardless of fault and shall survive termination, cancellation, suspension, completion, or expiration of this Agreement.

## ARTICLE 9 INDEMNIFICATION FOR THIRD PARTY CLAIMS

9.1 Generator's Indemnification. Generator shall indemnify, hold harmless, and defend Central Hudson and its Affiliates, as the case may be, and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors and permitted assigns from and against any and all claims, liabilities, costs, damages, and expenses (including, without limitation, reasonable attorney and expert fees, and disbursements incurred by any of them in any action or proceeding between Central Hudson and a third party or Generator) for damage to property of unaffiliated third parties, injury to or death of any person, including Central Hudson's employees or any third parties, to the extent caused, by the negligence or willful misconduct of Generator and/or its officers, directors, employees, agents, contractors, subcontractors or invitees arising out of or connected with Generator's performance or breach of this Agreement, or the exercise by Generator of its rights hereunder. In furtherance of the foregoing indemnification and not by way of limitation thereof, Generator hereby waives any defense it might otherwise have under applicable workers' compensation laws.

9.2 Central Hudson's Indemnification. Central Hudson shall indemnify, hold harmless, and defend Generator and its Affiliates, as the case may be, and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors and permitted assigns from and against any and all claims, liabilities, costs, damages, and expenses (including, without limitation, reasonable attorney and expert fees, and disbursements incurred by any of them in any action or

proceeding between the Generator and a third party or Central Hudson) for damage to property of unaffiliated third parties, injury to or death of any person, including Generator's employees or any third parties, to the extent caused by the negligence or willful misconduct of Central Hudson and/or its officers, directors, employees, agents, contractors, subcontractors or invitees arising out of or connected with Central Hudson's performance or breach of this Agreement, or the exercise by Central Hudson of its rights hereunder. In furtherance of the foregoing indemnification and not by way of limitation thereof, Central Hudson hereby waives any defense it might otherwise have under applicable workers' compensation laws.

9.3 Indemnification Procedures. If either Party intends to seek indemnification under this Article 9 from the other Party, the Party seeking indemnification shall give the other Party notice of such claim within ninety (90) days of the later of the commencement of, or the Party's actual knowledge of, such claim or action. Such notice shall describe the claim in reasonable detail, and shall indicate the amount (estimated if necessary) of the claim that has been, or may be sustained by, said Party. To the extent that the other Party will have been actually and materially prejudiced as a result of the failure to provide such notice, such notice will be a condition precedent to any liability of the other Party under the provisions for indemnification contained in this Agreement. Neither Party may settle or compromise any claim without the prior consent of the other Party; provided, however, said consent shall not be unreasonably withheld or delayed.

9.4 Survival. The indemnification obligations of each Party under this Article 9 shall continue in full force and effect regardless of whether this Agreement has either expired or been terminated or canceled.

## ARTICLE 10 INSURANCE

10.1 Insurance Coverage. The Parties shall maintain at their own cost and expense, fire, liability, worker's compensation, and other forms of insurance relating to their respective property and facilities subject to this Agreement in the manner, and amounts, and for the durations as is customary in the electric utility industry.

10.2 Certificates of Insurance. The Parties agree to furnish each other with certificates of insurance evidencing the insurance coverage obtained in accordance with this Article 10, and the Parties agree to notify and send copies to the other of any policies maintained hereunder upon written request by a Party. Each Party must notify the other Party within ten (10) business days of receiving

notice of cancellation, change, amendment or renewal of any insurance policy required pursuant to Section 10.1 above.

10.3 Additional Insureds and Waiver. Each Party and its affiliates shall be named as additional insureds on the general liability insurance policies obtained in accordance with Section 10.1, above, as regards liability under this Agreement; and each Party shall waive its rights of recovery against the other for any loss or damage covered by such policy.

## ARTICLE 11 FORCE MAJEURE

11.1 Effect of Force Majeure. Notwithstanding anything in this Agreement to the contrary, the Parties shall be excused from performing their respective obligations hereunder and shall not be liable in damages or otherwise (except for the obligation to pay sums of money due and owing hereunder) to the extent that a Party is unable to so perform or is prevented from performing by an event of Force Majeure and has complied with Section 11.3.

11.2 Force Majeure Defined. Force Majeure means those causes beyond the reasonable control of the Party affected, which by the exercise of reasonable diligence, including Good Utility Practice, that Party is unable to prevent, avoid, mitigate, or overcome, including the following: any act of God, labor disturbance (including a strike), act of the public enemy, war, insurrection, riot, fire, storm or flood, damage to underwater cables, explosion, breakage or accident to machinery or equipment, electric system disturbance), order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause of a similar nature beyond a Party's reasonable control.

11.3 Notification. A Party shall not be entitled to rely on the occurrence of an event of Force Majeure as a basis for being excused from performance of its obligations under this Agreement, unless the Party relying on the event or condition shall: (a) provide prompt written notice of such Force Majeure event to the other Party, including an estimation of its expected duration and the probable impact on the performance of its obligations hereunder; (b) exercise all reasonable efforts in accordance with Good Utility Practice to continue to perform its obligations under this Agreement; (c) expeditiously take action to correct or cure the event or condition excusing performance; (d) exercise all reasonable efforts to mitigate or limit damages to the other Party; and (e) provide prompt notice to the other Party of the cessation of the event or condition giving rise to its excuse from performance. Subject to this Section 11.3, any obligation under this Agreement shall be suspended only to the extent caused by such Force Majeure and only during the

continuance of any inability of performance caused by such Force Majeure but for no longer period.

## ARTICLE 12 DISPUTES

### 12.1 Disputes

12.1.1 A Party with a claim or dispute under this Agreement shall submit to the Coordination Committee a notification of such claim or dispute within sixty (60) days after the circumstances that gave rise to the claim or the question or issue in dispute. The notification shall be in writing and shall include a concise statement of the claim or the issue or question in dispute, a statement of the relevant facts and documentation to support the claim. In the event the Coordination Committee is unable, in good faith, to resolve the disagreement in a manner satisfactory to both Parties within thirty (30) days after receipt by the Coordination Committee of a notification specifying the claim, issue or question in dispute, the Parties shall refer the dispute to their respective senior management. If, after using their good faith best efforts to resolve the dispute, senior management cannot resolve the dispute within thirty (30) days, the Parties shall utilize the arbitration procedures set forth below in Section 12.2 to resolve a dispute, provided that nothing herein or therein shall prohibit either Party from at any time requesting from a court of competent jurisdiction a temporary restraining order, preliminary injunction, or other similar form of equitable relief to enforce performance of the provisions of this Agreement.

### 12.2 Arbitration.

(a) Unless the Parties otherwise mutually agree in writing to another form of dispute resolution any arbitration initiated under this Agreement shall be conducted before a single neutral arbitrator appointed by the Parties within thirty (30) days of receipt by respondent of the demand for arbitration. If the Parties are unable to agree on an arbitrator, such arbitrator shall be appointed by the American Arbitration Association. Unless the Parties agree otherwise, the arbitrator shall have experience in the electric power industry, shall not have any current or past substantial business or financial relationships with any Party to the arbitration or its Affiliates, and shall have experience in the arbitration or mediation of contract disputes. Unless otherwise agreed, the arbitration shall be conducted in accordance with the American Arbitration Association's Commercial Arbitration Rules, then in effect. Any arbitration proceedings, decision or award rendered hereunder and the validity, effect and interpretation of this arbitration agreement shall be governed by the Federal Arbitration Act of the United States, 9 U.S.C. §§ 1 *et seq.* The location of any arbitration hereunder shall be in New York, New York.

(b) The arbitration shall, if possible, be concluded not later than six (6) months after the date that it is initiated. The arbitrator shall be authorized only to interpret and apply the provisions of this Agreement or any related agreements entered into under this Agreement and shall have no power to modify or change any of the above in any manner. The arbitrator shall have no authority to award punitive or multiple damages or any damages inconsistent with this Agreement. The arbitrator shall, within thirty (30) days of the conclusion of the hearing, unless such time is extended by agreement of the Parties, notify the Parties in writing of his or her decision, stating his or her reasons for such decision and separately listing his or her findings of fact and conclusions of law. The decision of the arbitrator rendered in such a proceeding shall be final and binding on the Parties. Judgment on the award may be entered upon it in any court having jurisdiction.

12.3 FERC Dispute Resolution. Nothing in this Agreement shall preclude, or be construed to preclude, any Party from filing a petition or complaint with FERC with respect to any arbitrable claim over which FERC has jurisdiction. In such case, the other Party may request FERC to reject or to waive jurisdiction. If FERC rejects or waives jurisdiction with respect to all or a portion of the claim, the portion of the claim not so accepted by FERC shall be resolved through arbitration, as provided in this Agreement. To the extent that FERC asserts or accepts jurisdiction over the claim, the decision, finding of fact or order of FERC shall be final and binding, subject to judicial review under the Federal Power Act, and any arbitration proceedings that may have commenced with respect to the claim prior to the assertion or acceptance of jurisdiction by FERC shall be terminated.

### ARTICLE 13 REPRESENTATIONS

13.1 Representations of Central Hudson. Central Hudson hereby represents and warrants to Generator as follows:

(a) Incorporation. Central Hudson is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, and has all requisite corporate power and authority to own, lease and operate its material assets and properties and to carry on its business as now being conducted.

(b) Authority. Central Hudson has all necessary corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery by Central Hudson of this Agreement and the consummation by Central Hudson of the transactions contemplated hereunder have been duly and validly authorized by the Board of

Directors of Central Hudson or by a committee thereof to whom such authority has been delegated and no other corporate proceedings on the part of Central Hudson are necessary to authorize this Agreement or the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Central Hudson and, assuming that this Agreement constitutes a valid and binding agreement of Generator, constitutes a valid and binding agreement of Central Hudson, enforceable by Central Hudson in accordance with its terms.

(c) Consents and Approvals; No Violation.

(i) Neither the execution and delivery of this Agreement by Central Hudson nor performance by Central Hudson of its obligations hereunder will (A) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-laws of Central Hudson, (B) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Central Hudson or any of its subsidiaries is a party or by which any of their respective assets may be bound or (C) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Central Hudson, or any of its assets, except in the case of clauses (B) and (C) for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, have a material adverse effect on the ability of Central Hudson to discharge its obligations under this Agreement (a “Central Hudson Material Adverse Effect”).

(ii) No declaration, filing or registration with, or notice to, or authorization, consent or approval of any governmental authority is necessary for performance by Central Hudson of its obligations hereunder, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made would not, individually or in the aggregate, have a Central Hudson Material Adverse Effect.

13.2 Representations of Generator. Generator hereby represents and warrants to Central Hudson as follows:

(a) Incorporation. Generator is a [corporation] duly [incorporated], validly existing and in good standing under the laws of the State of \_\_\_\_\_, and has all requisite [corporate] power and authority to own, lease and operate its material assets and properties and to carry on its business as now being conducted.

(b) Authority. Generator has all necessary [corporate] power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery by the Generator of this Agreement and the consummation by Generator of the transactions contemplated hereby have been duly and validly authorized the [Board of Directors] of Generator or by a committee thereof to whom such authority has been delegated and no other [corporate] proceedings on the part of Generator are necessary to authorize this Agreement or the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Generator and, assuming that this Agreement constitutes a valid and binding agreement of Central Hudson, constitutes a valid and binding agreement of Generator, enforceable against Generator in accordance with its terms.

(c) Consents and Approvals.

(i) Neither the execution and delivery of this Agreement by Generator nor performance by Generator of its obligations hereunder will (A) conflict with or result in any breach of any provision of the [Certificate of Incorporation or By-laws] of Generator, (B) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Generator or any of its subsidiaries is a party or by which any of their respective assets may be bound or (C) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Generator, or any of its assets, except in the case of clauses (B) and (C) for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, have a material adverse effect on the ability of Generator to discharge its obligations under this Agreement (a “Generator Material Adverse Effect”).

(ii) No declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for performance by Generator of its obligations hereunder, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made would not, individually or in the aggregate, have a Generator Material Adverse Effect.

ARTICLE 14  
ASSIGNMENT/CHANGE IN CORPORATE IDENTITY

14.1 Assignment.

(a) Except as set forth in this Article 14, neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by either

Party hereto, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

(b) Subject to Section 14.2, upon ten (10) days prior written notice to Generator, Central Hudson may assign this Agreement, and Central Hudson's rights, interests and obligations hereunder, to (i) an Affiliate of Central Hudson that owns all or part of Central Hudson's Transmission System or (ii) an independent system operator or independent transmission company whose control over all or part of Central Hudson's Transmission System has been approved by the FERC.

(c) Subject to Section 14.2, Generator may (a) assign any of its rights and obligations hereunder to an Affiliate to the extent necessary for the Generator to qualify as an exempt wholesale generator under Section 32 of the Public Utility Holding Company Act of 1935, as amended, and (b) assign, transfer, pledge or otherwise dispose of its rights and interests hereunder to a trustee, lending institution, or other person for the purposes of financing or refinancing the Generating Stations, including upon or pursuant to the exercise of remedies under such financing or refinancing, or by way of assignments, transfers, conveyances of dispositions in lieu thereof; provided, however, that no such assignment shall relieve or in any way discharge Generator from responsibility for the performance of its duties and obligations under this Agreement. Central Hudson agrees to execute and deliver, at Generator's expense, such documents as may be reasonably necessary to accomplish any such assignment, transfer, conveyance, pledge or disposition of rights hereunder for purposes of the financing or refinancing of the Generating Stations, so long as Central Hudson's rights under this Agreement are not thereby altered, amended, diminished or otherwise impaired.

(d) Subject to Section 14.2, either Party may assign this Agreement to a successor to all or substantially all of the assets of such Party by way of merger, consolidation, sale or otherwise, provided such successor assumes in writing and becomes liable for all of such Party's duties and obligations hereunder.

14.2 Release of Rights and Obligations. No assignment, transfer, conveyance, pledge or disposition of rights, interests, duties or obligations under this Agreement by a Party shall relieve that Party from liability and financial responsibility for the performance thereof after any such transfer, assignment, conveyance, pledge or disposition unless and until (i) the transferee or assignee shall agree in writing to assume the obligations and duties of that Party under this Agreement and to impose such obligations on subsequent permitted transferees and assignees and (ii) the non-assigning Party has consented in writing to such assumption and to a release of the assigning Party from such liability, such consent not to be unreasonably withheld or delayed.

14.3 Change in Corporate Identity. If Generator terminates its existence as a [corporate] entity by merger, acquisition, sale, consolidation or otherwise, or if all or substantially all of Generator's assets are transferred to another person or business entity without complying with this Article 14, Central Hudson shall have the right, enforceable in a court of competent jurisdiction, to enjoin Generator's successor from using the Generating Stations in any manner that does not comply with the requirements of this Agreement or that impedes Central Hudson's ability to carry on its ongoing business operations.

14.4 Successors and Assigns. This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

## ARTICLE 15 SUBCONTRACTORS

Nothing in this Agreement shall prevent the Parties from utilizing the services of subcontractors as they deem appropriate, provided, however, the Parties agree that, where applicable, all said subcontractors shall comply with the terms and conditions of this Agreement. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. Each Party shall be fully responsible to the other Party for the acts and omissions of any subcontractor it hires as if no subcontract had been made. Any obligation imposed by this Agreement upon the Parties, where applicable, shall be equally binding upon and shall be construed as having application to any subcontractor. The Parties shall each be liable for, indemnify, and hold harmless the other Party, their Affiliates and their officers, directors, employees, agents, servants, and assigns from and against any and all claims, demands, or actions, from the other Party's subcontractors; and shall pay all costs, expenses and legal fees associated therewith and all judgments, decrees and awards rendered therein. No subcontractor is intended to be or shall be deemed a third-party beneficiary of this Agreement.

## ARTICLE 16 NOTICES

16.1 Emergency Notices. At or prior to the Effective Date, each Party shall indicate to the other Party, by notice, the appropriate person during each eight-hour work shift to contact in the event of an emergency, a scheduled or forced interruption or reduction in services. The notice last received by a Party shall be effective until modified in writing by the other Party.

16.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied

(which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

if to Central Hudson, to:

if to Generator, to:

## ARTICLE 17 AMENDMENTS

17.1 Amendments. Except as set forth in Sections 2.2 and 17.2 of this Agreement, this Agreement may be amended, modified, or supplemented only by written agreement of both Central Hudson and Generator.

### 17.2 FERC Proceedings

(a) Central Hudson may unilaterally make application to FERC under Section 205 of the Federal Power Act and pursuant to the FERC's rules and regulations promulgated thereunder for, or exercise any rights it may have under Section 206 of the Federal Power Act and the regulations thereunder with respect to, a change in any rates, terms and conditions, charges, classification of service, rule or regulation for any services Central Hudson provides under this Agreement over which FERC has jurisdiction.

(b) Generator may exercise its rights under Section 205 or 206 of the Federal Power Act and pursuant to FERC's rules and regulations promulgated thereunder with respect to any rate, term, condition, charge, classification of service, rule or regulation for any services provided under this Agreement over which FERC has jurisdiction.

## ARTICLE 18 MISCELLANEOUS PROVISIONS

18.1 Waiver. Except as otherwise provided in this Agreement, any failure of a Party to comply with any obligation, covenant, agreement, or condition herein

may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

18.2 Labor Relations. The Parties agree to immediately notify the other Party, verbally and then in writing, of any labor dispute or anticipated labor dispute which may reasonably be expected to affect the operations of the other Party.

18.3 No Third Party Beneficiaries. Nothing in this Agreement is intended to confer upon any other person except the Parties any rights or remedies hereunder or shall create any third party beneficiary rights in any person. No provision of this Agreement shall create any rights in any such persons in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement except as expressly provided for thereunder.

18.4 Governing Law This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

18.5 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

18.6 Interpretation. When a reference is made in this Agreement to an Article, Section, Schedule or exhibit, such reference shall be to an Article or Section of, or Schedule or exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” or equivalent words. The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Unless otherwise expressly stated herein, the word “day” shall mean any calendar day including weekends and holidays. Any agreement, instrument, statute, regulation, rule or order defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument, statute, regulation, rule or order as from time to time amended, modified or supplemented, including (in the case of agreements or

instruments) by waiver or consent and (in the case of statutes, regulations, rules or orders) by succession of comparable successor statutes, regulations, rules or orders and references to all attachments thereto and instruments incorporated therein. References to a person are also to its permitted successors and assigns. Each Party acknowledges that it has been represented by counsel in connection with the review and execution of this Agreement, and, accordingly, there shall be no presumption that this Agreement or any provision hereof be construed against the Party that drafted this Agreement.

18.7 Jurisdiction and Enforcement. Each of the Parties irrevocably submits to the exclusive jurisdiction of (i) Supreme Court of New York (Dutchess County) and (ii) the United States District Court for the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the Parties agrees to commence any action, suit or proceeding relating hereto either in the United States District Court for the Southern District of New York or, if such suit, action or proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of New York (Dutchess County). Each of the Parties further agrees that service of process, summons, notice or document by hand delivery or U.S. registered mail at the address specified for such Party in Section 16.2 (or such other address specified by such Party from time to time pursuant to Section 16.2) shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of New York (Dutchess County) and (ii) the United States District Court for the Southern District of New York, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

18.8 Entire Agreement. This Agreement, the APSAs, the Confidentiality Agreement and the Ancillary Agreements including the Exhibits, Schedules, documents, certificates and instruments referred to herein or therein and other contracts, agreements and instruments contemplated hereby or thereby, embody the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein or therein. This Agreement, the APSAs and the Ancillary Agreements supersede all prior agreements and understandings between the Parties with respect to the transactions contemplated by this Agreement other than the Confidentiality Agreement.

18.9 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

18.10 Independent Contractor Status. Nothing in this Agreement shall be construed as creating any relationship between Central Hudson and Generator other than that of independent contractors.

18.11 Conflicts. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the APSAs, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, Central Hudson and Generator have caused this Interconnection Agreement to be signed by their respective duly authorized officers as of the date first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION

By: \_\_\_\_\_

Name:

Title:

[GENERATOR]

By: \_\_\_\_\_

Name:

Title:

## SCHEDULE 1

### DEFINITIONS

- (1) "Agreement" has the meaning set forth in the preamble to this Agreement.
- (2) "Affiliate" has the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934.
- (3) "Ancillary Agreements" has the meaning set forth in the APSA.
- (4) "APSAs" has the meaning set forth in the first recital of this Agreement.
- (5) "Central Hudson" has the meaning set forth in the introductory paragraph of this Agreement and shall include its permitted successors or assigns.
- (6) "Central Hudson Facilities" means the equipment and facilities owned by Central Hudson but located on Generator's property which are identified in Schedule B-1 of this Agreement.
- (7) "Central Hudson Transmission Facilities" means those transmission, substation, and communication facilities and related equipment, including the Interconnection Facilities, and any additions, modifications or replacements thereto, that are utilized to provide Interconnection Service to the Generating Stations.
- (8) "Closing" has the meaning set forth in the APSAs.
- (9) "Coordination Committee" has the meaning set forth in Section 3.19 of this Agreement.
- (10) "Confidentiality Agreement" has the meaning set forth in the APSA
- (11) "Costs" means all costs, including without limitation, any Taxes, costs of acquiring real property, costs and fees for permits, franchises, licenses and regulatory approvals and a gross-up to make Central Hudson whole for any income Tax consequences resulting from Generator's payment of reimbursement Costs except to the extent that such

costs are allocated to a party or parties other than the Generator under the NYISO OATT or any other applicable tariff.

(12) "Danskammer APSA" has the meaning set forth in the first recital of this Agreement.

(13) "Danskammer Generating Station" has the meaning set forth in the Danskammer APSA.

(14) "Danskammer Easement" means the Easement Agreement dated \_\_\_\_\_, 2000, between the Parties with respect to the Danskammer Generating Station.

(15) "Easements" means the Danskammer Easement and the Easement Agreement dated \_\_\_\_\_, 2000, between the Parties with respect to the Roseton Generating Station.

(16) "Effective Date" has the meaning set forth in Section 2.1 of this Agreement.

(17) "Environmental Laws" means all former, current and future federal, state, local and foreign laws (including common law), treaties, regulations, rules, ordinances, codes, decrees, judgments, directives or orders (including consent orders) and environmental permits, in each case, relating to pollution or protection of the environment or natural resources, including laws relating to Releases or threatened Releases, or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, arrangement for disposal, transport, recycling or handling, of Hazardous Substances.

(18) "Emergency" means (a) with respect to Central Hudson, a condition or situation which the NYISO, Transmission Operator or Central Hudson, deems imminently likely to (i) endanger life or property, or (ii) adversely affect or impair the Transmission System, Central Hudson's electrical system or the electrical or transmission systems of others to which the Transmission System or Central Hudson's electrical system are directly or indirectly connected and (b) with respect to the Generator, a condition or situation which the Generator deems imminently likely to (i) endanger life or property, or (ii) adversely affect or impair a Generating Station(s).

(19) "Event of Default" has the meaning set forth in Section 7.1 of this Agreement.

(20) “FERC” means the Federal Energy Regulatory Commission or its successors.

(21) “Force Majeure” has the meaning set forth in Section 11.1 of this Agreement.

(22) “Generating Facilities” means the Generating Stations and any additional generating plants, turbines or other generating facilities constructed by Generator after the Effective Date at the site(s) of the Generating Stations.

(23) “Generating Stations” has the meaning set forth in the third recital of this Agreement.

(24) “Generator” has the meaning set forth in the introductory paragraph of this Agreement and shall include its permitted successors and assigns.

(25) “Generator Equipment” means the equipment and facilities owned by the Generator but located on Central Hudson’s property which are identified in Schedule B-2 of this Agreement.

(26) “Good Utility Practice” means any of the applicable practices, methods and acts

(a) required by FERC, NPCC, NERC, NYISO, the NYSRC, or the successor of any of them, whether or not the Party whose conduct is at issue is a member thereof,

(b) required by applicable law or regulations or the policies and standards of Central Hudson relating to emergency operations; or

(c) otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period;

which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with law, regulation, good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

(27) “Hazardous Substances” means (i) any petrochemical or petroleum products, crude oil or any fraction thereof, ash, radioactive materials, radon gas, asbestos in

any form, urea formaldehyde foam insulation or polychlorinated biphenyls, (ii) any chemicals, materials, substances or wastes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “contaminants” or “pollutants” or words of similar meaning and regulatory effect contained in any Environmental Law or (iii) any other chemical, material, substance or waste which is prohibited, limited or regulated by any Environmental Law.

(28) “Interchange Meters” means all MWh and MVarh meters, pulse isolation relays, pulse conversion relays, transducers required by Central Hudson or the NYISO for billing or other purposes, and associated totalizing equipment, appurtenances and compensation required to measure the transfer of energy across the Point of Interconnection.

(29) “Interconnection Facilities” means those facilities or portions of facilities owned or operated by Central Hudson, which are described in Schedule A hereto and as they may be modified, replaced or repaired from time to time, to provide Interconnection Service.

(30) “Interconnection Service” shall mean services utilizing the Interconnection Facilities to connect the Roseton Generating Station to the existing 345 kV Transmission System and the Danskammer Generating Station to Central Hudson's existing 115 kV Transmission System for parallel operation of the Generating Stations with such Transmission System to enable the Generator to transmit the energy and ancillary services generated by the applicable Generating Station to the Transmission System..

(31) “Maintain” means construct, reconstruct, install, inspect, repair, replace, operate, patrol, maintain, use, modernize, expand, upgrade, or other similar activities.

(32) “NERC” means North American Electric Reliability Council or any successor thereto.

(33) “NPCC” means the Northeast Power Coordinating Council or its successor.

(34) “NYISO” means the New York Independent System Operator and any successor thereto including any regional transmission organization, independent system operator, transco, or any other independent system administrator that possesses operational control over Central Hudson's transmission system.

(35) "NYISO OATT" means the Open Access Transmission Tariff of the NYISO on file with the FERC.

(36) "NYPSC" means the Public Service Commission of the State of New York or any successor agency thereto.

(37) "NYSRC" means the New York State Reliability Council and its successors.

(38) "NY System Requirements" means the rules, regulations or other requirements of the FERC, NYISO, NYSRC, or the NYPSC which are applicable to Central Hudson, with respect to the Transmission System or the Interconnection Service, and the Generator with respect to the Generating Facilities.

(39) "Party" or "Parties" has the meaning set forth in the preamble to this Agreement.

(40) "Point of Interconnection" means each ownership point of demarcation set forth in Schedule C where capacity, energy and ancillary services are transferred between each of the Generating Stations and the Transmission System.

(41) "Qualified Personnel" means individuals who possess any required licenses and are trained for their positions and duties by Generator and/or Central Hudson pursuant to Good Utility Practice.

(42) "Release" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture

(43) "Roseton Generating Station" has the meaning set forth in the Roseton APSA.

(44) "Switching, Tagging, and Grounding Rules" means Central Hudson's switching, tagging and grounding rules as amended, modified or replaced from time to time. A copy of the existing Switching, Tagging and Grounding Rules is attached hereto as Schedule D.

(45) "Taxes" means all taxes, surtaxes, charges, fees, levies, penalties or other assessments imposed by any United States federal, state, local or foreign taxing authority,

including income taxes, excise, property, sales, transfer, franchise, special franchise, payroll, recording, withholding, social security or other taxes, in each case including any interest, penalties or additions attributable thereto.

(46) "Term" has the meaning set forth in Section 2.1 of this Agreement.

(47) "Transmission System" means the facilities owned, controlled, or operated by Central Hudson, for purposes of providing transmission service, including services under the NYISO OATT.

(48) "Transmission Operator" means the person, or persons designated by Central Hudson to coordinate the day to day interconnection of each of the Generating Stations with the Transmission System.

**SCHEDULE A**  
Interconnection Facilities

A. Danskammer Generating Station

All facilities and equipment comprising the Central Hudson substation located at the site of the Danskammer Generating Station except for such substation facilities or equipment owned by Generator

The following drawings (attached hereto) illustrate the Interconnection Facilities related to the Danskammer Generating Station:

- (i) Danskammer Operating Diagram, Revision 26, dated 3/19/97
- (ii) File #490.12, Danskammer Regulator and Meter Station Operating Diagram, dated 12-96

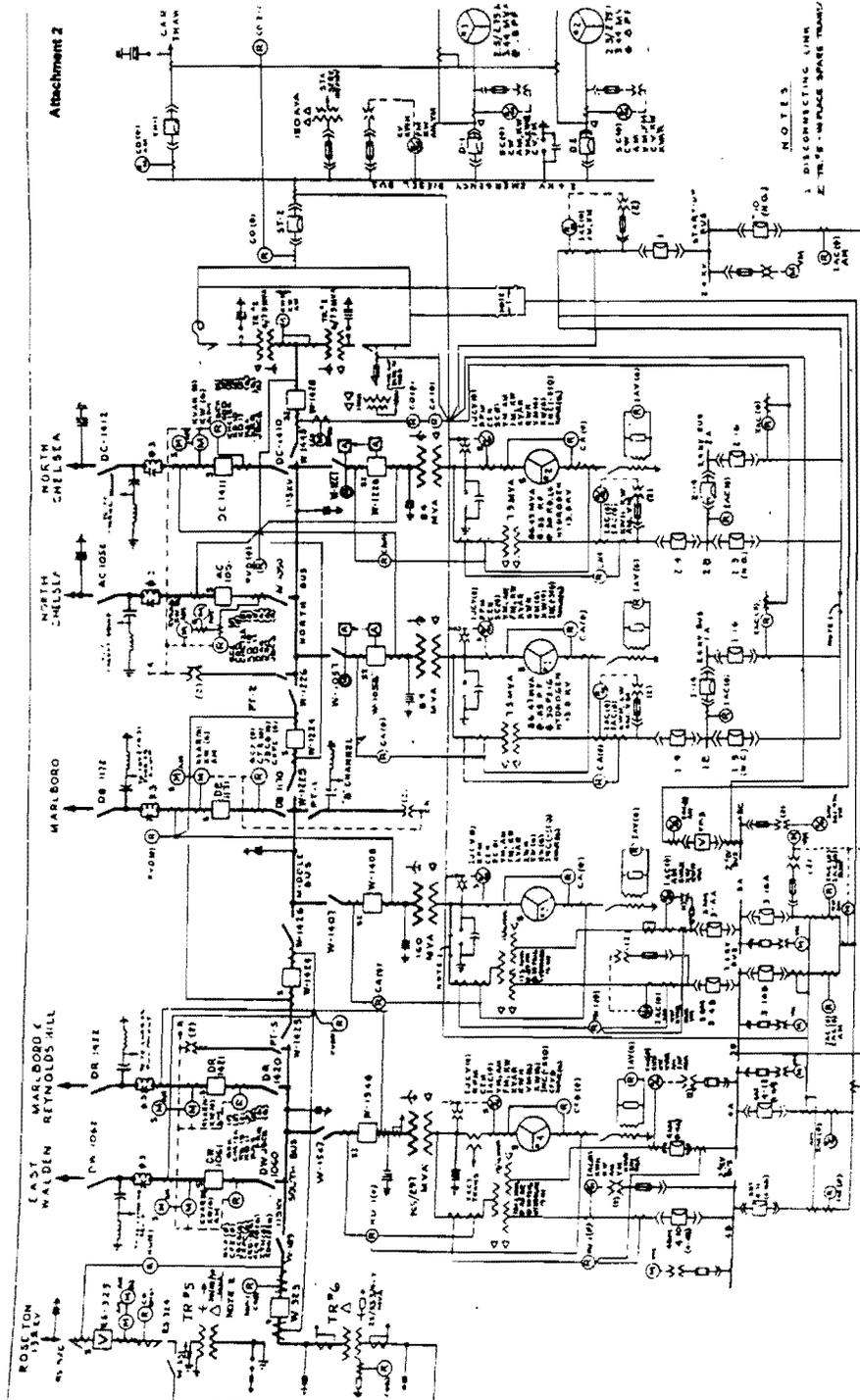
B. Roseton Generating Station Interconnection Facilities

All facilities and equipment comprising the Central Hudson Switchyard located at the site of the Roseton Generating Station except for such switchyard facilities or equipment owned by the Generator

The following drawings (attached hereto) illustrate the Roseton Points of Interconnection:

- (a) Roseton 345kV Operating Diagram, Revision 8, dated 1/14/97
- (b) File #490.52, Roseton Regulator and Meter Station Operating Diagram, dated 2-98
- (c) Danskammer Operating Diagram, Revision 26, dated 3/19/97

Attachment 2



- NOTES
- 1. DISCONNECTING LINK
  - 2. TRIP'S - IN PLACE SPARE TRIP

CENTRAL HUDSON GAS & ELECTRIC CORP.  
DANSKAMMER STATION

DATE: 3-19-37 ISSUE NO. 26  
FILE NO. 100311

DRAWN BY: ETS  
CHECKED BY: WMC

**CENTRAL HUDSON GAS & ELEC CORP.**

DANSKAMMER  
REGULATOR AND METER STATION  
OPERATING DIAGRAM

ISSUE 4: PRINT UPDATE

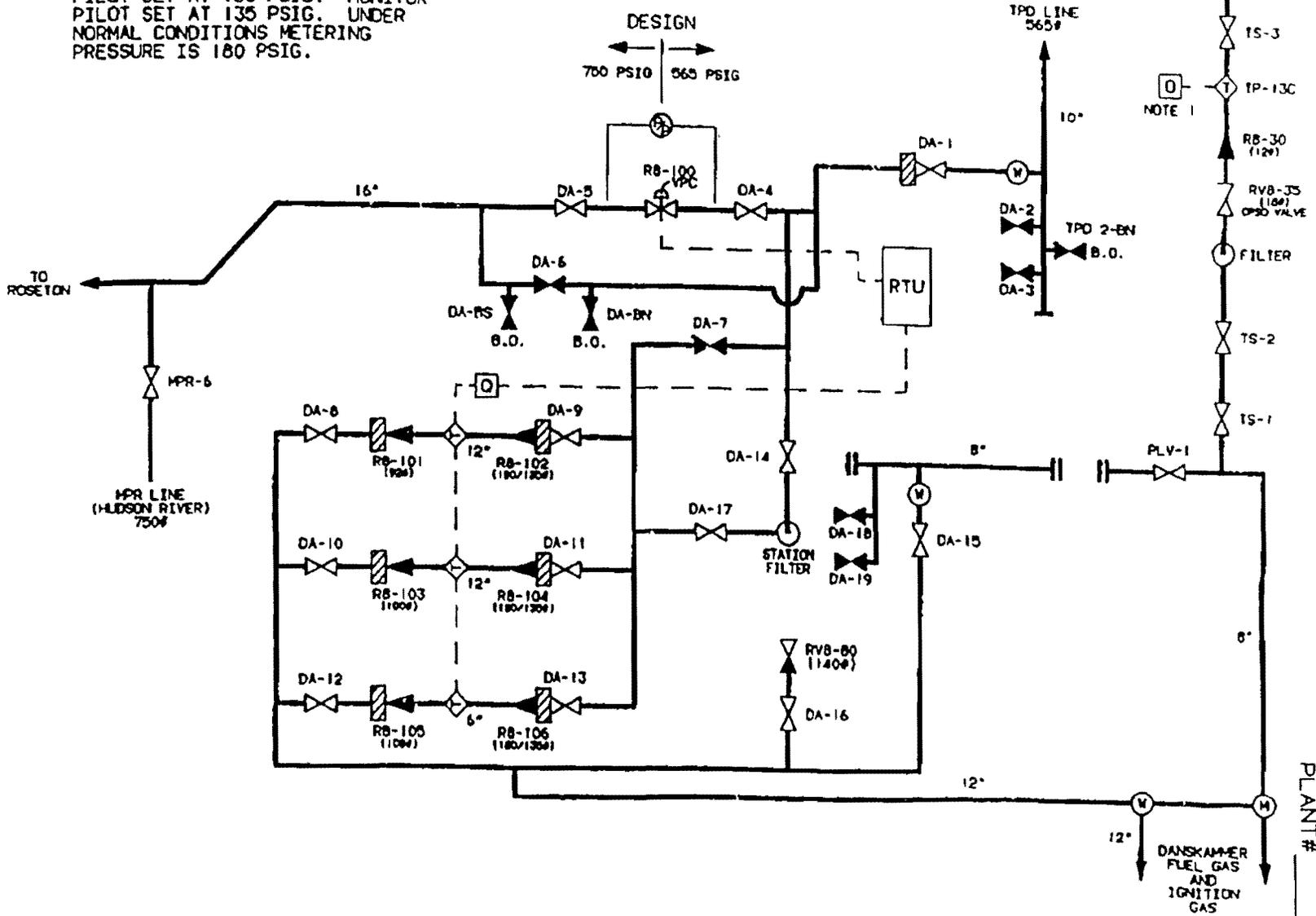
DRM. JML/1888 DATE 12/96 ISSUE 4

DSGN. *ca klyde*  
APPRO. *WJL DeKirk*  
FILE NO. 490.12

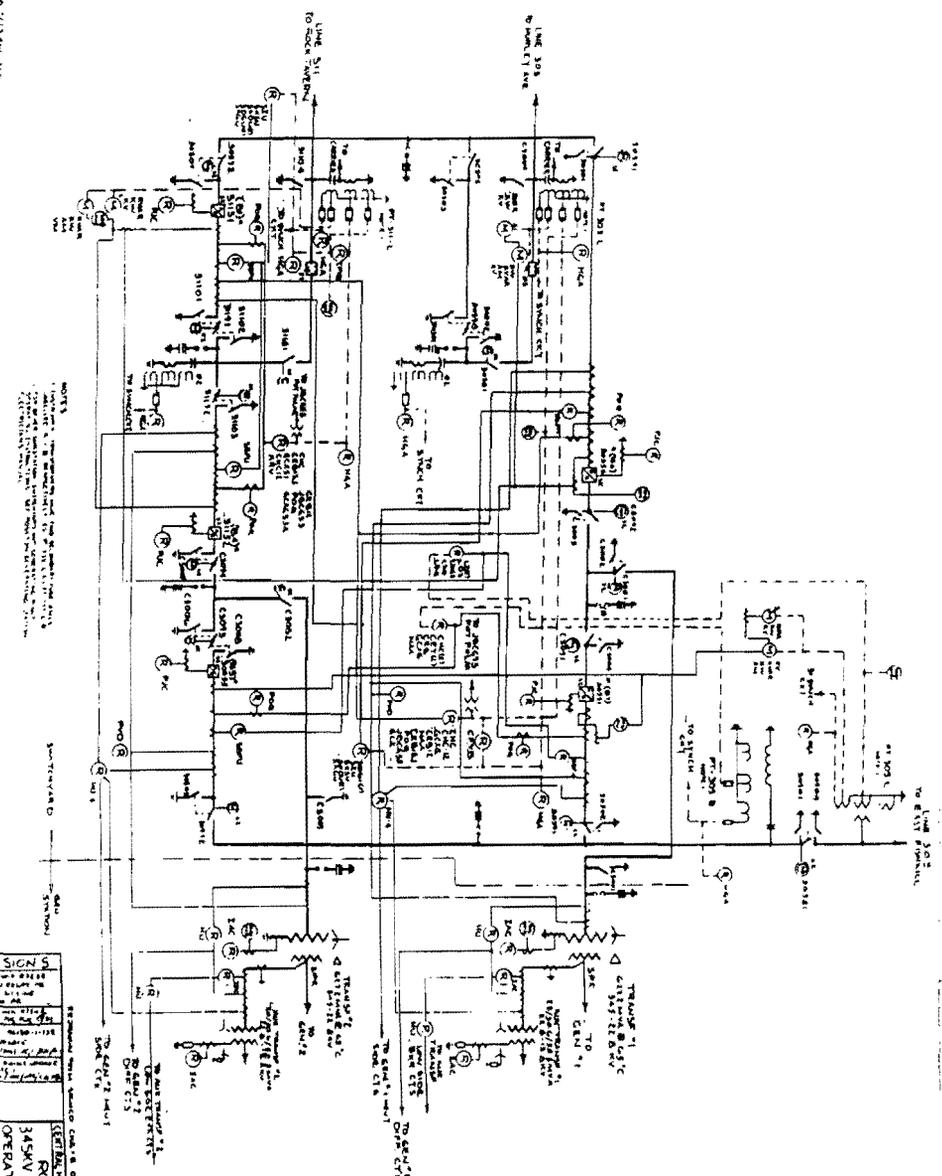
CADAM DRAWING DO NOT REVISE MANUALLY

**NOTES:**

1. THAWSHED LINE FLOW TELEMETERED TO OPERATING PLANT.
2. FIRST STAGE REGULATOR WORKING PILOT SET AT 180 PSIG. MONITOR PILOT SET AT 135 PSIG. UNDER NORMAL CONDITIONS METERING PRESSURE IS 180 PSIG.



Attachment 4  
DANSKAMMER  
PLANT # \_\_\_\_\_

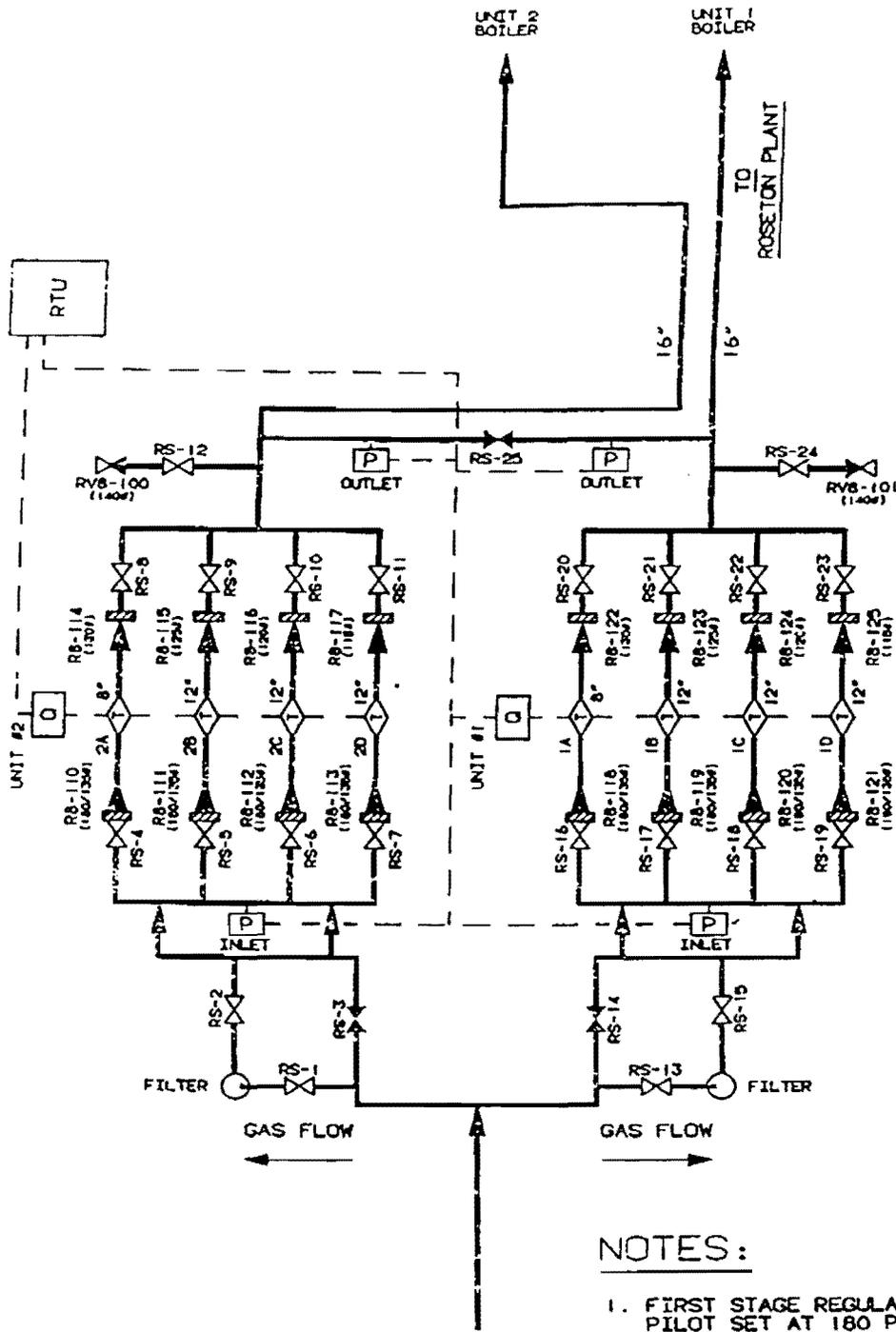


NOTES:  
 1. ALL OPERATIONS MUST BE MADE IN ACCORDANCE WITH THE  
 2. SAFETY REGULATIONS AND THE OPERATING PROCEDURES  
 3. OF THE COMPANY.  
 4. THE OPERATOR MUST BE A QUALIFIED PERSON.  
 5. THE OPERATOR MUST BE TRAINED AND LICENSED.  
 6. THE OPERATOR MUST BE UNDER THE SUPERVISION OF A  
 7. SENIOR OPERATOR OR ENGINEER.  
 8. THE OPERATOR MUST BE AWARE OF THE RISK OF  
 9. ELECTRIC SHOCK AND DEATH.  
 10. THE OPERATOR MUST WEAR APPROPRIATE PPE.  
 11. THE OPERATOR MUST FOLLOW THE LOCKOUT/TAGOUT  
 12. PROCEDURES.  
 13. THE OPERATOR MUST BE AWARE OF THE LOCATION  
 14. OF ALL ENERGIZED PARTS.  
 15. THE OPERATOR MUST BE AWARE OF THE LOCATION  
 16. OF ALL DEENERGIZED PARTS.  
 17. THE OPERATOR MUST BE AWARE OF THE LOCATION  
 18. OF ALL SAFETY DEVICES.  
 19. THE OPERATOR MUST BE AWARE OF THE LOCATION  
 20. OF ALL SAFETY SIGNS.

NO.	REVISION	DATE	BY	DESCRIPTION
1				
2				
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ROSETON  
 34.5KV SUBSTATION  
 OPERATING DIAGRAM  
 12/27/78

ROSETON  
PLANT# \_\_\_\_\_



**NOTES:**

1. FIRST STAGE REGULATOR WORKING PILOT SET AT 180 PSIG. MONITOR PILOT SET AT 135 PSIG. UNDER NORMAL CONDITIONS METERING PRESSURE IS 180 PSIG.

ISSUE 5: INCREASED REL. VLV. SETTINGS, INSTALLED REDUCING TRIM IN DOWNSTREAM IGNITOR REGULATORS, REMOVED REDUCING TRIM FROM UPSTREAM IGNITOR REGULATORS, AND REPLACED DOWNSTREAM BOILER REGULATORS

CENTRAL HUDSON GAS & ELEC CORP. ROSETON REGULATOR & METER STATION OPERATING DIAGRAM	DRWN. <i>PLB</i>	DATE 2/98	ISSUE 5
	DSGN. <i>Ch Royce</i>	FILE NO.	
	APPD. <i>JW Schick</i>	490.52	

**SCHEDULE B-1**

Central Hudson Facilities

**I. DANSKAMMER STATION**

**Central Hudson Facilities**

**Location**

Central Hudson's Substation  
and related transmission lines

Easement area as set forth in the  
Danskammer Easement

**II. ROSETON STATION**

**Central Hudson Facilities**

**Location**

Cables:

1YM1-3

Ductbank

CMC1-72

Ductbank

CMC2-72

Ductbank

## SCHEDULE B-2

### Generator Equipment

#### I. DANSKAMMER STATION

##### **Generator Equipment**

##### **Location**

115kV Disconnect Switches

Central Hudson's Substation

Generator Breakers

Central Hudson's Substation

Start-up Transformers and breakers

Central Hudson's Substation

Unit #3 G.S.U. Transformer

Central Hudson's Substation

Construction Power Transformer

Central Hudson's Substation

#### II. ROSETON STATION

##### **Generator Equipment**

##### **Location**

Two 345 kV Disconnect Switches

Central Hudson's Switchyard

Two Ground Switches

Central Hudson's Switchyard

Four Steel Structures

Central Hudson's Switchyard

**SCHEDULE C**  
Point of Interconnection

I. DANSKAMMER GENERATING STATION:

Points of Interconnection. Connection Point of the substation side of Generator's disconnect switches W-189, W-1227, W-1547, W-1407, W-1057, W-1445 located at the interconnection of the generation-related facilities and the switchyard buses to the 115 kV Transmission System.

The following drawings (attached to Schedule A) illustrate the Danskammer Points of Interconnection:

- (a) Danskammer Operating Diagram, Revision 26, dated 3/19/97
- (b) File #490.12, Danskammer Regulator and Meter Station Operating Diagram, dated 12-96

II. ROSETON GENERATING STATION:

Points of Interconnection. Connection Point of the switchyard side of Generator's disconnect switches C3081 and C3082 located at the interconnection with the switchyard bus and the 345 kV Transmission System.

The following drawings (attached to Schedule A) illustrate the Roseton Points of Interconnection:

- (a) Roseton 345kV Operating Diagram, Revision 8, dated 1/14/97
- (b) File #490.52, Roseton Regulator and Meter Station Operating Diagram, dated 2-98
- (c) Danskammer Operating Diagram, Revision 26, dated 3/19/97

SCHEDULE D  
Switching, Tagging and Grounding Rules

## SECTION 12

**GENERAL REQUIREMENTS FOR EQUIPMENT TAGGING  
(ELECTRIC, GAS, STEAM, OIL, ETC.)****A. PROCEDURE REQUIREMENTS**

- A (1) Lines, unless specifically designated as otherwise, for the purpose of this section shall mean electric, gas, steam, oil, etc.
- A (2) Each Operational Authority responsible for overall operation of line and equipment systems shall develop a tagging procedure which shall be utilized to provide a safe work area clearance whenever equipment must be removed from service to protect employees performing the work. Management shall designate the individual or individuals who may act as the Operational Authority under varying operating conditions.
- A (3) The tagging procedure shall be utilized to provide clearance if the equipment to be worked upon is under control of the Operational Authority performing the work or the operational control of others, or could possibly be energized, pressurized (positive or negative) without the knowledge of the employee responsible for the work.
- A (4) The term clearance as used in this section is defined as the transfer of Operational Authority having jurisdiction over certain lines and equipment to another authorized person in accordance with the principles written in this Manual and with established procedures.
- A (5) All electric lines and equipment shall be considered energized at all times unless properly tagged and grounded in accordance with the rules set forth in this Manual.
- A (6) No device shall be operated and no line or equipment shall be worked on or adjusted in any way without the knowledge and approval of the Operational Authority, except in emergencies.
- A (7) All mechanical, pressurized and vacuum systems shall be considered in service at all times unless properly tagged out in accordance with the rules set forth in this Manual.
- A (8) Tags shall not be placed on, or removed from lines or equipment without instructions from the Operational Authority.

- A (9) Tagging of lines and equipment shall be done by means of approved tags which shall be securely attached in a conspicuous position to each point which will be used as a clearance device for lines or equipment on which work is to be performed.
- A (10) Blank Red, Blue or Green Tags shall not be applied.
- A (11) If any employee in charge of an independent crew desires to work on any circuit or equipment which has been previously red tagged, the employee shall have tags placed and receive clearance before doing any work. Arrangements for the tagging shall be made with the Operational Authority as if there were no other tags on such circuit or equipment.
- A (12) Any employee designated to receive clearance for work to be performed by more than one crew shall be responsible for each crew and these crews shall be dependent upon such designated employee.
- A (13) Employees involved in any portion of tagging procedure shall:
  - a. Understand their responsibility in the procedure.
  - b. Be alert to detect deviations or errors in the procedure and request clarification, if necessary, to prevent such deviations or errors.
- A (14) General principles which shall be followed by all Operational Authorities in specific tagging procedures include:
  - a. Preplanning and the completion of prior arrangements are required whenever feasible.
  - b. Communications in respect to definition of the clearance area to be established shall be precise and concise.
  - c. Responsibilities shall be specifically defined so that decisions regarding tagging may be made with authority and confidence.
  - d. Strict adherence to standard procedures on a regular basis shall preclude the use of improper procedures during unusual or abnormal conditions.
  - e. Tagging procedures shall produce informational records as to the status of equipment in the operating systems.

- A (15) In those operational jurisdictions where the nature of the work scheduling may require the transfer of clearance on a routine basis (i.e., shift maintenance work, delay or suspension of the work, etc.), the procedures governing the transfer of clearance shall be such that employee safety is not compromised due to such transfers.
- A (16) The specific red, blue and green tags to be utilized in a tagging procedure shall be detailed in the written procedure utilized by each Operational Authority.
- B. RED TAG APPLICATIONS**
- B (1) The placing and removal of Red Tags shall be in strict accordance with the written procedures specifically developed by the Operational Authority in conformance with the principles stated in this section of the Manual.
- B (2) A Red Tag is placed for the protection of employee's lives and no switch, equipment or device bearing a Red Tag shall be operated.
- B (3) The presence of a Red Tag on a valve, switch or device does not mean that the equipment has been isolated from sources of energy or that clearance to perform work has been granted.
- B (4) The presence of a Red Tag does not indicate the equipment is ready for work - THIS INFORMATION CAN ONLY BE OBTAINED FROM THE INDIVIDUAL IN WHOSE NAME THE TAG WAS PLACED AND WHO RECEIVED THE NECESSARY CLEARANCE FROM THE OPERATIONAL AUTHORITY.
- B (5) After clearance has been granted, no line or section of line or equipment between Red Tags shall ever be energized under any circumstances.
- B (6) More than one Red Tag associated with separate clearances may be applied at the same point. EACH TAG SHALL BE IN A SEPARATE FOLDER.
- B (7) A Red Tag shall not be applied when a Blue Tag has previously been applied at the same point unless the Blue Tag applies to a separate and adjacent clearance area.
- C. BLUE TAG APPLICATION**
- C (1) The placing and removal of Blue Tags shall be in strict accordance with the written procedures specifically developed by the Operational Authority in conformance with the principles stated in this section of the Manual.

- C (2) A Blue Tag is used for the purpose of isolating lines or equipment from all normal sources of energy for the purpose of performing work which will require the application of a voltage or pressure to the equipment so isolated before the completion of the work.
- C (3) The person for whom a Blue Tag is placed is responsible for the safety of all persons affected by the work, especially during application of electrical or other tests or operation (for test purposes) of switches, valves, equipment, lines or devices within the Blue Tag area. All other persons shall consider such lines or equipment as energized.
- C (4) Blue Tagged switches or valves shall not be operated unless such operation is authorized by the person holding the clearance and with the permission of the Operational Authority.
- C (5) When a Blue-Tagged switch or valve also bears a Red Tag for a separate and adjacent clearance area, the device shall not be operated.
- C (6) Only one Blue Tag may be attached at one point and a Blue Tag shall not be applied where a Red Tag clearance has been given unless the Red Tag applies to a separate and adjacent clearance area.

**D. GREEN TAG APPLICATION**

- D (1) The placing and removal of Green Tags shall be in strict accordance with the written procedures specifically developed by the Operational Authority in conformance with the principles stated in this section of the Manual.
- D (2) **THE GREEN TAG IS NEVER PLACED TO PROVIDE CLEARANCE.** The Green Tag is placed on equipment solely to indicate an abnormal equipment condition or status, which necessitates that such information be readily available to any employees involved in the operation or maintenance of the equipment.
- D (3) A Green Tagged device shall only be operated upon approval from the Operational Authority.
- D (4) Arrangements for placing Green Tags shall be made with the Operational Authority.
- D (5) The reason(s) for placement of a Green Tag shall be clearly stated on the tag, including any specific operating limits.

- D (6) Requests to remove Green Tags shall be made to the Operational Authority who, with assurance that the abnormality or restriction has been corrected, will authorize removal of a Green Tag.
- D (7) Requests to operate Green Tagged equipment within the stated restriction shall be made to the Operational Authority.
- D (8) Multiple Green Tags may be applied to the same device. Each Green Tag shall be in a separate tag holder.
- D (9) More than one abnormality or restriction may be included on one Green Tag is done during initial arrangements with the Operation Authority.
- D (10) A Red or Blue Tag may be applied to a Green Tagged device provided the abnormality or restriction does not prevent the device from serving the purpose for which the Red or Blue Tag is being applied.
- D (11) The status of Green Tags shall be determined periodically to verify that the tags are still appropriate and are physically located in the proper place.

## SECTION 14

**PROCEDURE FOR TAGGING AND  
PLACING ELECTRIC LINES & EQUIPMENT  
UNDER THE JURISDICTION OF THE SYSTEM OPERATOR  
"IN" AND "OUT" OF SERVICE**

**A. GENERAL**

- A (1) For the purpose of this section, lines and equipment are defined as all those electric lines, cables and associated equipment which have been designated by the proper authority as being under the jurisdiction of the System Operator.
- A (2) The System Operator has the sole responsibility for the procedure used for tagging and placing those electric lines and equipment which are under his/her jurisdiction "In" and "Out" of service.
- A (3) The term clearance as used in this section is defined as the transfer of Operational Authority having jurisdiction to another authority in accordance with established procedures.
- A (4) All lines and equipment shall be considered energized at all times unless properly tagged and grounded in accordance with the rules set forth in this Manual.
- A (5) No switch shall be operated and no line or equipment worked on or adjusted in any way without the knowledge and approval of the System Operator, except in emergencies.
- A (6) Tags shall not be placed on, or removed from lines or equipment without specific instructions from the System Operator.
- A (7) Approval to tag for clearance to work on or to operate any line or device will be issued only to personnel whose position title appears on the approved list furnished to the System Operator by proper authority.
- A (8) Tagging of lines and equipment shall be done by means of approved tags which shall be securely attached in a conspicuous position to each open point which will be used as a clearance device for lines or equipment on which work is to be performed.
- A (9) A disconnecting device with contacts visible to the operator shall be open and tagged at each possible source of potential to the line or equipment to be tagged including secondary disconnecting devices of all direct connected potential devices.

- A (10) Blank Red, Blue or Green Tags shall not be applied
- A (11) If any employee in charge of an independent crew desires to work on any circuit or equipment which has been previously Red Tagged, he shall have his tags placed and receive clearance before doing any work. Arrangements for the tagging shall be made with the System Operator as if there were no other tags on such circuit or equipment.
- A (12) Any employee designated to receive clearance for work to be performed by more than one crew shall be responsible for each crew and these crews shall be dependent upon such designated employee.

#### B. RED TAGS

- B (1) A Red Tag is placed for the protection of employee's lives and no switch, equipment or device bearing a Red Tag shall be operated.
- B (2) The presence of a Red Tag on a switch does not mean that the equipment has been isolated from sources of potential or that clearance to perform work has been granted.
- B (3) The presence of a Red Tag does not indicate the equipment is ready for work - THIS INFORMATION CAN ONLY BE OBTAINED FROM THE INDIVIDUAL IN WHOSE NAME THE TAG WAS PLACED AND WHO RECEIVED THE NECESSARY CLEARANCE FROM SYSTEM OPERATOR.
- B (4) After clearance has been granted, no line or section of line or equipment between Red Tags shall ever be energized under any circumstances.
- B (5) More than one Red Tag associated with separate clearances may be applied at the same point. EACH TAG SHALL BE IN A SEPARATE HOLDER.
- B (6) A Red Tag shall not be applied when a Blue Tag has previously been applied at the same point unless the Blue Tag applies to a separate and adjacent clearance area.

#### C. BLUE TAGS

- C (1) A Blue Tag is used for the purpose of isolating lines or equipment from all normal sources of potential for the purpose of performing work which will require the application of a voltage to the equipment so isolated before the completion of the work.

- C (2) The person for whom a Blue Tag is placed is responsible for the safety of all persons affected by the work, especially during application of electrical or other tests or operation (for test purposes) of switches, equipment, cable lines or devices within the Blue Tag area. All other persons shall consider such lines or equipment as energized.
  - C (3) Blue Tagged switches shall not be operated unless such operation is authorized by the person holding the clearance and with the permission of the System Operator.
  - C (4) When a Blue-Tagged switch also bears a Red Tag for a separate and adjacent clearance area, the switch shall not be operated.
  - C (5) Only one Blue Tag may be attached at one point and a Blue Tag shall not be applied where a Red Tag clearance has been given unless the Red Tag applies to a separate and adjacent clearance area.
- D. GREEN TAGS
- D (1) THE GREEN TAG IS NEVER PLACED TO PROVIDE CLEARANCE. The Green Tag is placed on equipment solely to indicate an abnormal equipment condition or status, which necessitates that such information be readily available to any employees involved in the operation or maintenance of the equipment.
  - D (2) A Green Tagged device shall only be operated upon approval from the System Operator.
  - D (3) Arrangements for placing Green Tags shall be made with the System Operator.
  - D (4) The reason(s) for placement of a Green Tag shall be clearly stated on the tag, including any specific operating limits.
  - D (5) Requests to remove Green Tags shall be made to the System Operator who, with assurance that the abnormality or restriction has been corrected, will authorize removal of a Green Tag.
  - D (6) Requests to operate Green Tagged equipment within the stated restriction shall be made to the System Operator.
  - D (7) Multiple Green Tags may be applied to the same switching device. Each Green Tag shall be in a separate tag holder.
  - D (8) More than one abnormality or restriction may be included on one Green Tag if done during initial arrangements with the System Operator.

- D (9) A Red or Blue Tag may be applied to a Green Tagged switching device provided the abnormality or restriction does not prevent the switching device from serving the purpose for which the Red or Blue Tag is being applied.
- D (10) Example of conditions which would require a Green Tag are listed here. This is not intended to be a complete listing
  - (a) Replacing control cables on breakers or switches; breakers in service.
  - (b) Circuits removed from service; breakers racked out but available for service.
  - (c) Control Power removed from breaker. Breaker is available for service.
  - (d) Switching device is bolted closed.
  - (e) To indicate that automatic reclosing has been removed from a normally automatic reclosing switching device.
  - (f) Transformer, cable or capacitor out of service because of a paralleling difficulties or defective components.

E. GROUND SWITCHES

- E (1) Permanent ground switches which ground each phase of the line or equipment to be worked on are approved grounding devices and may be used for protective grounding of equipment and busses in place of temporary protective grounds.
- E (2) If it is necessary to place a temporary protective ground in a clearance area so that by opening a disconnecting device, the effect of the ground would be removed, the disconnecting device shall be tagged closed to maintain continuity between grounds.

F. PROCEDURE FOR PLACING LINES OR EQUIPMENT OUT OF SERVICE

- F (1) Before testing or performing work on or near any transmission line or equipment, the System Operator shall be consulted.
- F (2) All telephone or verbal requests for tagging lines or equipment shall be made in such a manner that there can be no misunderstanding.
  - (a) Each individual shall identify himself at the beginning of the conversation and shall state clearly just what work is to be done and what protection is required.

- (b) The System Operator shall record all such conversations and switching instructions on a recording device
- F (3) When switching is to be performed, the System Operator shall call the employee designated to switch at each required location. This employee shall record, in writing, all instructions from the System Operator and read them back for confirmation. The switching and tagging shall then be performed as instructed and, upon completion, the employee who performed the switching shall call the System Operator and report what has been done. The System Operator shall record this in writing and verify it with the original instructions.
- F (4) The following shall be legibly written on each tag placed for clearance:
- (a) Name of employee who will receive clearance from System Operator to perform work.
  - (b) Number or name of switch.
  - (c) Name of System Operator ordering switching operation and tag placement.
  - (d) Time when tag was attached.
  - (e) Name of employee attaching tag.
  - (f) Location of designation and date.
- F (5) When the System Operator has been notified that all switching and tagging necessary to provide clearance has been accomplished, the System Operator shall so notify the person requesting clearance, naming each place where switches have been opened or closed and where tags have been placed, and grant clearance.
- G. CHANGES IN PERSONNEL
- G (1) When Red Tag clearance has been granted to an employee and it becomes necessary for the employee to turn the responsibility for the work over to another employee, the receiving employee shall have new tags attached in his own name and receive clearance before the original clearance is released.
- G (2) When Blue Tag clearance has been granted to an employee and it becomes necessary for the employee to turn the responsibility for the work over to another employee, the original clearance will be released and tags removed before the employee receiving the clearance has new tags attached in his own name.

- G (3) When the clearance has been given to an employee and that employee becomes unavailable to continue to be responsible for the clearance, due to illness, injury, or some other unavoidable reason, another individual designated by management will have new tags attached in his own name as specified in G (1). Under these circumstances, this individual shall carefully review the status of the work and only after such review, this employee shall take full responsibility for releasing the unavailable employee's clearance to the System Operator.
- G (4) If at the completion of the work the employee holding the clearance becomes unavailable to release the clearance due to illness, injury or some other unavoidable reason, another individual designated by management shall carefully review the status of the work and only after such review shall this employee take full responsibility for the release of the unavailable employee's clearance to the System Operator.

#### H. PROCEDURE FOR PLACING LINES OR EQUIPMENT IN SERVICE

- H (1) When the work has been completed and the employee responsible for the clearance is sure that all persons are clear, and the lines and equipment are ready for service and all grounds have been removed, the employee shall relinquish the clearance to the System Operator.
- H (2) When all persons who have been responsible for clearance have relinquished such clearance to the System Operator, the System Operator shall proceed to restore the equipment to service as follows:
- (a) The System Operator shall call the employee designated to remove tags and switch at each required location. This employee shall record, in writing, all instructions from the System Operator and read them back for confirmation. The switching shall be done as instructed and, upon completion, the employee who performed the switching shall call the System Operator and report what has been performed. The System Operator shall record this in writing and verify it with the original instructions.
- (b) As soon as each tag has been removed, the following information shall be legibly written on it:
1. Name of System Operator ordering its removal.
  2. Date and time when tag was removed.
  3. Name of employee removing tag.

- H (3) All removed tags shall be forwarded without delay to the System Operator who shall check each tag against the record.

April 12, 1995

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

SYSTEM OPERATIONS PROCEDURE OP-12-7

PROCEDURE FOR PREPARING AND  
EXECUTING TRANSMISSION LINE CUTOUTS

GENERAL

This operating procedure sets forth a systematic sequence of preparing and executing pre-arranged cutouts to assure the protection of life and property. The following instructions shall be observed when processing transmission and substation cutouts. All procedures used for tagging and for placing electric lines and equipment under the jurisdiction of the System Operator in and out of service are in the Central Hudson manual of Safe Practices, Section 14.

DEFINITIONS

The following terminology is set forth to contribute to uniform understanding in requesting, preparing and executing transmission cutouts.

1. CUT-OUT

A cut-out is the removal from service of a line or piece of equipment through switching and tagging procedures.

2. TRANSMISSION SWITCHING ORDER

This is the form on which is recorded the line or equipment to be "cut-out", type of tag to be applied, switches required for clearance, type of work to be performed, switching arrangements and any special notes on system conditions that may apply.

3. SWITCHING RECORD

This is the form on which is chronologically recorded the operation of all switching devices, all tags applied, "clearance" issued, and reports of a person being clear.

4. CLEARANCE

Only the System Operator can issue a transmission clearance. It is the transfer of operational authority from the System Operator to the person who receives clearance. It is the notification to a person by the System Operator that a line or piece of equipment has been tagged in his/her name and will remain tagged until he/she reports clear except for those instances when tags may be removed after a clearance has been extended. It is not permission to begin work. Work may be started only after the person who received clearance has determined that the work area is safe. Each person in charge of an independent crew must obtain separate clearance.

Tagging of lines and equipment shall be done by means of approved tags which shall be securely attached in a conspicuous position to each device which will be used as a clearance point for lines or equipment on which work is to be performed.

A disconnecting device with contacts visible shall be opened and tagged at each possible source of potential to the line or equipment being tagged, including secondary disconnecting devices of all direct connected potential devices. When a draw-out or rack-out type breaker is used as a clearance point, the clearance point is to be the actual separation of the breaker from the cubicle rosettes. The tag associated with that particular breaker will be attached to an eye bolt in the breaker cubicle in a visible location specifying that the visual separation of the breaker from the cubicle rosettes is the clearance point.

5. RED TAG

A Red Tag is placed on a switch to prevent its operation. No one may operate a switch bearing a red tag. No red tag may be applied or removed unless so ordered by the System Operator. The placing of a red tag on a switch does not imply clearance has been given, or that the line or piece of equipment is not energized. Multiple red tags may be applied on one switch. A separate red tag must be applied for each person to whom clearance is granted. Each red tag must be attached to the clearance point in its own tag holder.

NOTE: Either side of the equipment on which a red tag is placed may be energized.

6. BLUE TAG

A Blue Tag is placed on a switching device for the purpose of applying electrical or other tests. All switches, equipment or devices that are blue tagged must be considered alive by all persons except the person for whom they are tagged. No switch, equipment or device bearing a blue tag may be operated by anyone without the permission of the person holding the clearance and the System Operator. Only one blue tag can be attached to a switching device, and it must not be applied where a red tag has been attached, unless the red tag applies to a separate and adjacent section. The person for whom a blue tag is placed is responsible for the safety of all men/women with him, especially while he/she is applying electrical or other tests.

7. GREEN TAG

A green (Standby or Restricted Use) tag is placed on a switching device to indicate an abnormal control condition or a restriction on its use. It may be placed on a device in either an open or closed position. However, the device shall only be operated upon approval from the System Operator.

Arrangements for issuance of green tags shall be made with the System Operator. The System Operator will be responsible for issuing and logging the tag. The reasons for placement of tags must be clearly stated including any specific operating limits. The System Operator may authorize any qualified switchman to remove the green tag once the abnormality or restriction has been removed. The person requesting the tag removal must acknowledge that the abnormality or restriction has been corrected and the switching device is ready for service.

Multiple green tags may be applied to the same switching device. More than one abnormality or restriction may be included on one green tag provided it was included in the initial arrangements with the System Operator. A red or blue tag may be applied to a switching device bearing a green tag provided the status of the switching device meets the requirements of the red or blue tag.

A sample of conditions which would require Green Tags is as follows:

- a. Replacing control cables on breakers or switches-breakers in service.
- b. Circuits removed from service; breakers racked out, but available for service.
- c. Control Power removed from breaker. Breaker is available for service.
- d. Switching device is bolted closed while awaiting replacement parts.
- e. To limit reclosing of the line breakers while hot line work is in progress.
- f. Transformer, cable, or capacitor out of service because of paralleling difficulties or defective components.

Should other conditions arise which would affect the operation of a switching device, it will be necessary to issue a green tag.

A. Normal Cut Out Preparation

1. Requests for cutouts shall be made to the Senior System Operator for initial processing. No cutout request may be honored for cutouts with less than two working days notice unless it is an emergency.

NOTE: Should the Senior System Operators be unavailable to execute their duties as outlined in this instruction, these duties will be assumed by the following persons in the order listed.

1. Operations Coordinator
  2. System Operator
2. The Senior System Operator shall complete that part of the Transmission Switching Order which concerns date, time, location, nature of work involved, clearance areas requested and special arrangements noted.
  3. The Switching Order shall then be submitted to the other Senior System Operator or System Operator for approval.

Any changes in switching orders or records, which were previously approved in their former detail, will be subject to the same review and approval process as indicated above, except in an emergency.

4. All switching procedures associated with the cutover of new equipment are to be reviewed with the Substation Foreman and the Protective Test Substation Foreman. After such review, the preparation and approval process will be the responsibility of the Senior System Operator as noted above.
5. Upon approval, the Transmission Switching Order is to be filed at the System Operator's position for processing of the switching record portion.
6. The detailed step by step sequence of switching shall be written out on the Transmission Switching Order in advance of its use by the System Operator/Assistant System Operator (ASO). The switching procedure shall then be submitted to a second System Operator/ASO for his review and concurrence.

The System Operator/ASO who directs the switching must assume full responsibility for the switching order.

7. The oncoming System Operator/ASO (Load) shall become familiar with all cut outs which have been prepared on other shifts, that will be executed during his/her shift to determine if any restrictions will be placed on dispatching the Central Hudson Load and Generation.

B. Emergency Cut Out Preparation

1. Requests for emergency cut outs shall be made to the System Operator/Assistant System Operator.
2. The System Operator/ASO shall complete that part of the Transmission Switching Order which concerns date, time, location, nature of work involved, clearance area requested and special arrangements noted. He/she shall also complete the detailed step sequence of switching on the Transmission Switching Order in advance of its use.

3. The switching procedure shall then be submitted to the second System Operator/ASO for concurrence. Should the reviewer recognize a complication or a potentially unsafe condition, he/she should alert the System Operator/ASO of such exposure. The System Operator/ASO who directs the switching must assume full responsibility for the switching order.

C. Processing of Green Tags

1. Requests for Green Tags shall be made to the System Operator/ASO who will acknowledge the necessity of the tag and authorize the green tag to be placed.
2. The System Operator/ASO shall enter the request in the Green Tag Log Book. Data to be entered:
  - a. Date, time, location
  - b. Abnormality or limitation
  - c. Person requesting the tag
3. The System Operator/ASO will issue the tag number to the person requesting the tag. The tag number, reason, date and person's name shall be entered on the tag which will be placed on the switching device.
4. Requests to remove green tags shall be made to the System Operator/ASO who, with assurance that the abnormality or restriction has been corrected, will authorize the removal of the green tag. He/she shall note the time, date and person's name in the Log Book.

D. Executing the Cut Out

1. Switching shall be directed by a System Operator or a qualified Assistant System Operator.
2. An Assistant System Operator in Training is not authorized to direct switching, unless under the direct supervision of a System Operator or a qualified Assistant System Operator, and then only following a previously written and agreed upon detailed step by step sequence of switching. The qualified ASO or System Operator shall follow the sequence to make certain it is given exactly as it appears on the Transmission Switching Order.

3. If a field person requests a change in switching sequence or a change in switches to be opened or closed while a cutout is in progress, all switching shall be stopped and the System Operator/ASO shall re-evaluate the situation and make the necessary changes in the written procedure before continuing.
4. No switching shall be executed on a cutout involving a portion of a line while switching is in progress involving another portion of that same line.

E. Removing Lines from Operation with No Tags and No Clearance

1. Field personnel may request that a line or piece of equipment be removed from operation by opening all normally closed sources of potential with no tags placed and no clearance issued.
2. Such requests shall be processed on a Transmission Switching Order form in the same manner as if tags were to be applied and clearance issued.
3. When all normally closed sources of potential have been opened, the System Operator/ASO shall notify the person requesting the line to be removed from operation that the line has been removed from operation and name the points that have been opened. The System Operator/ASO shall further state that no tags have been placed and no clearance is issued and that the line must be considered energized at all times.
4. When a line or piece of equipment has been removed from operation in the above manner, the System Operator/ASO shall not close or order closed any known source of potential to that line or piece of equipment until the person, who requested the line or piece of equipment be removed from operation, reports that it is permissible to do so.

F. Marking the System Diagram Board

1. The System Diagram Board shall indicate at all times the correct position of all breakers and switches.

2. The diagram board status/tag lights shall be changed as soon as operation and tagging of the various switches has been confirmed.

G. Switching on Lines Terminating in a Neighboring Company Substation

1. For switching procedures involving lines or equipment in a substation of a neighboring company, see Operating Instruction No. OP-13.

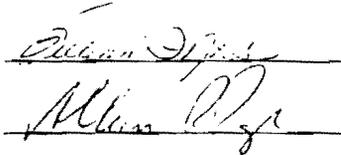
THIS INSTRUCTION SUPERSEDES OPERATING INSTRUCTION NO. OP-12-6 WHICH SHOULD BE REMOVED AND DESTROYED.

Prepared:



OPERATING PROCEDURE NO. OP-12-7  
Procedure for Preparing and  
Executing Transmission Line Cutouts

Approved:



Cutouts.OPI/EJS

January 23, 1995

CENTRAL HUDSON GAS & ELECTRIC CORPORATION  
SYSTEM OPERATIONS PROCEDURE OP-1-8

Procedures Required for Cutting Out and  
Tagging of Lines, Equipment and Substations

GENERAL

This operating procedure designates the personnel:

1. Who are authorized to make arrangements for cutting out and tagging lines, substations and equipment under jurisdiction of the System Operator.
2. Who may cut out and tag lines, equipment and substations under jurisdiction of the System Operator.
3. Who may perform electrical switching for any purpose.
4. Who may perform electrical switching to clear trouble.

OPERATION

1. Arrangements for Cutouts and Tagging

Arrangements for cutting out and tagging lines, equipment and substations shall be made with the Senior System Operator in accordance with OP 12 by the individuals filling the positions listed below. They may have lines, equipment and substations tagged against themselves personally or they may authorize the cutting out and tagging by and against certain designated classifications of employees.

Energy Control:

Manager, Energy Control  
Senior System Operator  
System Operations Coordinator  
System Operator  
Assistant System Operator

Operations Services:

Manager Operations Services  
Operations Services Engineer  
Test, Admin & Staff Supervisor  
General Hydro & Communications  
Foreman  
Substation Foreman

Customer Services:

Division Managers  
Division Operating Supervisors  
Division Operations Engineers  
Line Foreman  
Estimating Supervisor  
Customer Quality & Services Supervisor, Electric Operations  
Customer Quality & Services Construction Manager  
Customer Quality & Services Electric Operations Coordinator

Production:

Plant Superintendent  
Operating Supervisor  
Maintenance Supervisor  
Operations Coordinator  
Shift Supervisor  
Technical Foreman  
Production Operations Foreman  
Assistant Contract Supervisor

Outside of Normal Working Hours - Division Operating Supervisor on Call.

2. Performance of Cutting Out and Tagging Pursuant to Arrangements

Cutting out and tagging lines, equipment and substations against themselves or others for the purpose of working thereon, for which arrangements have been made by those designated above, or which may be requested by the System Operator for any reason, may be performed under the instruction of the System Operator by the following classifications of employees:

Working Foreman 2/c	Relay Technician 1/c
Lineman 1/c	Communication Technician 1/c
Electrician 1/c	Chief Roving Mechanic-Operator
Splicer 1/c	Roving Mechanic-Operator 1/c
Tester 1/c	Chief Plant Technician
Service Worker A	Plant Technician 1/c

3. Performance of Electrical Switching and Tagging for Any Purpose

Electrical switching and tagging for any purpose may be performed under the instruction of the System Operator by the following classifications of employees:

Working Foreman 2/c	Chief Control Operator
Lineman 1/c	Relay Technician 1/c
Electrician 1/c	Communication Technician 1/c
Splicer 1/c	Chief Roving Mechanic-Operator
Tester 1/c	Roving Mechanic-Operator 1/c
Service Worker A	Chief Plant Technician
Hydro Station Operator 1/c	Plant Technician 1/c
Substation Operator 1/c	

In addition to the above list, the following employees are included: Catskill Area Maintenance Worker 1/c when operating in the Catskill area.

4. Performance of Electrical Switching and Tagging for Purposes of Clearing Trouble or Restoring Service

All of the classifications of employees indicated in Paragraph 3 above, and Electricians 2/c and 3/c, may perform electrical switching and tagging under the instruction of the System Operator for purposes of clearing trouble or restoring service.

THIS INSTRUCTION SUPERSEDES OPERATING PROCEDURE #OP-1-7 DATED MAY 14, 1979, WHICH SHOULD NOW BE REMOVED AND DESTROYED.

OPERATING PROCEDURE OP-1-8

PROCEDURES REQUIRED FOR CUTTING OUT AND TAGGING OF LINES, EQUIPMENT AND SUBSTATIONS

Prepared: *E. J. Kelly*  
 Approved: *[Signature]*  
*[Signature]*

June 14, 1982

B. Budziak  
O. W. Gaudette  
A. R. Page  
B. J. Sieving  
B. R. Worth

Re: Personal Protective Grounds

Grounding conductors used for personnel protection shall be sized by application according to the following table:

<u>Application</u>	<u>Min. Copper Grounding Cond. Size</u>	<u>Max. Avail. Fault Energy <math>I^2t \times 10^8</math></u>
(1) All Distribution Conductors Voltages 2.4 KV thru 34.5 KV	1/0	2.3
(2) All Substation & Generating Station Conductors, All Voltages except Roseton 13.8 KV Bus	2/0*	3.4
(3) Transmission Circuits 69 KV thru 345 KV except 115 KV circuits connected to Danskammer Bus (See Item #5)	2/0*	3.4
(4) Roseton 13.8 KV Bus	3/0	5.5
(5) 115 KV Transmission Circuits Directly Connected to Dan- skammer	3/0	5.5

\* From an operating perspective it may be desirable to use 3/0 for (2) and (3) to minimize the sizes of ground cables and to more easily distinguish between distribution and other applications.

NOTES:

- (A) Any protective grounding conductor subjected to a short circuit shall not be reused nor continued in use.
- (B)  $I^2t$  does not necessarily occur at maximum fault currents.

Discussion:

The  $I^2t$  levels recommended are based on junking any grounding cable subjected to a short circuit. The IEEE in their "IEEE Guide for Installation of Overhead Transmission Line Conductors" recommends lower  $I^2t$  levels which will limit the conductor temperature to the ICEA limit of 175°C for short circuit characteristic calculations for power cables. The ICEA limitations are reasonable for insulated conductors which must stay in service after the fault condition passes. For portable grounding cables, these requirements are not necessarily applicable and the mechanical integrity of the cable becomes an upper limit. The values recommended for Central Hudson are such that during the fault, the portable grounding cable will stay intact and will provide adequate personnel protection but continued protection after the fault is questionable. To use the IEEE recommendation would result in a two cable size increase over that proposed. Grounding cables larger than 2/0 are difficult to apply and may create a greater hazard (such as dropping the grounding set) than is necessary.

$I^2t$  is a function of available fault current, relay time, and breaker clearing time.  $I^2t$  values are large at high values of fault current, but at low values of fault current, relay times are long and  $I^2t$  values again become large. Computation of  $I^2t$  requires a knowledge of the relay coordination curves and system conditions. The recommended grounding conductor sizes for the applications listed takes into account the most severe fault conditions that exist on the Central Hudson system at this time. The most severe fault condition assumes that a contingency condition exists such as the failure of the primary relay or the primary breaker fails to operate correctly. When future major system reinforcements are made, the grounding conductor sizes will be reviewed.

*H. B. Lee*

H. B.-L. Lee

*J. G. St. Clair*  
 J. G. St. Clair  
 JGS/amf

Noted: C. E. Meeker

*C. E. Meeker*

Noted: H. M. Round

*H. M. Round*

Approved: C. A. Bolz

*C. A. Bolz*

## SCHEDULE E

### Local Services

#### **I. CENTRAL HUDSON PROVIDED SERVICES**

- Services such as substation lighting, heat, air conditioning and ventilation for Generator Equipment located on Central Hudson's property.
- Station power service to the Generator's disconnect switches located in the Roseton switchyard.

#### **II. GENERATOR PROVIDED SERVICES**

- Providing backup and emergency station power service to the control house located at or near the Roseton plant site.
- Providing station power service to the control house located at the Danskammer plant site.
- Providing station power service to the gas regulating station located at the Roseton plant site.
- Providing station power service to the gas regulating station located at the Danskammer plant site.
- Providing to Central Hudson all of the back-up power services required by Central Hudson for service to the NYPA West Transition Station ("NYPA Station"), and all of the power services required by Central Hudson for service to the Dutchess County Airport Navigation Station ("Airport Station") and CSX North Switch and Compressor accounts ("CSX Facilities"). On a monthly basis, Central Hudson shall pay Generator the Energy Price for the backup power required to be delivered hereunder that Generator delivers to the metering points (described below) in the applicable

month. The Energy Price is \$0.04 per kwh multiplied by the Annual Adjustment Factor. The Annual Adjustment Factor is the  $\text{Index}/\text{Index}_B$  and the adjustment shall take effect on January 1 of each calendar year after the Effective Date of this Agreement to apply prospectively to the Energy Price for the upcoming calendar year. The Index is the Consumer Price Index – All Urban Consumers (Current Series) U.S. All Items as published by the U.S. Department of Labor as determined by the average value of the published index, rounded to one decimal place, for the months constituting the preceding calendar year.  $\text{Index}_B$  is the base CPI of June 2000, and which equals 172.3. Billing and payment for such backup power services will be done in accordance with Article 5 of this Agreement. The Generator shall be responsible for maintenance of the electric supply facilities (in accordance with Good Utility Practice) from the Danskammer Generating Station auxiliary system to the facilities interconnecting with the NYPA Station, the Airport Station, CSX North Switch and Compressor accounts, including meters to measure the transfer of energy to the Airport at the point where Generator's facilities interconnect with the Airport facilities, and Central Hudson shall reimburse Generator the actual direct costs it incurs for such maintenance provided that Generator obtains Central Hudson prior written approval of such expenditures. Central Hudson shall install, operate and/or maintain, at Central Hudson's cost and in accordance with Good Utility Practice, the meters it deems necessary to measure the transfer of energy to the NYPA Station and the CSX North Switch and Compressor accounts at the point at which the Generator's facilities interconnect with the facilities of NYPA and CSX.

## SCHEDULE F

### Real Time Telemetry List

#### DEVICE

#### TELEMETRY

#### *Roseton:*

#### Generator #1

#### MONITOR (Plant to Central Hudson)

MW	Analog Input
MVAR	Analog Input
MWHr OUT	Accumulator Input
MWHr IN	Accumulator Input

#### CONTROL (Central Hudson to Plant)

DESIRED MW	Analog Output
MW DEVIATION	Analog Output
MW RAISE / LOWER	Digital Output

#### Generator #2

#### MONITOR

MW	Analog Input
MVAR	Analog Input
MWHr OUT	Accumulator Input
MWHr IN	Accumulator Input

#### CONTROL

DESIRED MW	Analog Output
MW DEVIATION	Analog Output
MW RAISE / LOWER	Digital Output

#### Station Startup

#### MONITOR

Startup MW	Analog Input
RS Line Amps	Analog Input
RS Line MWHr IN	Accumulator Input

DEVICE

TELEMETRY

*Danskammer:*

Generator #1

MONITOR

MW

Analog Input

MVAR

Analog Input

MWHr OUT

Accumulator Input

MWHr IN

Accumulator Input

CONTROL

DESIRED MW

Analog Output

MW DEVIATION

Analog Output

MW RAISE / LOWER

Digital Output

Generator #2

MONITOR

MW

Analog Input

MVAR

Analog Input

MWHr OUT

Accumulator Input

MWHr IN

Accumulator Input

CONTROL

DESIRED MW

Analog Output

MW DEVIATION

Analog Output

MW RAISE / LOWER

Digital Output

Generator #3

MONITOR

MW

Analog Input

MVAR

Analog Input

MWHr OUT

Accumulator Input

MWHr IN

Accumulator Input

CONTROL

DESIRED MW

Analog Output

MW DEVIATION

Analog Output

MW RAISE / LOWER

Digital Output

**DEVICE**

**TELEMETRY**

*Danskammer:*

Generator #4

MONITOR

MW

Analog Input

MVAR

Analog Input

MWHr OUT

Accumulator Input

MWHr IN

Accumulator Input

CONTROL

DESIRED MW

Analog Output

MW DEVIATION

Analog Output

MW RAISE / LOWER

Digital Output

Station Startup

MONITOR

Startup MW

Analog Input

Startup MVAR

Analog Input

**NOTES**

1) The Desired MW signal originates from the NYISO. This Desired MW is the six second Security Constrained Dispatch (SCD) value. Central Hudson's EMS will repeat this value and forward it to the plant. Currently, an Actual MW value is fed back to the plant in place of this Desired MW value. Central Hudson will no longer support feedback of Actual MW.

2) The Deviation from Desired MW is calculated by Central Hudson's EMS as the difference between the Desired MW received from the NYISO and the actual MW output received from the plant.

3) The MW Raise / Lower is a variable pulse width signal that is calculated by Central Hudson's EMS AGC, based on the Deviation from Desired MW value.

4) In the event that the new plant owner wishes to receive the six second SCD value (Desired MW) directly from the NYISO, the control telemetry detailed above will still be required to support Backup Dispatch. Backup Dispatch will be coordinated through Central Hudson.

PURCHASE PRICE AGREEMENT

THIS PURCHASE PRICE AGREEMENT (the "Agreement") dated August \_\_, 2000 by and among Central Hudson Gas & Electric Corporation, a New York corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison"), Niagara Mohawk Power Corporation, a New York corporation ("Niagara Mohawk"), and Dynegy Power Corp., a Delaware corporation ("Buyer"). Central Hudson, Con Edison, Niagara Mohawk and Buyer are referred to herein individually as a "Party," and collectively as the "Parties."

## WITNESSETH:

WHEREAS, Central Hudson, Con Edison, Niagara Mohawk and Buyer are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Roseton Asset Sale Agreement"), pursuant to which Buyer has agreed to purchase, and Central Hudson, Con Edison and Niagara Mohawk have agreed to sell, the Auctioned Assets (as defined in the Roseton Asset Sale Agreement, and referred to herein as the "Roseton Auctioned Assets");

WHEREAS, Central Hudson and Buyer are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Danskammer Asset Sale Agreement"), pursuant to which Buyer has agreed to purchase, and Central Hudson has agreed to sell, the Auctioned Assets (as defined in the Danskammer Asset Sale Agreement, and referred to herein as the "Danskammer Auctioned Assets");

WHEREAS, pursuant to the Roseton Asset Sale Agreement and the Danskammer Asset Sale Agreement, the Parties have entered into this Agreement to evidence the purchase price to be paid by Buyer for the Roseton Auctioned Assets and the Danskammer Auctioned Assets;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The purchase price for the Roseton Auctioned Assets and the Danskammer Auctioned Assets shall be Nine Hundred Three Million Dollars (\$903,000,000) (the "Purchase Price"). At the Closing (as defined herein) Buyer will pay or cause to be paid the Purchase Price in United States dollars by wire transfer of immediately available funds to an account or accounts jointly designated in writing by Central Hudson, Con Edison and Niagara Mohawk. For purposes of this Agreement, the term "Closing" shall mean the simultaneous closing of the sale of the Roseton Auctioned Assets contemplated by the Roseton Asset Sale Agreement and the sale of the Danskammer Auctioned Assets contemplated by the Danskammer Asset Sale Agreement.

2. Neither the making nor the acceptance of this Agreement shall enlarge, restrict or otherwise modify the terms of the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement or constitute a waiver or release by the Parties of any liabilities, duties or obligations imposed upon any of them by the terms of the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement, including, without limitation, all other amounts required to be paid by Buyer at or following Closing pursuant to Article III and Section 4.2(a) of each of the Roseton Asset Purchase Agreement and the Danskammer Asset Purchase Agreement.

3. In the event that any provision of this Agreement be construed to conflict with a provision of the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement, the provision in the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement, as the case may be, shall be deemed controlling.

4. This Agreement shall bind and shall inure to the benefit of the respective Parties and their respective successors and permitted assigns.

5. Nothing in this Agreement is intended to confer upon any other person except the Parties any rights or remedies hereunder or shall create any third party beneficiary rights in any person.

6. This Agreement shall be governed and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

7. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Purchase Price Agreement has been duly executed and delivered by the Parties as of the date first above written.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY POWER CORP.

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this \_\_\_\_ day of August 2000, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary

## OPINION OF COUNSEL TO SELLER

1. Seller is a corporation validly existing and in good standing under the laws of the State of New York. Seller has all necessary corporate power and authority to execute and deliver the Agreement and each of the Ancillary Agreements to which Seller is a party and to consummate the transactions contemplated thereby; and the execution and delivery of the Agreement and each of the Ancillary Agreements to which Seller is a party and the consummation by Seller of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action required on the part of Seller.

2. The Agreement and each of the Ancillary Agreements to which Seller is a party have been duly and validly executed and delivered by Seller, and assuming that the Agreement and each such Ancillary Agreement constitutes a valid and binding obligation of each other party thereto, subject to receipt of all Required Regulatory Approvals, constitute valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally and general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether enforcement is considered in a proceeding at law or in equity). With respect to the foregoing opinion, (i) insofar as provisions contained in the Agreement and the Ancillary Agreements provide for indemnification, exoneration or limitations of liability, the enforceability thereof may be limited by public policy considerations and (ii) the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

3. The execution, delivery and performance of the Agreement and each Ancillary Agreement to which Seller is a party does not (a) conflict with the Certificate of Incorporation or Bylaws of Seller, (b) to the knowledge of Seller's counsel, constitute a violation of or default under those agreements or instruments set forth on a Schedule attached to the opinion and which have been identified to such counsel by Seller as all the agreements and instruments which are material to the business or financial condition of Seller, or (c) violate any order, writ, injunction, decree, statute, rule or regulation, of which Seller's counsel has knowledge, applicable to Seller or the Auctioned Assets, except for such violations which would not, individually or in the aggregate, create a Material Adverse Effect.

4. Except for the Seller Required Regulatory Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any United States Federal or New York State Governmental Authority is necessary for the consummation by Seller of the transactions contemplated by the Agreement and each of the Ancillary Agreements to which Seller is a party, other than such declarations, filings, registrations, notices, authorizations, consents or approvals (i) which, if not obtained or made, would not, individually or in the aggregate, create a Material Adverse Effect or (ii) which relate to the Transferable Permits.

In rendering such opinion, such counsel may (A) rely in respect of matters of fact upon certificates of officers and employees of Seller and upon information obtained from public officials, (B) assume that all documents submitted to counsel as originals are authentic, that all copies submitted to counsel conform to the originals thereof, and that the signatures on all documents examined by counsel are genuine, (C) state that the opinion is limited to federal laws and the laws of the State of New York, (D) state that counsel expresses no opinion with respect to the title of Seller to any of the Auctioned Assets, (E) state that counsel expresses no opinion with respect to state or local taxes or tax statutes to which Seller or the Auctioned Assets may be subject, (F) state that counsel expresses no opinion with respect to any bulk sales, bulk transfer or similar laws to which Seller or the Auctioned Assets may be subject, (G) state that counsel expresses no opinion with respect to provisions of the Agreement and the Ancillary Agreements relating to subject matter jurisdiction of the United States District Court for the Southern District of New York or relating to the waiver of an inconvenient forum, and (H) with respect to the opinions expressed in paragraphs 3 and 4 above, state that counsel is relying as to such matters on the opinions of in-house, local and other special counsel to Seller to the extent of the matters set forth in such opinions. Certificates and opinions relied upon by Seller's counsel shall be delivered to Buyer together with the opinion of Seller's counsel.

## OPINION OF COUNSEL TO BUYER

1. Buyer is a corporation validly existing and in good standing under the laws of its jurisdiction of incorporation. Buyer has all necessary corporate power and authority to execute and deliver the Agreement and each of the Ancillary Agreements to which Buyer is a party and to consummate the transactions contemplated thereby; and the execution and delivery of the Agreement and each of the Ancillary Agreements to which Buyer is a party and the consummation by Buyer of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action required on the part of Buyer.

2. The Agreement and each of the Ancillary Agreements to which Buyer is a party have been duly and validly executed and delivered by Buyer, and assuming that the Agreement and each such Ancillary Agreement constitutes a valid and binding obligation of the other parties thereto, subject to receipt of all Required Regulatory Approvals, constitute valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally and general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether enforcement is considered in a proceeding at law or in equity). With respect to the foregoing opinion, (i) insofar as provisions contained in the Agreement and the Ancillary Agreements provide for indemnification, exoneration or limitations of liability, the enforceability thereof may be limited by public policy considerations and (ii) the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

3. The execution, delivery and performance of the Agreement and each Ancillary Agreement to which Buyer is a party does not (a) conflict with the Certificate of Incorporation or Bylaws of Buyer, (b) to the knowledge of Buyer's counsel, constitute a violation of or default under those agreements or instruments set forth on a Schedule attached to the opinion and which have been identified to such counsel by Buyer as all the agreements and instruments which are material to the business or financial condition of Buyer, or (c) violate any order, writ, injunction, decree, statute, rule or regulation, of which Buyer's counsel has knowledge, applicable to Buyer or any of its assets, except for such violations which would not, individually or in the aggregate, create a Buyer Material Adverse Effect.

4. Except for the Buyer Required Regulatory Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by Buyer of the transactions contemplated by the Agreement and each of the Ancillary Agreements to which Buyer is a party, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which relate to the Transferable Permits.

In rendering such opinion, such counsel may (A) rely in respect of matters of fact upon certificates of officers and employees of Buyer and upon information obtained from public officials, (B) assume that all documents submitted to counsel as originals are authentic, that all copies submitted to counsel conform to the originals thereof, and that the signatures on all documents examined by counsel are genuine, (C) state that the opinion is limited to federal laws, the corporate statute of Buyer's jurisdiction of incorporation and the laws of the State of New York, (D) state that counsel expresses no opinion with respect to provisions of the Agreement and the Ancillary Agreements relating to the subject matter jurisdiction of the United States District Court for the Southern District of New York and relating to the waiver of an inconvenient forum, and (E) with respect to the opinions expressed in paragraphs 3 and 4 above, state that counsel is relying as to such matters on the opinions of in-house, local and other special counsel to Buyer to the extent of the matters set forth in such opinions. Certificates and opinions relied upon by Buyer's counsel shall be delivered to Sellers together with the opinion of Buyer's counsel.

This opinion will be delivered with respect to Buyer and any of Buyer's permitted assigns that enter into any Ancillary Agreement.

## OPINION OF COUNSEL TO GUARANTOR

1. Guarantor is a corporation validly existing and in good standing under the laws of its jurisdiction of incorporation. Guarantor has all necessary corporate power and authority to execute and deliver the Guarantee Agreement and to consummate the transactions contemplated thereby; and the execution and delivery of the Guarantee Agreement and the consummation by Guarantor of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action required on the part of Guarantor.

2. The Guarantee Agreement has been duly and validly executed and delivered by Guarantor and, assuming that the Guarantee Agreement constitutes a valid and binding obligation of Sellers, constitutes a valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally and general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether enforcement is considered in a proceeding at law or in equity). With respect to the foregoing opinion, the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

3. The execution, delivery and performance of the Guarantee Agreement does not (a) conflict with the Certificate of Incorporation or Bylaws of Guarantor, (b) to the knowledge of Guarantor's counsel, constitute a violation of or default under those agreements or instruments set forth on a Schedule attached to the opinion and which have been identified to such counsel by Guarantor as all the agreements and instruments which are material to the business or financial condition of Guarantor, or (c) violate any order, writ, injunction, decree, statute, rule or regulation, of which Guarantor's counsel has knowledge, applicable to Guarantor or the Auctioned Assets, except for such violations which would not, individually or in the aggregate, have a material adverse effect on the ability of Guarantor to consummate the transactions by, and discharge its obligations under, the Guarantee Agreement.

4. No declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by Guarantor of the transactions contemplated by the Guarantee Agreement.

In rendering such opinion, such counsel may (A) rely in respect of matters of fact upon certificates of officers and employees of Guarantor and upon information obtained from public officials, (B) assume that all documents submitted to counsel as originals are authentic, that all copies submitted to counsel conform to the originals thereof, and that the signatures on all documents examined by counsel are genuine, (C) state that the opinion is limited to federal laws, the corporate statute of the Guarantor's jurisdiction of incorporation and the laws of the State of New York, (D) state that counsel expresses no opinion with respect to provisions of the Guarantee Agreement relating to the subject

matter jurisdiction of the United States District Court for the Southern District of New York and relating to the waiver of an inconvenient forum, and (E) with respect to the opinions expressed in paragraphs 3 and 4 above, state that counsel is relying as to such matters on the opinions of in-house, local and other special counsel to Guarantor to the extent of the matters set forth in such opinions. Certificates and opinions relied upon by Guarantor's counsel shall be delivered to Sellers together with the opinion of Guarantor's counsel.

# **PURCHASE PRICE AGREEMENT**

## PURCHASE PRICE AGREEMENT

THIS PURCHASE PRICE AGREEMENT (the "Agreement") dated August 7, 2000 by and among Central Hudson Gas & Electric Corporation, a New York corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison"), Niagara Mohawk Power Corporation, a New York corporation ("Niagara Mohawk"), and Dynegy Power Corp., a Delaware corporation ("Buyer"). Central Hudson, Con Edison, Niagara Mohawk and Buyer are referred to herein individually as a "Party," and collectively as the "Parties."

### W I T N E S S E T H:

WHEREAS, Central Hudson, Con Edison, Niagara Mohawk and Buyer are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Roseton Asset Sale Agreement"), pursuant to which Buyer has agreed to purchase, and Central Hudson, Con Edison and Niagara Mohawk have agreed to sell, the Auctioned Assets (as defined in the Roseton Asset Sale Agreement, and referred to herein as the "Roseton Auctioned Assets");

WHEREAS, Central Hudson and Buyer are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Danskammer Asset Sale Agreement"), pursuant to which Buyer has agreed to purchase, and Central Hudson has agreed to sell, the Auctioned Assets (as defined in the Danskammer Asset Sale Agreement, and referred to herein as the "Danskammer Auctioned Assets");

WHEREAS, pursuant to the Roseton Asset Sale Agreement and the Danskammer Asset Sale Agreement, the Parties have entered into this Agreement to evidence the purchase price to be paid by Buyer for the Roseton Auctioned Assets and the Danskammer Auctioned Assets;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The purchase price for the Roseton Auctioned Assets and the Danskammer Auctioned Assets shall be Nine Hundred Three Million Dollars (\$903,000,000) (the "Purchase Price"). At the Closing (as defined herein) Buyer will pay or cause to be paid the Purchase Price in United States dollars by wire transfer of immediately available funds to an account or accounts jointly designated in writing by Central Hudson, Con Edison and Niagara Mohawk. For purposes of this Agreement, the term "Closing" shall mean the simultaneous closing of the sale of the Roseton Auctioned Assets contemplated by the Roseton Asset Sale Agreement and the sale of the Danskammer Auctioned Assets contemplated by the Danskammer Asset Sale Agreement.

2. Neither the making nor the acceptance of this Agreement shall enlarge, restrict or otherwise modify the terms of the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement or constitute a waiver or release by the Parties of any liabilities, duties or obligations imposed upon any of them by the terms of the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement, including, without limitation, all other amounts required to be paid by Buyer at or following Closing pursuant to Article III and Section 4.2(a) of each of the Roseton Asset Purchase Agreement and the Danskammer Asset Purchase Agreement.

3. In the event that any provision of this Agreement be construed to conflict with a provision of the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement, the provision in the Roseton Asset Sale Agreement or the Danskammer Asset Sale Agreement, as the case may be, shall be deemed controlling.

4. This Agreement shall bind and shall inure to the benefit of the respective Parties and their respective successors and permitted assigns.

5. Nothing in this Agreement is intended to confer upon any other person except the Parties any rights or remedies hereunder or shall create any third party beneficiary rights in any person.

6. This Agreement shall be governed and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

7. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Purchase Price Agreement has been duly executed and delivered by the Parties as of the date first above written.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: Ronald P. Brand  
Name: Ronald P. Brand  
Title: Senior Vice President

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY POWER CORP.

By: E. P. Hermann TAB  
Name: Edward P. Hermann  
Title: Senior Director-Project Acquisitions

IN WITNESS WHEREOF, this Purchase Price Agreement has been duly executed and delivered by the Parties as of the date first above written.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: Joan S. Freilich  
Name: Joan S. Freilich  
Title: Exec. V. P. and CFO

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY POWER CORP.

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, this Purchase Price Agreement has been duly executed and delivered by the Parties as of the date first above written.

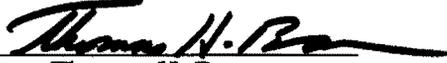
CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER CORPORATION

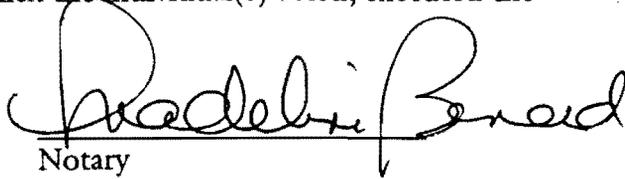
By:   
Name: Thomas H. Baron  
Title: Senior V.P. – Field Operations

DYNEGY POWER CORP.

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

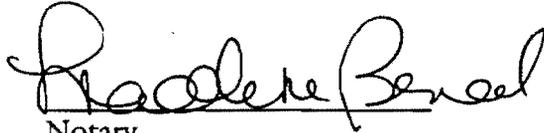
On this 4<sup>th</sup> day of August 2000, before me, the undersigned, personally appeared EDWARD P. HEIMON, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
Notary

MADELINE BERNARD  
Notary Public, State of New York  
No. 01BE5011980  
Qualified in Bronx  
Commission Expires: 9/15/01

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

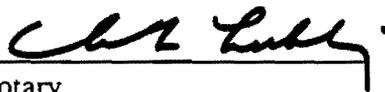
On this 4th day of August 2000, before me, the undersigned, personally appeared RONALD P. BRAND, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
Notary

MADELINE BERNARD  
Notary Public, State of New York  
No. 01BE5011980  
Qualified in Bronx  
Commission Expires: 8/15/01

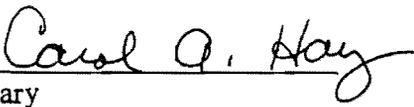
STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

On this 7th day of August 2000, before me, the undersigned, personally appeared Joan S. Freilich, personally known to me or proved to me on the basis of satisfactory evidence to be the individual~~(s)~~ whose name~~(s)~~ is ~~(are)~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature~~(s)~~ on the instrument, the individual~~(s)~~, or the person on behalf of which the individual~~(s)~~ acted, executed the instrument.

  
\_\_\_\_\_  
Notary  
CHANOCH LUBLING  
NOTARY PUBLIC, State of New York  
No. 24-4748879  
Qualified in Kings County  
Commission Expires October 31, 2001

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

On this 4<sup>th</sup> day of August 2000, before me, the undersigned, personally appeared Thomas H. Baron, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
Notary

CAROL A. HAY  
Notary Public, State of New York  
No. 01HA5038055  
Qualified in Onondaga County  
Commission Expires January 17, 2004

# **GUARANTEE AGREEMENT**

## GUARANTEE AGREEMENT

THIS GUARANTEE AGREEMENT (the "Agreement"), dated August 7, 2000, by and between Dynegy Holdings, Inc., a Delaware corporation ("Guarantor"), Central Hudson Gas & Electric Corporation, a New York corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison"), and Niagara Mohawk Power Corporation, a New York corporation ("Niagara Mohawk") (each a "Seller," and collectively, "Sellers"). Guarantor and Sellers are referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, Central Hudson, Con Edison, Niagara Mohawk and Dynegy Power Corp., a Delaware corporation and a wholly-owned subsidiary of Guarantor ("Buyer"), are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Roseton Asset Sale Agreement"), pursuant to which Buyer has agreed to purchase, and Central Hudson, Con Edison and Niagara Mohawk have agreed to sell, the Auctioned Assets (as defined in the Roseton Asset Sale Agreement);

WHEREAS, Central Hudson and Buyer are parties to that certain Asset Purchase and Sale Agreement, dated the date hereof (as amended, supplemented or otherwise modified from time to time, the "Danskammer Asset Sale Agreement") (the Danskammer Asset Sale Agreement and the Roseton Asset Sale Agreement are referred to herein collectively as the "Asset Sale Agreements"), pursuant to which Buyer has agreed to purchase, and Central Hudson has agreed to sell, the Auctioned Assets (as defined in the Danskammer Asset Sale Agreement);

WHEREAS, as a condition precedent to and in consideration of Sellers' entering into the respective Asset Sale Agreements, Guarantor has agreed to guarantee payment and performance of Buyer's covenants, agreements, obligations, liabilities, representations and warranties under the Asset Sale Agreements, any Ancillary Agreement or any other agreement or instrument related thereto or entered into in connection therewith; and

WHEREAS, Guarantor will benefit from the transactions contemplated by the Asset Sale Agreements.

NOW, THEREFORE, the Parties agree as follows:

Section 1. **Definitions.** Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the respective Asset Sale Agreements. For purposes of this Agreement, the term "Buyer" shall include Buyer, any Affiliate of Buyer that enters into any Ancillary Agreement and any of their respective successors and assigns under the Asset Sale Agreements or any Ancillary Agreement.

Section 2. **Guarantee.** Guarantor absolutely, irrevocably and unconditionally guarantees, as a primary obligor and not merely as a surety, (a) the due and punctual payment of (i) each payment required to be made by Buyer under the Asset Sale

Agreements or any Ancillary Agreement, when and as due, including payments in respect of reimbursement of disbursements and interest thereon and (ii) all other monetary obligations, including indemnities, fees, costs and expenses, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of Buyer, when and as due, under the Asset Sale Agreements, any Ancillary Agreement or any other agreement or instrument related thereto (all such obligations referred to in this clause (a) being collectively referred to as the "Monetary Obligations") and (b) the due and punctual performance and observance of, and compliance with, all covenants, agreements, obligations, liabilities, representations and warranties of Buyer under or pursuant to the Asset Sale Agreements, any Ancillary Agreement or any other agreement or instrument related thereto (all such obligations referred to in the preceding clauses (a) and (b) being collectively referred to as the "Obligations"). Guarantor further agrees that the Obligations may be extended, amended, modified or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension, amendment, modification or renewal of any Obligation by any Seller or Sellers and Buyer.

Section 3. Obligations Not Waived. To the fullest extent permitted by applicable law, Guarantor waives all notices whatsoever with respect to this Agreement or with respect to the Obligations, including presentment to, demand of payment from and protest to Buyer of any of the Obligations, and notice of acceptance of its guarantee and notice of protest for nonpayment. To the fullest extent permitted by applicable law, the obligations of Guarantor hereunder shall not be affected by (a) the failure of any Seller or Sellers to assert any claim or demand or to enforce or exercise any right or remedy against Buyer in respect of the Obligations or otherwise under the provisions of the Asset Sale Agreements, any Ancillary Agreement or otherwise or, in each case, any delay in connection therewith, or (b) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, this Agreement, the Asset Sale Agreements, any Ancillary Agreement or any other agreement.

Section 4. Continuing Guarantee of Payment and Performance. Guarantor further agrees that its guarantee constitutes a continuing guarantee of payment and performance when due, and not of collection, and Guarantor further waives any right to require that any resort be had by any Seller or Sellers to any security.

Section 5. No Discharge or Diminishment of Guarantee.

(a) The obligations of Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination, or be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever, or otherwise be affected, for any reason (other than the performance in full of all Obligations, including the indefeasible payment in full in cash of all Monetary Obligations, and the termination of all the Obligations), including:

- (i) any claim of waiver, release, surrender, alteration or compromise of any of the Obligations;
- (ii) the invalidity, illegality or unenforceability of the Obligations;

(iii) the occurrence or continuance of any event of bankruptcy, reorganization, insolvency, receivership or other similar proceeding with respect to Buyer or any other person (for purposes hereof, "person" means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization or Governmental Authority), or the dissolution, liquidation or winding up of Buyer or any other person;

(iv) any permitted assignment or other transfer of this Agreement by any Seller or Sellers or any permitted assignment or other transfer of the Asset Sale Agreements or any Ancillary Agreement in whole or in part;

(v) any sale, transfer or other disposition by Guarantor of any direct or indirect interest it may have in Buyer or any other change in ownership or control of Buyer; or

(vi) the absence of any notice to, or knowledge on behalf of, Guarantor of the existence or occurrence of any of the matters or events set forth in the foregoing clauses.

(b) Without limiting the generality of the foregoing, the obligations of Guarantor hereunder shall not be discharged or impaired or otherwise affected by the failure of any Seller or Sellers to assert any claim or demand or to enforce any remedy under the Asset Sale Agreements, any Ancillary Agreement or any other agreement, by any waiver or modification of any provision thereof, by any default, failure or delay, willful or otherwise, in the performance of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of Guarantor or that would otherwise operate as a discharge of Guarantor as a matter of law or equity (other than the performance in full of all Obligations, including the indefeasible payment in full in cash of all Monetary Obligations, and the termination of all the Obligations).

Section 6. Defenses Waived. To the fullest extent permitted by applicable law, Guarantor waives any defense based on or arising out of the unenforceability of the Obligations or any part thereof from any cause. Sellers may compromise or adjust any part of the Obligations, make any other accommodation with Buyer or exercise any other right or remedy available to it against Buyer, without affecting or impairing in any way the liability of Guarantor hereunder except to the extent all the Obligations have been fully and finally performed, including the indefeasible payment in full of all Monetary Obligations, and terminated. To the fullest extent permitted by applicable law, Guarantor waives any defense arising out of any such election even though such election operates, pursuant to applicable law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of Guarantor against Buyer or any security. Guarantor waives each right and all defenses to which it may be entitled under applicable law as in effect or construed from time to time.

Section 7. Representations and Warranties of Guarantor. Guarantor represents and warrants to Sellers as follows:

(a) Organization. Guarantor is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite

corporate power and authority to own, lease and operate its properties and to carry on its business as is now being conducted.

(b) Authority Relative to this Agreement. Guarantor has all necessary corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution and delivery by Guarantor of this Agreement and performance by Guarantor of its obligations hereunder have been duly and validly authorized by the Board of Directors of Guarantor and no other corporate proceedings on the part of Guarantor are necessary to authorize this Agreement or performance by Guarantor of its obligations hereunder. This Agreement has been duly and validly executed and delivered by Guarantor and this Agreement constitutes a valid and binding agreement of Guarantor, enforceable against Guarantor in accordance with its terms.

(c) Consents and Approvals; No Violation.

(i) Subject to obtaining the Buyer Required Regulatory Approvals, neither the execution and delivery of this Agreement by Guarantor nor performance by Guarantor of its obligations hereunder will (i) conflict with or result in any breach of any provision of the organizational or governing documents or instruments of Guarantor, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Guarantor or any of its subsidiaries is a party or by which any of their respective assets may be bound or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Guarantor, or any of its assets, except in the case of clauses (ii) and (iii) for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, have a material adverse effect on the ability of Guarantor to discharge its obligations under this Agreement (a "Guarantor Material Adverse Effect").

(ii) No declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for performance by Guarantor of its obligations hereunder, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which, if not obtained or made would not, individually or in the aggregate, have a Guarantor Material Adverse Effect.

Section 8. Agreement to Perform and Pay; Subordination. In furtherance of the foregoing and not in limitation of any other right that Sellers have at law or in equity against Guarantor by virtue hereof, upon the failure of Buyer, to perform or pay any Obligation when and as the same shall become due, Guarantor hereby promises to and will forthwith, as the case may be, (a) perform, or cause to be performed, such unperformed Obligations and (b) pay, or cause to be paid, to Sellers in cash the amount of such unpaid Monetary Obligations. Upon payment by Guarantor of any sums to Sellers as provided above, all rights of Guarantor against Buyer, arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full in cash of all the Monetary Obligations. If any amount shall erroneously be paid to Guarantor on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of Buyer, such amount shall be held in trust for the benefit of

Sellers and shall forthwith be paid to Sellers to be credited against the payment of the Monetary Obligations or performance in accordance with the terms of the Asset Sale Agreements or any Ancillary Agreement, as applicable.

Section 9. Information. Guarantor assumes all responsibility for being and keeping itself informed of Buyer's financial condition and assets, and of all other circumstances bearing upon the risk of nonperformance of the Obligations (including the nonpayment of Monetary Obligations) and the nature, scope and extent of the risks that Guarantor assumes and incurs hereunder, and agrees that Sellers do not have any duty to advise Guarantor of information known to it regarding such circumstances or risks.

Section 10. Termination and Reinstatement. The guarantee made hereunder (a) shall terminate when all the Obligations have been (i) performed in full, including the indefeasible payment in full in cash of the Monetary Obligations or (ii) terminated and (b) shall continue to be effective or be reinstated, as the case may be, if at any time any payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored by Sellers upon the bankruptcy or reorganization of Buyer or Guarantor or for any other reason.

Section 11. Assignment; No Third Party Beneficiaries. This Agreement and all of the provisions hereunder shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, and nothing herein express or implied will give or be construed to give any other person any legal or equitable rights hereunder. Neither this Agreement nor any of the rights, interests and obligations hereunder shall be assigned by Guarantor, including by operation of law, without the prior written consent of Sellers; provided, however, that no assignment or transfer of rights or obligations by Guarantor shall relieve it from the full liabilities and the full financial responsibility, as provided for under this Agreement, unless and until the transferee or assignee shall agree in writing to assume such obligations and duties and Sellers have consented in writing to such assumption.

Section 12. Amendment and Modification; Extension; Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing signed on behalf of each of the Parties. Any agreement on the part of a Party to any extension or waiver in respect of this Agreement shall be valid only if set forth in an instrument in writing signed on behalf of such Party. The failure of a Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

Section 13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

Section 14. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of the times of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

if to Central Hudson, to:

Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, NY 12601-4879  
Telecopier: (914) 486-5782  
Attention: Ronald P. Brand, Senior Vice President

with a copy to:

Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526  
Telecopier: (202) 887-0689  
Attention: Kenneth M. Simon, Esq.

if to Con Edison to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, NY 10003  
Telecopier: (212) 677-0601  
Attention: General Counsel

with a copy to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, New York 10003  
Telecopier: (212) 529-7182  
Attention: Vice President, Energy Management

if to Niagara Mohawk, to:

Niagara Mohawk Power Corporation  
300 Erie Boulevard West  
Syracuse, NY 13202  
Telecopier: (315) 428-6407  
Attention: Gregory Barone, Esq.

with a copy to:

Sullivan & Cromwell  
1701 Pennsylvania Avenue, N.W.

Washington, DC 20006  
Telecopier: (202) 293-6330  
Attention: Janet T. Geldzahler, Esq.

if to Guarantor, to:

c/o Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, TX 77002  
Telecopier: (713) 767-5813  
Attention: Edward P. Hermann  
Senior Director – Project Acquisitions

with a copy to:

Dynegy Power Corp.  
1000 Louisiana Street, Suite 5800  
Houston, TX 77002  
Telecopier: (713) 767-5810  
Attention: Tim Beverick, Esq.

Section 15. Jurisdiction and Enforcement.

(a) Each of the Parties irrevocably submits to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the Parties agrees to commence any action, suit or proceeding relating hereto in the United States District Court for the Southern District of New York or, if such suit, action or proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, Dutchess County. Each of the Parties further agrees that service of process, summons, notice or document by hand delivery or U.S. registered mail at the address specified for such Party in Section 14 (or such other address specified by such Party from time to time pursuant to Section 14) shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled equitable relief, including without limitation, an injunction or injunctions to

prevent breaches of this Agreement and to specifically enforce the terms and provisions of this Agreement, this being in addition to any other remedy to which they are justly entitled to, whether at law or in equity.

Section 16. Survival of Agreement. All covenants, agreements, representations and warranties made by Guarantor herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by Sellers and shall unconditionally survive the consummation of the transactions contemplated by the Asset Sale Agreements, regardless of any investigation made by Sellers, and shall continue in full force and effect as long as any Obligations remain outstanding.

Section 17. Effectiveness; Counterparts. This Agreement shall become effective when executed by the Parties. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 18. Rules of Interpretation. The rules of interpretation specified in Section 12.8 of the respective Asset Sale Agreements shall be applicable to this Agreement.

Section 19. Severability.

(a) If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

(b) In the event that the provisions of this Agreement are claimed or held to be inconsistent with any other agreement or instrument evidencing the Obligations, the terms of this Agreement shall remain fully valid and effective.

Section 20. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties in respect of the matters contemplated hereby. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the matters contemplated hereby.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Guarantee Agreement has been duly executed and delivered by the Parties as of the date first above written.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: Ronald P. Brand *RPB*  
Name: Ronald P. Brand  
Title: Senior Vice President

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY HOLDINGS, INC.

By: E.P. Hermann *THB*  
Name: Edward P. Hermann  
Title: Senior Director-Project Acquisitions

IN WITNESS WHEREOF, this Guarantee Agreement has been duly executed and delivered by the Parties as of the date first above written.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: Joan S. Freilich  
Name: Joan S. Freilich  
Title: Exec. V. P. and CFO

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

DYNEGY HOLDINGS, INC.

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, this Guarantee Agreement has been duly executed and delivered by the Parties as of the date first above written.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER CORPORATION

By:   
Name: Thomas H. Baron  
Title: Senior V.P. – Field Operations

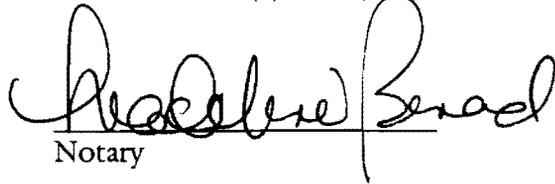
DYNEGY HOLDINGS, INC.

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NEW YORK  
COUNTY OF NEW YORK

)  
) SS:  
)

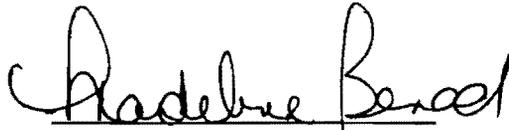
On this <sup>4<sup>th</sup></sup> day of August 2000, before me, the undersigned, personally appeared ~~RONALD P. BICARD~~, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
Notary

MADELINE BERNARD  
Notary Public, State of New York  
No. 01BE5011980  
Qualified in Bronx  
Commission Expires: 6/15/01

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

On this <sup>4th</sup> day of August 2000, before me, the undersigned, personally appeared ~~EDWARD P. HOLMANS~~, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
Notary

MADELINE BERNARD  
Notary Public, State of New York  
No. 01BE5011980  
Qualified in Bronx  
Commission Expires: 6/15/01

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this 4<sup>th</sup> day of August 2000, before me, the undersigned, personally appeared Thomas H. Baron, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

Carol A. Hay  
Notary

CAROL A. HAY  
Notary Public, State of New York  
No. 01HA5038055  
Qualified in Onondaga County  
Commission Expires January 17, 2006

STATE OF NEW YORK            )  
  ) SS:  
COUNTY OF NEW YORK        )

On this 7th day of August 2000, before me, the undersigned, personally appeared Joan S. Freilich, personally known to me or proved to me on the basis of satisfactory evidence to be the individual~~(s)~~ whose name~~(s)~~ is ~~(are)~~ subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/~~they~~ executed the same in ~~his~~/~~her~~/~~their~~ capacity~~(ies)~~, and that by ~~his~~/~~her~~/~~their~~ signature~~(s)~~ on the instrument, the individual~~(s)~~, or the person on behalf of which the individual~~(s)~~ acted, executed the instrument.

  
\_\_\_\_\_  
Notary

CHANOCH LUBLING  
NOTARY PUBLIC, State of New York  
No. 24-4748879  
Qualified in Kings County  
Commission Expires October 31, 2001

RETAINED FACILITIES ASSIGNMENT AND ASSUMPTION AGREEMENT

FOR

THE ROSETON ELECTRIC SWITCHYARD, GAS TRANSMISSION FACILITIES  
AND REGULATOR STATION FACILITIES  
AND RELATED ASSETS

BY AND AMONG

CENTRAL HUDSON GAS & ELECTRIC CORPORATION,  
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

AND

NIAGARA MOHAWK POWER CORPORATION

Dated as of September 14, 2000

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RETAINED FACILITIES ASSIGNMENT AND ASSUMPTION AGREEMENT  
FOR THE ROSETON ELECTRIC SWITCHYARD,  
GAS TRANSMISSION FACILITIES AND  
REGULATOR STATION FACILITIES  
AND RELATED ASSETS

THIS RETAINED FACILITIES ASSIGNMENT AND ASSUMPTION AGREEMENT (including the Appendices, Exhibits and Schedules hereto, this "Agreement"), dated as of September 14, 2000, by and among CENTRAL HUDSON GAS & ELECTRIC CORPORATION, a New York corporation ("Central Hudson" or "Assignee"), CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a New York corporation ("Con Edison"), and NIAGARA MOHAWK POWER CORPORATION, a New York corporation ("Niagara Mohawk") (Niagara Mohawk and Con Edison sometimes referred to herein individually as "Assignor" and collectively as "Assignors") (Assignee collectively with Assignors, the "Parties").

WHEREAS, Central Hudson holds a thirty-five percent (35%) undivided ownership interest (the "Central Hudson Interest"), Con Edison holds a forty percent (40%) undivided ownership interest (the "Con Edison Interest") and Niagara Mohawk holds a twenty-five percent (25%) undivided ownership interest (the "Niagara Mohawk Interest") (the Central Hudson Interest, the Niagara Mohawk Interest and the Con Edison Interest sometimes referred to herein each as an "Ownership Interest" and collectively as the "Ownership Interests") as tenants-in-common in (i) the approximately 1,200 MW Roseton Generating Station located in Newburgh, New York (described herein as the "Roseton Station") and (ii) certain electric switchyard, gas transmission facilities and regulator station facilities located at the Roseton Station (described herein as the "Retained Facilities");

WHEREAS, Central Hudson entered into a Roseton Auction Agreement (the "Roseton Auction Agreement") with Niagara Mohawk, dated May 28, 1999, pursuant to which Central Hudson and Niagara Mohawk agreed to, among other things, (i) the joint auction and sale of their respective interests in the Roseton Station, (ii) Niagara Mohawk's transfer to Central Hudson of its interest in the Retained Facilities in connection therewith, and (iii) the allocation of auction proceeds for their respective interests in the Roseton Station and the Retained Facilities;

WHEREAS, Central Hudson entered into a Roseton Joint Sale Agreement (the "Roseton Joint Sale Agreement") with Con Edison, dated January 5, 2000, pursuant to which Central Hudson and Con Edison agreed to, among other things, (i) the joint auction and sale of their respective interests in the Roseton

Station, (ii) Con Edison's transfer to Central Hudson of its interest in the Retained Facilities in connection therewith, and (iii) the allocation of auction proceeds for their respective interests in the Roseton Station and the Retained Facilities in connection therewith;

WHEREAS, pursuant to that certain Asset Purchase and Sale Agreement (the "Asset Purchase and Sale Agreement"), dated August 7, 2000, by and between the Parties and Dynegy Power Corp., a Delaware corporation (the "Winning Bidder"), the Parties have agreed to sell, assign, convey, transfer and deliver all of their respective Ownership Interests in the Roseton Station and certain other assets associated therewith (as described therein);

WHEREAS, pursuant to the terms of the Roseton Auction Agreement and the Roseton Joint Sale Agreement, Con Edison and Niagara Mohawk desire to assign and transfer, and Central Hudson desires to acquire and assume, the Assigned Assets (as defined in Section 2.2 below) and certain associated liabilities, upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

## ARTICLE I

### Definitions

Section 1.1 Definitions. Capitalized terms used but not otherwise defined in this Agreement shall have the respective meanings given to such terms in Appendix A hereto.

Section 1.2 Ownership Interests. The Parties acknowledge and agree that Assignors own and hold their respective undivided Ownership Interests as tenants-in-common in the Retained Facilities (the "Co-Tenancy"). All references in this Agreement to each Assignor's right, title and interest in, to and under the Assigned Assets, and the rights, liabilities and obligations in connection therewith, shall be construed in this context. The Parties acknowledge that they entered into an Agreement, dated October 31, 1968 (the "Operating Agreement"), pursuant to which the Parties agreed that their interests as co-tenants in the Roseton Station would be treated as interests in a partnership for federal income tax purposes pursuant to Rev. Rul. 68-344, 1968-1 C.B. 569.

ARTICLE II

Assignment and Transfer; Assumption of Certain Liabilities

Section 2.1 Assignment and Transfer. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at the Closing, each Assignor agrees to assign, convey, transfer and deliver to Assignee, and Assignee agrees to assume and acquire from each Assignor all of such Assignor's right, title and interest in the Assigned Assets.

Section 2.2 Assigned Assets and Excluded Assets.

(a) Assigned Assets. The term "Assigned Assets" means all of the assets, real and personal property, goodwill and rights of Assignors of whatever kind and nature, whether tangible or intangible, in each case, constituting the Retained Facilities or primarily relating to the operations of the Retained Facilities, other than the Excluded Assets, including the following:

(i) all real property and leaseholds and other interests in real property of Assignors described on Schedule 2.2(a)(i) hereto, together with all buildings, improvements, structures and fixtures thereon, subject to all Permitted Exceptions (the "Assignee Real Estate");

(ii) subject to Section 2.4, all inventories of supplies, materials and spare parts, together with and subject to (A) all Permitted Exceptions and (B) all warranties against manufacturers and vendors relating thereto, in each case, other than assets that become obsolete or that are used, consumed, replaced or disposed in the ordinary course of business consistent with past practice or as permitted by this Agreement;

(iii) subject to Section 2.4, the machinery, equipment, facilities, furniture and other tangible personal property (whether located on Assignee Real Estate or the real estate to be conveyed to the Winning Bidder pursuant to the Asset Purchase and Sale Agreement, or temporarily removed from Assignee Real Estate for repairs, servicing or maintenance), including the items of tangible personal property listed on Schedule 2.2(a)(iii), together with and subject to (A) all Permitted Exceptions, and (B) all warranties against manufacturers or vendors relating thereto, in each case, other than assets that become obsolete or that are used, consumed, replaced or disposed in the ordinary course of business consistent with past practice or as permitted by this Agreement;

(iv) subject to Section 2.4, all right, title and interest of Assignors in, to and under all contracts, agreements, personal property leases (whether as a lessor or lessee thereunder), commitments and all other legally binding arrangements, whether oral or written, including such contracts, agreements, personal property leases, commitments and other legally binding arrangements (A) set forth on Schedule 2.2(a)(iv) or (B) otherwise entered into by Assignors in the ordinary course of business (collectively, the “Contracts”), in each case, to the extent in full force and effect on the Closing Date;

(v) subject to Section 7.2(c), the Permits and Environmental Permits that are transferred or transferable by Assignors to Assignee (collectively, the “Transferable Permits”) to the extent in full force and effect on the Closing Date;

(vi) all data, information, books, operating records, operating, safety and maintenance manuals, engineering design plans, blueprints and as-built plans, specifications, procedures, facility compliance plans, environmental procedures and similar records of Assignors, to the extent in any Assignor’s possession or readily available (collectively, the “Operating Records”); provided, however, that Assignors shall be permitted to retain copies, or originals to the extent they provide Assignee with copies of same, of all Operating Records; and

(vii) all software, copyrights, know-how or other proprietary information, if any.

(b) Excluded Assets. The term “Excluded Assets” means:

(i) any assets to be sold by the Parties to the Winning Bidder pursuant to the terms of the Asset Purchase and Sale Agreement;

(ii) all cash, cash equivalents, bank deposits and accounts receivable;

(iii) the names “Consolidated Edison,” “Con Edison,” “Con Ed,” “Consolidated Edison Company of New York, Inc.,” “Consolidated Edison Company,” “Consolidated Edison, Inc.,” “New York Edison,” “Brooklyn Edison,” “Staten Island Edison,” “Edison,” “Niagara Mohawk Power Corporation” and “Niagara Mohawk” and any related or similar trade names, trademarks, service marks or logos (and any rights to and in the same, including any right to use the same);

(iv) any refund, credit or settlement interests related to Taxes attributable to taxable periods (or portions thereof) prior to the Closing Date, and sewer rents or water charges or any other liabilities or obligations paid prior to the Closing Date in respect of the Assigned Assets;

(v) all other records (other than Operating Records); and

(vi) all claims, causes of action, choses in action, rights of recovery and rights of set-off of any kind in favor of any Assignor or Assignors arising prior to the Closing Date other than those pertaining to the Assumed Obligations.

Section 2.3 Assumed Obligations and Excluded Liabilities.

(a) Assumed Obligations. At the Closing, Assignee shall assume, and from and after the Closing, shall discharge, all of the liabilities and obligations, direct or indirect, known or unknown, absolute or contingent, which relate to the Retained Facilities or are otherwise specified below, other than the Excluded Liabilities (collectively, the “Assumed Obligations”), including:

(i) except as set forth in Section 2.3(b)(ii), any liabilities and obligations under the Contracts;

(ii) any liabilities and obligations for goods delivered or services rendered on or after the Closing Date relating to the Retained Facilities;

(iii) except as set forth in Section 2.3(b)(iii) or (iv), any Environmental Liability arising out of or in connection with: (i) any actual or alleged violation of, noncompliance with, or failure to act in accordance with any standard of conduct of, any Environmental Law prior to, on or after the Closing with respect or relating to the ownership or operation of the Retained Facilities; (ii) the condition of any Retained Facilities prior to, on or after the Closing, including any actual or alleged presence, discharge, disposal, Release or threatened Release of any Hazardous Substance at, on, in, under or migrating onto or from the Retained Facilities prior to, on or after the Closing; and (iii) the transportation, storage, recycling, Release or threatened Release of any Hazardous Substance in any way arising from or associated with the Retained Facilities at or to any location, on or after the Closing;

- (iv) any specified liabilities and obligations of the Assignors under all the consent orders relating to the Retained Facilities and listed on Schedule 2.3(a)(iv) (the “Assumed Consent Order Obligations”);
- (v) except as set forth in Section 2.3(b)(iv), any liabilities and obligations with respect to the Transferable Permits to the extent arising or accruing on or after the Closing Date;
- (vi) any liabilities and obligations in respect of any personal or bodily injury (including but not limited to any claims based on wrongful death and loss of consortium) or property (real or personal) damage claim relating to, resulting from, or arising out of the Assigned Assets, to the extent arising or accruing on or after the Closing Date;
- (vii) any liabilities and obligations, with respect to the periods that include the Closing Date, with respect to real or personal property rent, Taxes based on the ownership or use of property, utilities charges and similar charges that primarily relate to the Retained Facilities (collectively, the “Prorated Items”), to the extent such Prorated Items related to the period from and after the Closing Date including (A) personal property taxes, real estate and occupancy taxes, assessments and other charges, (B) rent and all other items payable by Assignors under any Contract, (C) any fees with respect to any Transferable Permit and (D) sewer rents and charges for water, telephone, electricity and other utilities, in each case calculated by multiplying the amount of any such Prorated Item by a fraction the numerator of which is the number of days in such period beginning on and after the Closing Date and the denominator of which is the number of days in such period;
- (viii) any liabilities and obligations in respect of Taxes (other than Prorated Items) attributable to the Retained Facilities arising or accruing during taxable periods (or portions thereof) beginning on or after the Closing Date;
- (ix) all liabilities and obligations of the Assignee with respect to the Retained Facilities under agreements with the Winning Bidder (other than those arising under the Asset Purchase and Sale Agreement); and
- (x) all liabilities and obligations retained by the Parties under the Asset Purchase and Sale Agreement relating to the Retained Facilities (other than Excluded Liabilities).

(b) Excluded Liabilities. Assignee shall not assume or be obligated to pay, perform or otherwise discharge the following liabilities or obligations (the “Excluded Liabilities”):

(i) any liabilities and obligations of Assignors primarily relating to any Excluded Assets;

(ii) any payment obligations of Assignors relating to the Retained Facilities under the Contracts for goods delivered or services rendered prior to the Closing Date;

(iii) any Environmental Liability arising out of or in connection with the transportation, storage, recycling, Release or threatened Release of any Hazardous Substance in any way arising from or associated with the Retained Facilities at or to any Off-Site location prior to the Closing Date;

(iv) any monetary fines (excluding (A) natural resource damages, (B) clean up or remediation costs, and (C) other costs of a similar nature) imposed by a Governmental Authority to the extent arising out of or relating to acts or omissions of Assignors in respect of the Retained Facilities prior to the Closing Date;

(v) any liabilities and obligations of the Assignors under any consent orders arising after January 1, 2000 relating to the Retained Facilities listed on Schedule 2.3(b)(v);

(vi) any liabilities and obligations in respect of any personal injury or property damage claim (other than any Environmental Liabilities which are Assumed Obligations pursuant to Section 2.3(a)(iii) above) relating to the Retained Facilities, to the extent arising out of or relating to acts or omissions of Assignors prior to the Closing Date;

(vii) any liabilities and obligations, with respect to periods prior to the Closing Date, for the Prorated Items, calculated as set forth in Section 2.3(a)(vii); and

(viii) any liabilities and obligations in respect of Taxes (other than Prorated Items) attributable to the Retained Facilities arising or accruing during taxable periods (or portions thereof) ending before the Closing Date.

(c) The Co-Tenants agree that following the Closing, notwithstanding the termination of the Operating Agreement at the Closing, each Co-Tenant shall continue to be severally responsible for, and bear its applicable share (determined in accordance with Article 4 and Section 6.6 of the Operating Agreement) of (i) all Excluded Liabilities, and (ii) any other costs, liabilities and obligations arising out of or relating to the ownership or operation of the Roseton Station and related assets (including the Retained Facilities) prior to the Closing Date, including any Retained Liabilities as defined in the Asset Purchase and Sale Agreement and including any indemnification obligation of the Co-Tenants under the Asset Purchase and Sale Agreement to the extent the same relates to the failure of the Co-Tenants to discharge or perform any liability not assumed by the Winning Bidder thereunder, except and to the extent such cost, liability or obligation is an Assumed Obligation (as defined in this Agreement).

Central Hudson agrees to assume and discharge all obligations of Con Edison under this Section 2.3(c) with respect to any cost, liability or obligation arising or asserted at any time after December 31, 2004.

#### Section 2.4 Third Party Consents.

(a) Notwithstanding Section 2.2(a)(ii), (iii) or (iv), to the extent that Assignors' rights under any Contract or warranty may not be assigned without the consent of another person, which consent has not been obtained, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful, and Assignors, at their expense, shall use their commercially reasonable efforts to obtain prior to the Closing any such required consents with respect to any Material Contracts or material warranties.

(b) The Parties agree that if any consent to an assignment of any Material Contract or material warranty shall not be obtained or if any attempted assignment would in Assignors' reasonable opinion be ineffective or would impair any rights and obligations of Assignee under such Material Contract or material warranty, as applicable, so that Assignee would not acquire the benefit of all such rights and obligations, Assignors, to the maximum extent permitted by law and such Material Contract or material warranty, as applicable, shall after the Closing appoint Assignee to be Assignors' representative and agent with respect to such Material Contract or material warranty, as applicable, and Assignors shall, to the maximum extent permitted by law and such Material Contract or material warranty, as applicable, enter into such reasonable arrangements with Assignee as are necessary to provide Assignee with the benefits and obligations of such Material Contract or material warranty, as applicable. Assignors and Assignee shall cooperate and shall each use their commercially reasonable efforts after the Closing to obtain an assignment of each such Material Contract or material warranty, as applicable, to Assignee.

ARTICLE III

Assignment Consideration; Tax Treatment

The Parties each hereby acknowledges and agrees that the sole consideration to be received by each Assignor for the assignment of its respective interest in the Assigned Assets to Assignee shall be the right of such Assignor to receive proceeds from the auction of the Roseton Station as provided for in the Roseton Joint Sale Agreement or the Roseton Auction Agreement, as may be applicable. Concurrently with the execution and delivery of this Agreement, each Party shall execute and deliver the Roseton Tax Agreement. Each Party hereby acknowledges and agrees that it will treat for tax purposes the transactions contemplated by this Agreement in accordance with the terms of the Roseton Tax Agreement.

ARTICLE IV

The Closing

Upon the terms and subject to the satisfaction of the conditions contained in Article VIII, the closing of the transfer of the Assigned Assets contemplated by this Agreement (the "Closing") will occur simultaneously with the closing of the transactions contemplated by the Asset Purchase and Sale Agreement, at the offices of Dickstein Shapiro Morin & Oshinsky LLP in New York, New York, or at such other place or time as the Parties may agree. The date and time at which the Closing actually occurs is hereinafter referred to as the "Closing Date".

ARTICLE V  
Representations and Warranties of Assignors

Each Assignor, severally and not jointly, represents and warrants to Assignee as follows (all such representations and warranties other than those contained in Sections 5.1, 5.2, 5.3 and 5.5, being made to the Knowledge of such Assignor, regardless of whether any such representation or warranty is expressly limited by “the Knowledge of such Assignor” or any similar limitation):

Section 5.1 Organization; Qualification. Such Assignor is a corporation duly incorporated, validly existing and in good standing under the laws of the State of New York and has all requisite corporate power and authority to own, lease and operate the Assigned Assets and to carry on the business of the Assigned Assets as currently conducted.

Section 5.2 Authority Relative to This Agreement. Such Assignor has all necessary corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements to which such Assignor is a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery by such Assignor of this Agreement and the Ancillary Agreements to which such Assignor is a party and the consummation by such Assignor of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors or Board of Trustees, as applicable, of such Assignor or by a committee thereof to whom such authority has been delegated and no other corporate proceedings on the part of such Assignor are necessary to authorize this Agreement or the Ancillary Agreements to which such Assignor is a party or the consummation of the transactions contemplated hereby or thereby. This Agreement and the Ancillary Agreements to which such Assignor is a party have been duly and validly executed and delivered by such Assignor and, assuming that this Agreement and the Ancillary Agreements to which such Assignor is a party constitute valid and binding agreements of Assignee and each other Assignor party thereto, subject to the receipt of the Assignor Required Regulatory Approvals and the Assignee Required Regulatory Approvals, constitute valid and binding agreements of such Assignor, enforceable against such Assignor in accordance with their respective terms.

Section 5.3 Consents and Approvals; No Violation.

(a) Subject to obtaining the Assignor Required Regulatory Approvals and the Assignee Required Regulatory Approvals, neither the execution and delivery by such Assignor of this Agreement or the Ancillary Agreements to which such Assignor is a party nor the assignment by such Assignor of the Assigned Assets

pursuant to this Agreement will (i) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-laws of such Assignor, (ii) except as set forth on Schedule 5.3(a), result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which such Assignor is a party or by which such Assignor, or any of the Assigned Assets, may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which would not, individually or in the aggregate, create a Material Adverse Effect, or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to such Assignor, or the Assigned Assets, except for such violations which would not, individually or in the aggregate, create a Material Adverse Effect.

(b) Except for (i) the filings by Assignee and Assignor required by the HSR Act and the expiration or earlier termination of all waiting periods under the HSR Act, and (ii) the Required Regulatory Approvals set forth on Schedule 5.3(b) attached hereto (collectively, the “Assignor Required Regulatory Approvals”), no declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by such Assignor of the transactions contemplated hereby or by the Ancillary Agreements to which such Assignor is a party, other than such declarations, filings, registrations, notices, authorizations, consents or approvals (A) which, if not obtained or made, would not individually or in the aggregate, create a Material Adverse Effect or (B) which relate to the Transferable Permits.

**Section 5.4 Title.** Except for Permitted Exceptions, such Assignor has good and marketable title to, and, on the Closing Date, will own free and clear of all Encumbrances, all personal property and real property included in the Assigned Assets.

**Section 5.5 Brokers.** No broker, finder or other person is entitled to any brokerage fees, commissions or finder’s fees in connection with the transaction contemplated hereby by reason of any action taken by such Assignor.

**Section 5.6 Disclaimers.** EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS ARTICLE V, THE ASSIGNED ASSETS ARE BEING TRANSFERRED “AS IS, WHERE IS”, AND SUCH ASSIGNOR IS NOT MAKING ANY OTHER REPRESENTATIONS OR WARRANTIES WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, CONCERNING SUCH ASSIGNED ASSETS (INCLUDING ANY RELATING TO LIABILITIES, OPERATIONS OF THE RETAINED FACILITIES,

CONDITION, VALUE OR QUALITY OF THE ASSIGNED ASSETS OR THE PROSPECTS (FINANCIAL OR OTHERWISE), RISKS OR OTHER INCIDENTS OF THE ASSIGNED ASSETS) OR WITH RESPECT TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS TO WHICH SUCH ASSIGNOR IS A PARTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. SUCH ASSIGNOR SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE ASSIGNED ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR THE APPLICABILITY OF ANY GOVERNMENTAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO ANY ENVIRONMENTAL LAWS, OR WHETHER SUCH ASSIGNOR POSSESSES SUFFICIENT REAL PROPERTY OR PERSONAL PROPERTY TO OPERATE THE ASSIGNED ASSETS. SUCH ASSIGNOR FURTHER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING THE ABSENCE OF HAZARDOUS SUBSTANCES OR LIABILITY OR POTENTIAL LIABILITY ARISING UNDER ENVIRONMENTAL LAWS WITH RESPECT TO THE ASSIGNED ASSETS, ALL OF WHICH ARE HEREBY EXPRESSLY WAIVED BY ASSIGNEE.

## ARTICLE VI

### Representations and Warranties of Assignee

Assignee represents and warrants to Assignors as follows:

Section 6.1 Organization. Assignee is a corporation duly incorporated, validly existing and in good standing under the laws of the State of New York and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as is now being conducted. Assignee is duly qualified or licensed to do business as a foreign corporation and is in good standing in the State of New York.

Section 6.2 Authority Relative to This Agreement. Assignee has all necessary corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Assignee of this Agreement and such Ancillary Agreements and the consummation by Assignee of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors of Assignee and no other corporate

proceedings on the part of Assignee are necessary to authorize this Agreement or such Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby. This Agreement and such Ancillary Agreements have been duly and validly executed and delivered by Assignee and, assuming that this Agreement and such Ancillary Agreements constitute valid and binding agreements of Assignors, subject to the receipt of the Assignee Required Regulatory Approvals and the Assignor Required Regulatory Approvals, this Agreement and the Ancillary Agreements constitute valid and binding agreements of Assignee, enforceable against Assignee in accordance with their respective terms.

**Section 6.3 Consents and Approvals; No Violation.**

(a) Subject to obtaining the Assignee Required Regulatory Approvals and the Assignor Required Regulatory Approvals, neither the execution and delivery by Assignee of this Agreement or the Ancillary Agreements to which it is a party nor the acquisition by Assignee of the Assigned Assets pursuant to this Agreement will (i) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-laws of Assignee, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement, lease or other instrument or obligation to which Assignee or any of its subsidiaries is a party or by which any of their respective assets may be bound or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Assignee, or any of its assets, except, in the case of clause (ii) and (iii), for such failures to obtain a necessary consent, defaults and violations which would not, individually or in the aggregate, have a Assignee Material Adverse Effect.

(b) Except for (i) the filings by Assignee and Assignor required by the HSR Act and the expiration or earlier termination of all waiting periods under the HSR Act, and (ii) the Required Regulatory Approvals set forth on Schedule 6.3(b) attached hereto (collectively, the "Assignee Required Regulatory Approvals"), no declaration, filing or registration with, or notice to, or authorization, consent or approval of any Governmental Authority is necessary for the consummation by Assignee of the transactions contemplated hereby or by the Ancillary Agreements, other than such declarations, filings, registrations, notices, authorizations, consents or approvals which relate to the Transferable Permits.

**Section 6.4 Brokers.** No broker, finder or other person is entitled to any brokerage fees, commissions or finder's fees in connection with the transaction contemplated hereby by reason of any action taken by Assignee, except Navigant Consulting, Inc., which is acting for and at the expense of Assignee.

ARTICLE VII

Covenants of the Parties

Section 7.1 Access to Information.

(a) Between the date of this Agreement and the Closing Date, Assignors will during ordinary business hours and upon reasonable notice (i) give Assignee and its representatives reasonable access to all books and records, constituting the Assigned Assets, and (ii) furnish Assignee upon request a copy of each material report, schedule or other document with respect to the Assigned Assets filed by Assignors with, or received by Assignors from, the PSC, FERC or any other Governmental Authority; provided, however, that (A) Assignors shall not be required to take any action which would constitute a waiver of any legal privilege, including the attorney-client privilege, the work product privilege and the self-critical investigation privilege and (B) Assignors need not supply Assignee with (1) any information or access which Assignors are under a legal obligation not to supply, (2) any information which Assignors have previously supplied to Assignee, or (3) any information which Assignee has in its possession.

(b) From and after the Closing Date, Assignee shall retain all Operating Records (whether in electronic form or otherwise) relating to the Assigned Assets on or prior to the Closing Date. Assignee also agrees that, from and after the Closing Date, each Assignor shall have the right, upon reasonable request to Assignee, to have access to, or receive from Assignee copies of, any Operating Records or other information in Assignee's possession relating to the Assigned Assets on or prior to the Closing Date and required by such Assignor in order to comply with applicable law. Such Assignor shall reimburse Assignee for its reasonable costs and expenses incurred in connection with the foregoing sentence. If the Assignee shall desire to dispose of any Operating Records or other information contemplated above, Assignee shall, prior to such disposition, give Assignors a reasonable opportunity to segregate and remove such records and information as they may select.

Section 7.2 Consents and Approvals; Transferable Permits.

(a) The Parties shall cooperate with each other and (i) prepare and file (or otherwise effect) as soon as practicable all applications, notices, petitions and filings with respect to and (ii) use their reasonable best efforts to obtain (A) the Assignor Required Regulatory Approvals and the Assignee Required Regulatory Approvals and (B) any other consents, approvals or authorizations of any other Governmental Authorities or third parties that are necessary to consummate the transactions contemplated by this Agreement or the Ancillary Agreements. Without

limiting the generality of the foregoing, (1) each Party agrees to, upon the other party's request, support such other Party's applications for regulatory approvals of the assignment and transfer of the Assigned Assets contemplated by this Agreement, and (2) the Parties agree to defend any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the Ancillary Agreements, or the consummation of the transactions contemplated hereby or thereby, including seeking to have any stay or temporary restraining order entered by any Governmental Authority vacated or reversed.

(b) Upon execution of this Agreement, Assignors shall commence the process of transferring to Assignee the Transferable Permits, including completing and filing applications and related documents with the appropriate Governmental Authorities. Assignors hereby reserve the right to modify, alter or amend any Transferable Permit or to refuse to correct violations or deficiencies in respect of any Transferable Permit as long as such modification, alteration, amendment or refusal would not, individually or in the aggregate, create a Material Adverse Effect. Assignors shall use their reasonable efforts to give notice to Assignee of any modification, alteration or amendment to any Transferable Permit.

(c) Assignors shall use their commercially reasonable efforts to cooperate with Assignee in the transfer of Transferable Permits to Assignee by Closing. If the transfer of any Transferable Permit cannot be completed by Closing, Assignee is hereby authorized, but not required, to act as Assignors' representative and agent in respect of such Transferable Permit and to do all things necessary for effecting transfer of such Transferable Permit as soon after the Closing as is practicable, with Assignors remaining the Transferable Permit "holder of record" in such case until such transfer is completed. In the case of each such Transferable Permit, Assignors shall, to the maximum extent permitted by law and such Transferable Permit, enter into such reasonable arrangements with Assignee as are necessary to provide Assignee with the benefits and obligations of such Transferable Permit. If Assignee is able to complete the transfer of any Transferable Permit after Closing without the occurrence of any event that, if such event had occurred between the execution of this Agreement and the Closing, would have created, individually or in the aggregate, a Material Adverse Effect, Assignors may substitute Assignee in their place and stead as the Party responsible for completing the transfer of such Transferable Permit.

### Section 7.3 Further Assurances.

(a) Subject to the terms and conditions of this Agreement, each of the Parties will use its reasonable best efforts to take, or cause to be taken, as soon as possible, all action, and to do, or cause to be done, as soon as possible, all things

necessary, proper or advisable under applicable laws and regulations to consummate the assignment of the Assigned Assets pursuant to this Agreement as soon as possible, including using its reasonable best efforts to ensure satisfaction of the conditions precedent to each Party's obligations hereunder. Prior to Assignee's submission of any application with a Governmental Authority for a regulatory approval, Assignee shall submit such application to Assignors for review and comment and Assignee shall incorporate into such application any revisions reasonably requested by Assignors. None of the Parties will, without prior written consent of the other Parties, take or fail to take, or permit their respective Affiliates to take or fail to take, any action, which would reasonably be expected to prevent or materially impede, interfere with or delay the consummation, as soon as possible, of the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) From time to time after the date hereof, without further consideration and at its own expense, (i) each Assignor will execute and deliver such instruments of assignment or conveyance as Assignee may reasonably request to more effectively vest in Assignee such Assignor's title to the Assigned Assets (subject to Permitted Exceptions and the other terms of this Agreement), and (ii) Assignee will execute and deliver such instruments of assumption as each Assignor may reasonably request in order to more effectively consummate the transfer of the Assigned Assets and the assumption of the Assumed Obligations pursuant to this Agreement.

#### Section 7.4 Tax Matters.

(a) All transfer and sales taxes (including (i) sales tax on the sale or purchase of the Assigned Assets imposed by Governmental Authorities, and (ii) transfer tax on the conveyance of interest in real property imposed by Governmental Authorities) incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by Assignee. Assignee shall prepare and file in a timely manner any and all Tax Returns or other documentation relating to such taxes; provided, however, that, to the extent required by applicable law, Assignors will join in the execution of any such Tax Returns or other documentation relating to any such taxes. Assignee shall provide to Assignors copies of each Tax Return described in the proviso in the preceding sentence at least thirty (30) days prior to the date such Tax Return is required to be filed.

(b) Each Party shall provide the other Parties with such assistance as may reasonably be requested by the other Parties in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to liability for Taxes, and each Party shall retain and provide the other Parties with any records or information which may

be relevant to such return, audit, examination or proceedings for as long as any Party is subject to audit or examination for the relevant Tax Return or tax period. Any information obtained pursuant to this Section 7.4(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other instrument relating to Taxes shall be kept confidential by the parties hereto except to the extent required to be disclosed in connection with any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to liability for Taxes.

(c) If Assignee or any Assignor or Assignors receives a refund of Taxes in respect of the Assigned Assets for a taxable period including the Closing Date, Assignee shall pay to such Assignor or Assignors the portion of any such refund attributable to the portion of such taxable period prior to the Closing Date, and any Assignor or Assignors shall pay to Assignee the portion of any such refund attributable to the portion of such taxable period on and after the Closing Date.

Section 7.5 Bulk Sales or Transfer Laws. Assignee acknowledges that Assignors will not comply with the provisions of any bulk sales or transfer laws of any jurisdiction in connection with the transactions contemplated by this Agreement. Assignee hereby waives compliance by Assignors with the provisions of the bulk sales or transfer laws of all applicable jurisdictions.

## ARTICLE VIII

### Conditions

Section 8.1 Conditions Precedent to Each Party's Obligation to Effect the Assignment and Transfer. The respective obligations of each Party to effect the assignment and assumption of the Assigned Assets shall be subject to the satisfaction or waiver by such Party on or prior to the Closing Date of the following conditions:

(a) all Assignor Required Regulatory Approvals and Assignee Required Regulatory Approvals shall have been obtained by Assignors and Assignee, as the case may be, and all conditions to effectiveness prescribed therein or otherwise by law, regulation or order shall have been satisfied by such Parties;

(b) no preliminary or permanent injunction or other order or decree by any Federal or state court of competent jurisdiction and no statute or regulation enacted by any Governmental Authority prohibiting the consummation of the assignment and transfer of the Assigned Assets (collectively, "Restraints") shall be in effect; and

(c) the simultaneous closing of the transactions contemplated by the Asset Purchase and Sale Agreement.

Section 8.2 Conditions Precedent to Obligation of Assignee to Effect the Assignment and Transfer. The obligation of Assignee to effect the assignment and transfer of the Assigned Assets contemplated by this Agreement shall be subject to the satisfaction by Assignors or waiver by Assignee on or prior to the Closing Date of the following additional conditions:

(a) Each Assignor shall have performed in all material respects the covenants and agreements contained in this Agreement which are required to be performed by such Assignor on or prior to the Closing Date;

(b) the representations and warranties of each Assignor which are set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein) would not, individually or in the aggregate, create a Material Adverse Effect;

(c) Assignee shall have received a certificate from an authorized officer of each Assignor, dated the Closing Date, to the effect that, to the best of such officer’s knowledge, the conditions set forth in Section 8.2(a) and (b) have been satisfied with respect to such Assignor;

(d) Assignee shall have received (i) the deeds of conveyance substantially in the form of Exhibit A (the “Deeds”), and (ii) an opinion from each of (A) the General Counsel of Con Edison and (B) the General Counsel of Niagara Mohawk, or in each case other counsel reasonably acceptable to Assignee, dated the Closing Date, reasonably satisfactory in form and substance to Assignee covering the matters set forth in Exhibit B; and

(e) Each Assignor shall have delivered to Assignee all such other instruments as shall, in the reasonable opinion of Assignee and its counsel, be (i) necessary to transfer to Assignee the Assigned Assets in accordance with this Agreement or (ii) otherwise required to consummate the transactions contemplated by this Agreement.

Section 8.3 Conditions Precedent to Obligation of Assignors to Effect the Assignment and Transfer. The obligation of Assignors to effect the assignment and transfer of the Assigned Assets contemplated by this Agreement shall be subject to the satisfaction by Assignee or waiver by Assignors on or prior to the Closing Date of the following additional conditions:

(a) Assignee shall have performed in all material respects the covenants and agreements contained in this Agreement which are required to be performed on or prior to the Closing Date;

(b) the representations and warranties of Assignee which are set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to “materiality” or “Assignee Material Adverse Effect” set forth therein) would not, individually or in the aggregate, create a Assignee Material Adverse Effect;

(c) Assignors shall have received a certificate from an authorized officer of Assignee, dated the Closing Date, to the effect that, to the best of such officer’s knowledge, the conditions set forth in Section 8.3(a) and (b) have been satisfied;

(d) Assignors shall have received an opinion from Dickstein Shapiro Morin & Oshinsky LLP and Gould & Wilkie LLP, both counsel to Assignee or other counsel reasonably acceptable to Assignors, dated the Closing Date, and reasonably satisfactory in form and substance to Assignors covering the matters set forth in Exhibit C hereto;

(e) Assignee shall have delivered to Assignors all such other instruments as shall, in the reasonable opinion of Assignors and their respective counsel, be (i) necessary for Assignee to accept the Assigned Assets and to assume the Assumed Obligations in accordance with this Agreement or (ii) otherwise required to consummate the transactions contemplated by the Agreement.

## ARTICLE IX

### Indemnification and Dispute Resolution

#### Section 9.1 Indemnification.

(a) Each Assignor, severally and not jointly, shall indemnify and hold harmless Assignee and its Affiliates and their respective directors, officers, employees and agents (collectively with Assignee and its Affiliates, the “Assignee Indemnitees”) from and against any and all claims, demands or suits by any person, and all losses, liabilities, damages, obligations, payments, costs and expenses (including reasonable legal fees and expenses and including costs and expenses incurred in connection with investigations and settlement proceedings) (each, an “Indemnifiable Loss”), as incurred, asserted against or suffered by any Assignee Indemnitee relating to, resulting from or arising out of:

(i) any breach by such Assignor of any covenant or agreement of such Assignor contained in this Agreement or, prior to their expiration in accordance with Section 11.3, the representations and warranties contained in Sections 5.1, 5.2, 5.3 and 5.5 hereof;

(ii) the Excluded Liabilities (excluding any amounts for which Assignee is liable pursuant to Section 2.3(c) hereof) and any amounts for which Assignors are liable pursuant to Section 2.3(c) hereof;

(iii) noncompliance by such Assignor with any applicable bulk sales or transfer laws; or

(iv) any breach by such Assignor of any Ancillary Agreement to which such Assignor is a party.

(b) Assignee will indemnify and hold harmless Assignors and their Affiliates and their respective directors, officers, trustees, employees and agents (collectively with Assignors and its Affiliates, the “Assignor Indemnitees”) from and against any and all Indemnifiable Losses, as incurred, asserted against or suffered by any Assignor Indemnitee relating to, resulting from or arising out of:

(i) any breach by Assignee of any covenant or agreement of Assignee contained in this Agreement or, prior to their expiration in accordance with Section 11.3, the representations and warranties contained in Article VI hereof;

(ii) the Assumed Obligations and any amounts for which Assignee is liable pursuant to Section 2.3(c) hereof;

(iii) any obligation resulting from any action or inaction of Assignee (A) under any Contract or warranty pursuant to Section 2.4(b) (whether acting as principal or representative and agent for any Assignor or Assignors

pursuant to Section 2.4(b) or otherwise) or (B) pursuant to any Transferable Permit in respect of which any Assignor or Assignors remain the holder of record after the Closing Date pursuant to Section 7.2(c);

(iv) any transfer, sales or excise tax obligations imposed on Assignors for which Assignee is responsible under the terms of this Agreement or any Ancillary Agreement; or

(v) any breach by Assignee of any Ancillary Agreement.

(c) The amount of any Indemnifiable Loss shall be reduced to the extent that the relevant Assignee Indemnitee or Assignor Indemnitee (each, an “Indemnitee”) receives any insurance proceeds with respect to an Indemnifiable Loss and shall be (i) increased to take account of any Tax Cost incurred by the Indemnitee arising from the receipt of indemnity payments hereunder (grossed up for such increase) and (ii) reduced to take account of any Tax Benefit realized by the Indemnitee arising from the incurrence or payment of any such Indemnifiable Loss. If the amount of any Indemnifiable Loss, at any time subsequent to the making of an indemnity payment in respect thereof, is reduced by recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other person, the amount of such reduction, less any costs, expenses or premiums incurred in connection therewith, will promptly be repaid by the Indemnitee to the Party required to provide indemnification hereunder (the “Indemnifying Party”) with respect to such Indemnifiable Loss.

(d) To the fullest extent permitted by law, no Party nor any Assignee Indemnitee or any Assignor Indemnitee shall be liable to any other Party or any other Assignee Indemnitee or Assignor Indemnitee for any claims, demands or suits for consequential, incidental, special, exemplary, punitive, indirect or multiple damages connected with or resulting from any breach after the Closing Date of this Agreement (other than breach of this Article IX) or the Ancillary Agreements (except to the extent expressly provided to the contrary in any Ancillary Agreement), or any actions undertaken in connection with or related hereto or thereto, including any such damages which are based upon breach of contract, tort (including negligence and misrepresentation), breach of warranty, strict liability, statute, operation of law or any other theory of recovery.

(e) The rights and remedies of Assignors and Assignee under this Article IX are, solely as between Assignors and Assignee, exclusive and in lieu of any and all other rights and remedies which Assignors and Assignee may have under this Agreement, the Ancillary Agreements (except to the extent expressly provided to the

contrary in any Ancillary Agreement) or otherwise for monetary relief with respect to (i) any breach of, or failure to perform, any covenant or agreement set forth in this Agreement or the Ancillary Agreements by any Assignor or Assignee, (ii) any breach of any representation or warranty by any Assignor or Assignee, (iii) the Assumed Obligations or the Excluded Liabilities, (iv) noncompliance by Assignors with any bulk sales or transfer laws and (v) any obligation in respect of Section 2.4 or Section 7.2. Each Party agrees that the previous sentence shall not limit or otherwise affect any non-monetary right or remedy which a Party may have under this Agreement or the Ancillary Agreements or otherwise limit or affect any Party's right to seek equitable relief, including the remedy of specific performance.

(f) Assignee and Assignors agree that, notwithstanding Section 9.1(e), each Party shall retain, subject to the other provisions of this Agreement, including Sections 9.1(d) and 11.3, all remedies at law or in equity with respect to (i) fraud or willful or intentional breaches of this Agreement or the Ancillary Agreements and (ii) gross negligence or willful or wanton acts or omissions to act of any Indemnitee (or any contractor or subcontractor thereof) on or after the Closing Date.

#### Section 9.2 Third Party Claims Procedures.

(a) If any Indemnitee receives notice of the assertion of any claim or of the commencement of any claim, action, or proceeding made or brought by any person who is not a Party or an Affiliate of a Party (a "Third Party Claim") with respect to which indemnification is to be sought from an Indemnifying Party, the Indemnitee will give such Indemnifying Party reasonably prompt written notice thereof, but in any event not later than twenty (20) Business Days after the Indemnitee's receipt of notice of such Third Party Claim; provided, however, that a failure to give timely notice will not affect the rights or obligations of any Indemnitee except if, and only to the extent that, as a result of such failure, the Indemnifying Party was actually prejudiced. Such notice shall describe the nature of the Third Party Claim in reasonable detail and will indicate the estimated amount, if practicable, of the Indemnifiable Loss that has been or may be sustained by the Indemnitee.

(b) If a Third Party Claim is made against an Indemnitee, the Indemnifying Party will be entitled to participate in the defense thereof and, if it so chooses, to assume the defense thereof with counsel selected by the Indemnifying Party; provided, however, that such counsel is not reasonably objected to by the Indemnitee; and provided further that the Indemnifying Party first admits in writing its liability to the Indemnitee with respect to all material elements of such claim. Should the Indemnifying Party so elect to assume the defense of a Third Party Claim, the Indemnifying Party will not be liable to the Indemnitee for any legal

expenses subsequently incurred by the Indemnitee in connection with the defense thereof. If the Indemnifying Party elects to assume the defense of a Third Party Claim, the Indemnitee will (i) cooperate in all reasonable respects with the Indemnifying Party in connection with such defense, (ii) not admit any liability with respect to, or settle, compromise or discharge, any Third Party Claim without the Indemnifying Party's prior written consent and (iii) agree to any settlement, compromise or discharge of a Third Party Claim which the Indemnifying Party may recommend and which by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such Third Party Claim and releases the Indemnitee completely in connection with such Third Party Claim. In the event the Indemnifying Party shall assume the defense of any Third Party Claim, the Indemnitee shall be entitled to participate in (but not control) such defense with its own counsel at its own expense. If the Indemnifying Party does not assume the defense of any such Third Party Claim, the Indemnitee may defend the same in such manner as it may deem appropriate, including settling such claim or litigation after giving notice to the Indemnifying Party of the terms of the proposed settlement and the Indemnifying Party will promptly reimburse the Indemnitee upon written request. Anything contained in this Agreement to the contrary notwithstanding, no Indemnifying Party shall be entitled to assume the defense of any Third Party Claim if such Third Party Claim seeks an order, injunction or other equitable relief or relief for other than monetary damages against the Indemnitee which, if successful, would materially adversely affect the business of the Indemnitee.

## ARTICLE X

### Termination

#### Section 10.1 Termination.

- (a) This Agreement shall terminate upon the termination of the Asset Purchase and Sale Agreement.
- (b) This Agreement may be terminated at any time prior to the Closing by an instrument in writing signed on behalf of each of the Parties.
- (c) This Agreement may be terminated by any Party if any Restraint having any of the effects set forth in Section 8.1(b) shall be in effect and shall have become final and nonappealable; ~~provided~~, ~~however~~, that the Party seeking to terminate this Agreement pursuant to this Section 10.1(c) shall have used its reasonable best efforts to prevent the entry of and to remove such Restraint.

ARTICLE XI

Miscellaneous Provisions

Section 11.1 Expenses. Except to the extent specifically provided herein or in the Roseton Auction Agreement or the Roseton Joint Sale Agreement, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such costs and expenses, whether or not the transactions contemplated hereby are consummated.

Section 11.2 Amendment and Modification; Extension; Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing signed on behalf of each of the Parties. The Parties may (i) extend the time for the performance of any of the obligations or other acts of a Party, (ii) waive any inaccuracies in the representations and warranties of a Party contained in this Agreement or (iii) waive compliance by a Party with any of the agreements or conditions contained in this Agreement. Any agreement on the part of the Parties to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of all Parties. The failure of a Party to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

Section 11.3 No Survival of Representations or Warranties. Each and every representation and warranty contained in this Agreement, other than the representations and warranties contained in Sections 5.1, 5.2, 5.3 and 5.5 and Article VI (which representations and warranties shall survive for 18 months from the Closing Date), shall expire with, and be terminated and extinguished by the Closing and no such representation or warranty shall survive the Closing Date. From and after the Closing Date, none of Assignors, Assignee or any officer, director, trustee or Affiliate of any of them shall have any liability whatsoever with respect to any such representation or warranty. The expiration of the representations and warranties contained in Sections 5.1, 5.2, 5.3 and 5.5 and Article VI shall not affect the Parties' obligations under Article IX if the Indemnitee provided the Indemnifying Party with proper notice of the claim or event for which indemnification is sought prior to such expiration. All agreements and covenants of the Parties herein shall survive the Closing.

Section 11.4 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (as of the time of delivery or, in the case of a telecopied communication, of confirmation) if delivered personally, telecopied (which is confirmed) or sent by overnight courier (providing proof of delivery) to the Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

EXECUTION COPY

if to Central Hudson, to:

Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, NY 12601-4879  
Telecopier: (914) 486-5782  
Attention: Ronald P. Brand, Senior Vice President

with a copy to:

Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, DC 20037  
Telecopier: (202) 887-0689  
Attention: Kenneth M. Simon, Esq.

If to Con Edison to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, NY 10003  
Telecopier: (212) 677-0601  
Attention: General Counsel

with a copy to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, New York 10003  
Telecopier: (212) 529-7182  
Attention: Vice President, Energy Management

If to Niagara Mohawk, to:

Niagara Mohawk Power Corporation  
300 Erie Boulevard West  
Syracuse, NY 13202  
Telecopier: (315) 428-6407  
Attention: Gregory Barone, Esq.

with a copy to:

Sullivan & Cromwell

1701 Pennsylvania Avenue, N.W.  
Washington, DC 20006  
Telecopier: (202) 293-6330  
Attention: Janet T. Geldzahler, Esq.

Section 11.5 Assignment; No Third Party Beneficiaries.

(a) This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any Party, including by operation of law, without the prior written consent of the other Parties, except (i) in the case of any Assignor (A) to an Affiliate of such Assignor or a third party in connection with the transfer of any of the Excluded Assets to such Affiliate or third party, or (B) to a lending institution or trustee in connection with a pledge or granting of a security interest in all or any part of any of the Excluded Assets or this Agreement and (ii) in the case of Assignee (A) prior to the Closing, to a wholly-owned subsidiary and such assignment is for all of Assignee's rights, interests and obligations hereunder, (B) to an Affiliate of Assignee in connection with the transfer of the Assigned Assets to such Affiliate and (C) to a lending institution or trustee in connection with a pledge or granting of a security interest in the Assigned Assets and this Agreement; provided, however, that no assignment or transfer of rights or obligations by any Party shall relieve it from the full liabilities and the full financial responsibility, as provided for under this Agreement, unless and until the transferee or assignee shall agree in writing to assume such obligations and duties and the other Party has consented in writing to such assumption.

(b) Nothing in this Agreement is intended to confer upon any other person except the Parties any rights or remedies hereunder or shall create any third party beneficiary rights in any person.

Section 11.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

Section 11.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 11.8 Interpretation. When a reference is made in this Agreement to an Article, Section, Schedule or Exhibit, such reference shall be to an Article or

Section of, or Schedule or Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” or equivalent words. The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in the Ancillary Agreements and any certificate or other document made or delivered pursuant hereto or thereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument, statute, regulation, rule or order defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument, statute, regulation, rule or order as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes, regulations, rules or orders) by succession of comparable successor statutes, regulations, rules or orders and references to all attachments thereto and instruments incorporated therein. References to a person are also to its permitted successors and assigns. Each Party acknowledges that it has been represented by counsel in connection with the review and execution of this Agreement and, accordingly, there shall be no presumption that this Agreement or any provision hereof be construed against the Party that drafted this Agreement.

#### Section 11.9 Jurisdiction and Enforcement.

(a) Each of the Parties irrevocably submits to the exclusive jurisdiction of (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of the Parties agrees to commence any action, suit or proceeding relating hereto either in the United States District Court for the Southern District of New York or, if such suit, action or proceeding may not be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, Dutchess County. Each of the Parties further agrees that service of process, summons, notice or document by hand delivery or U.S. registered mail at the address specified for such Party in Section 11.4 (or such other address specified by such Party from time to time pursuant to Section 11.4) shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each of the Parties irrevocably and unconditionally waives any

objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in (i) the Supreme Court of the State of New York, Dutchess County and (ii) the United States District Court for the Southern District of New York, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement or any Ancillary Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or any Ancillary Agreement and to enforce specifically the terms and provision of this Agreement or any Ancillary Agreement, this being in addition to any other remedy to which they are entitled at law or in equity.

Section 11.10 Entire Agreement. This Agreement and the Ancillary Agreements including the Appendices, Exhibits, Schedules, documents, certificates and instruments referred to herein or therein and other contracts, agreements and instruments contemplated hereby or thereby, embody the entire agreement and understanding of the Assignors, on the one hand, and Assignee, on the other, in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein or therein. This Agreement and the Ancillary Agreements supersede all prior agreements and understandings between Assignors, on the one hand, and Assignee, on the other, with respect to the transactions contemplated by this Agreement.

Section 11.11 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

Section 11.12 Conflicts. Except as expressly otherwise provided herein or therein, in the event of any conflict or inconsistency between the terms of

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this Agreement and the terms of any Ancillary Agreement, the terms of this Agreement shall prevail.

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EXECUTION COPY

IN WITNESS WHEREOF, the Parties have caused this Retained Facilities Assignment and Assumption Agreement to be signed by their respective duly authorized officers as of the date first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION, AS  
ASSIGNEE

By: Ronald P. Brand  
Name: Ronald P. Brand  
Title: Senior Vice President

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC., AS  
ASSIGNOR

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER  
CORPORATION, AS ASSIGNOR

By: \_\_\_\_\_  
Name:  
Title:

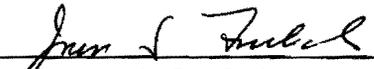
EXECUTION COPY

IN WITNESS WHEREOF, the Parties have caused this Retained Facilities Assignment and Assumption Agreement to be signed by their respective duly authorized officers as of the date first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION, AS  
ASSIGNEE

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC.,  
AS ASSIGNOR

By:   
Name: Joan S. Freilich  
Title: EVP & Chief Financial Officer

NIAGARA MOHAWK POWER  
CORPORATION, AS ASSIGNOR

By: \_\_\_\_\_  
Name:  
Title:

EXECUTION COPY

IN WITNESS WHEREOF, the Parties have caused this Retained Facilities Assignment and Assumption Agreement to be signed by their respective duly authorized officers as of the date first above written.

CENTRAL HUDSON GAS &  
ELECTRIC CORPORATION, AS  
ASSIGNEE

By: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC., AS  
ASSIGNOR

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER  
CORPORATION, AS ASSIGNOR

By:   
Name: Thomas H. Baron  
Title: Sr. Vice President-Field Operations

EXECUTION COPY

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

On this 15th day of SEPT. 2000, before me personally appeared Ronald P. Banz, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the corporation upon behalf of which the individual acted, executed the instrument.

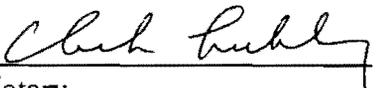
Sharon E. Smith  
Notary

SHARRON E. SMITH  
Notary Public, State of New York  
Qualified in Dutchess County  
Commission Expires May 26, 2001

EXECUTION COPY

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this 19th day of September 2000, before me personally appeared Joan S. Freilich, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the corporation upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary

CHANOCH LUBLING  
NOTARY PUBLIC, State of New York  
No. 24-4748879  
Qualified in Kings County  
Commission Expires October 31, 2001

EXECUTION COPY

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

On this 14<sup>th</sup> day of September 2000, before me personally appeared Thomas H. Baron, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the corporation upon behalf of which the individual acted, executed the instrument.

Carol A. Hay  
Notary

CAROL A. HAY  
Notary Public, State of New York  
No. 01HA5038055  
Qualified in Onondaga County  
Commission Expires January 17, 2001

APPENDIX A  
DEFINITIONS

As used in this Agreement, the following terms have the meanings set forth below:

“Affiliate” shall have the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended.

“Agreement” shall have the meaning set forth in the Preamble.

“Ancillary Agreements” means the Deeds, the Roseton Tax Agreement and any other agreement to which Assignee and any Assignor are party and which is expressly identified by its terms as an Ancillary Agreement hereunder.

“Asset Purchase and Sale Agreement” shall have the meaning set forth in Recitals.

“Assignee” shall have the meaning set forth in the Preamble.

“Assigned Assets” shall have the meaning set forth in Section 2.2(a).

“Assignee Indemnitees” shall have the meaning set forth in Section 9.1(a).

“Assignee Material Adverse Effect” means any change or event which would have a material adverse effect on the ability of Assignee to consummate the transactions contemplated by, and discharge its obligations under, the Agreement and the Ancillary Agreements.

“Assignee Real Estate” shall have the meaning set forth in Section 2.2(a)(i).

“Assignee Required Regulatory Approvals” shall have the meaning set forth in Section 6.3(b).

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“Assignor” and “Assignors” shall have the meanings set forth in the Preamble.

“Assignor Indemnitees” shall have the meaning set forth in Section 9.1(b).

“Assignor Real Estate” means all real property and leaseholds or other interests in real property of any Assignor or Assignors, other than Assignee Real Estate.

“Assignor Required Regulatory Approvals” shall have the meaning set forth in Section 5.3(b).

“Assumed Consent Order Obligations” shall have the meaning set forth in Section 2.3(a)(iv).

“Assumed Obligations” shall have the meaning set forth in Section 2.3(a).

“Business Day” means any day other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in New York City, New York are authorized or required by law or other action of a Governmental Authority to close.

“Central Hudson” shall have the meaning set forth in the Preamble.

“Central Hudson Interest” shall have the meaning set forth in the Recitals.

“Closing” shall have the meaning set forth in Article IV.

“Closing Date” shall have the meaning set forth in Article IV.

“Co-Tenancy” shall have the meaning set forth in Section 1.2.

“Code” means the Internal Revenue Code of 1986, as amended.

“Con Edison” shall have the meaning set forth in the Preamble.

“Con Edison Interest” shall have the meaning set forth in the Recitals.

“Contracts” shall have the meaning set forth in Section 2.2(a)(iv).

“Deeds” shall have the meaning set forth in Section 8.2(d)(i).

“Encumbrances” means any mortgages, pledges, liens, security interests, conditional and installment sale agreements, activity and use limitations, exceptions, conservation easements, other easements, rights-of-way, deed restrictions, encumbrances and charges of any kind.

“Environmental Laws” means all former, current and future Federal, state, local and foreign laws (including common law), treaties, regulations, rules, ordinances, codes, decrees, judgments, directives or orders (including consent orders) and Environmental Permits, in each case, relating to pollution or protection of the environment or natural resources, including laws relating to Releases or threatened Releases, or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, arrangement for disposal, transport, recycling or handling, of Hazardous Substances.

“Environmental Liability” means all liabilities, obligations, damages, losses, claims, actions, suits, judgments, orders, fines, penalties, fees, expenses and costs, including: (i) remediation costs, engineering costs, environmental consultant fees, laboratory fees, permitting fees, investigation costs and defense costs and attorneys’ fees and expenses; (ii) any claims, demands and causes of action relating to or resulting from any personal or bodily injury (including but not limited to wrongful death, pain, suffering and loss of consortium), property damage (real or personal) (including but not limited to nuisance, trespass and diminution of value) or natural resource damage; and (iii) any penalties, fines or costs of any kind associated in any way with the failure to comply with any Environmental Law.

“Environmental Permits” means the permits, licenses, consents, approvals and other governmental authorizations with respect to Environmental Laws relating primarily to the operations of the Retained Facilities.

“Excluded Assets” shall have the meaning set forth in Section 2.2(b).

“Excluded Liabilities” shall have the meaning set forth in Section 2.3(b).

“FERC” means the Federal Energy Regulatory Commission.

“Filed Assignor SEC Documents” means, in the case of any Assignor, the reports, schedules, forms, statements and other documents filed by such Assignor with the Securities and Exchange Commission, and publicly available prior to the date of the Agreement.

“GAAP” means the United States generally accepted accounting principles.

“Governmental Authority” means any court, administrative or regulatory agency or commission or other governmental entity or instrumentality, domestic, foreign or supranational or any department thereof.

“Hazardous Substances” means (i) any petrochemical or petroleum products, crude oil or any fraction thereof, ash, radioactive materials, radon gas, asbestos in any form or concentration, urea formaldehyde foam insulation or polychlorinated biphenyls in any concentration, (ii) any chemicals, materials, substances or wastes defined as, included in, or that are alleged or determined by any person or Governmental Authority to be included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “PCBs,” “contaminants,” “asbestos” or “pollutants” or similar term in any Environmental Law, (iii) any other chemical, material, substance or waste which is prohibited, limited or regulated by any Environmental Law, or (iv) any noise, electromagnetic radiation, and any other substance or energy which causes or is alleged to cause any Environmental Liability.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“Income Tax” means any Federal, state, local or foreign Tax or surtax (i) based upon, measured by or calculated with respect to income, profits or receipts (including the New York State Gross Receipts Tax (including the excess dividends tax), any and all municipal gross receipt Taxes, capital gains Taxes and minimum Taxes) or (ii) based upon, measured by or calculated with respect to multiple bases (including corporate franchise Taxes) if one or more of the bases on which such Tax may be based, measured by or calculated with respect to, is described in clause (i), in each case, together with any interest, penalties, or additions to such Tax.

“Indemnifiable Loss” shall have the meaning set forth in Section 9.1(a).

“Indemnifying Party” shall have the meaning set forth in Section 9.1(c).

“Indemnitee” shall have the meaning set forth in Section 9.1(c).

“Knowledge” means the actual knowledge (without independent inquiry) of the senior officers of the specified person, which senior officers are charged with the responsibility for the particular function as of the date of the Agreement, or with respect to any certificate delivered pursuant to the Agreement, the date of delivery of such certificate.

“Material Adverse Effect” means any change, or effect on the Assigned Assets, that, is materially adverse to the business, operations or condition (financial or otherwise), of the Assigned Assets, taken as a whole, other than (i) any change or effect resulting from changes in the international, national, regional or local wholesale or retail energy, capacity or ancillary services electric power markets, (ii) any change or effect resulting from changes in the international, national, regional or local markets for fuel, (iii) any change or effect resulting from changes in the national, regional or local electric transmission systems, (iv) any change or effect resulting from any bid cap, price limitation, market power mitigation measure, or other regulatory or legislative measure in respect of transmission services, rights or access or the wholesale or retail energy, capacity or ancillary services markets adopted or approved (or failed to be adopted or approved) by FERC, the PSC or any other Governmental Authority or proposed (or failed to be adopted or proposed) by any person, (v) any change or effect resulting from any regulation, rule, procedure or order adopted or proposed by or with respect to, or related to, the NYISO, (vi) any change or effect resulting from any action or measure taken or adopted, or proposed to be taken or adopted, by any local, state, regional, national or international reliability organization, (vii) any changes in law, or any judgments, orders or decrees that apply generally to similarly situated persons, and (viii) any materially adverse change in or effect on the Assigned Assets which is cured by Assignors before the Closing Date.

“Material Contracts” means those contracts which are listed on Schedule 2.2(a)(iv).

“NYISO” means (i) the New York Independent System Operator and (ii) if the New York Independent System Operator is no longer the independent system operator for the bulk power transmission system, then any successor thereto

performing similar functions in the Mid-Hudson Region of the State of New York, including any regional transmission organization, independent system operator, transco, and any other independent system administrator that possesses operational control over the bulk power transmission system.

“Niagara Mohawk” shall have the meaning set forth in the Preamble.

“Niagara Mohawk Interest” shall have the meaning set forth in the Recitals.

“Off-Site” means any location at which the Assignors prior to the Closing Date disposed or arranged for the disposal of Hazardous Substances in the form of solid waste, provided that “Off-Site” shall not include the Assigned Assets or any location to or under which Hazardous Substances at any time disposed of, present or Released on, at, under or from the Assigned Assets have migrated or may migrate in the future.

“Operating Records” shall have the meaning set forth in Section 2.2(a)(vi).

“Ownership Interest” shall have the meaning set forth in the Recitals.

“PSC” means the New York State Public Service Commission.

“Party” shall have the meaning set forth in the Preamble.

“Permits” means the permits, licenses, consents, approvals and other governmental authorizations (other than with respect to Environmental Laws) relating primarily to the operations of the Retained Facilities.

“Permitted Exceptions” means (i) all exceptions, restrictions, easements, charges, rights-of-way and monetary and nonmonetary encumbrances which are set forth in any Permits or Environmental Permits, (ii) statutory liens for current taxes or assessments not yet due or delinquent or the validity of which is being contested in good faith by appropriate proceedings, (iii) mechanics’, carriers’, workers’, repairers’ and other similar liens arising or incurred in the ordinary course of business relating to obligations as to which there is no default on the part of Assignors or the validity of which are being contested in good faith by appropriate proceedings, (iv) purchase money security interests in respect of personal property

arising or incurred in the ordinary course of business, (v) zoning, entitlement, conservation restriction and other land use and environmental regulations by Governmental Authorities, (v) all matters or facts that would be disclosed by an accurate survey and physical inspection of the Assignee Real Estate, (vi) Encumbrances, easements or other restrictions created pursuant to or contemplated by any Ancillary Agreement, (vii) Encumbrances of record (other than Encumbrances securing Assignors' indebtedness for borrowed money other than those covered by clause (ix) below) or Encumbrances otherwise disclosed to Assignee in the Agreement or the Ancillary Agreements with respect thereto, (viii) restrictions and regulations imposed by the NYISO, any Governmental Authority or any local, state, regional, national or international reliability council, (ix) any Encumbrances that are released or otherwise terminated at or prior to Closing, and (x) such other Encumbrances or imperfections in or failure of title which would not, individually or in the aggregate, reasonably be expected to materially impair the continued use and operation of the Assigned Assets as currently conducted and do not create a Material Adverse Effect.

“person” means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization or Governmental Authority.

“Prorated Items” shall have the meaning set forth in Section 2.3(a)(vii).

“Release” means any release, spill, emission, emanation, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture.

“Required Regulatory Approvals” means with respect to a Party, any consent or approval of, filing with, or notice to, any Governmental Authority that is necessary for the execution and delivery of the Agreement and the Ancillary Agreements by such Party or the consummation thereby of the transactions contemplated hereby.

“Restraints” shall have the meaning set forth in Section 8.1(b).

“Retained Facilities” means the Roseton Switchyard, gas transmission facilities, and regulator station facilities, as more fully described on Schedule 2.2(a)(i) and Schedule 2.2(a)(iii) hereto.

“Roseton Station” means the approximately 1,200 MW Roseton Generating Station, consisting of two steam generating units and associated generating facilities, located in Newburgh, New York.

“Roseton Switchyard” means the electric switchyard located at the Roseton Station.

“Roseton Tax Agreement” means the Roseton Tax Agreement, dated as of the date hereof, by and among the Parties.

“Tax Benefit” means, with respect to any Indemnifiable Loss for any person, the positive excess, if any, of the Tax liability of such person without regard to such Indemnifiable Loss over the Tax liability of such person taking into account such Indemnifiable Loss, with all other circumstances remaining unchanged.

“Tax Cost” means, with respect to any indemnity payment for any person, the positive excess, if any, of the Tax liability of such person taking such indemnity payment into account over the Tax liability of such person without regard to such payment, with all other circumstances remaining unchanged.

“Tax Return” means any return, report, information return or other document (including any related or supporting information) required to be supplied to any authority with respect to Taxes, including amendments thereto.

“Taxes” means all taxes, surtaxes, charges, fees, levies, penalties or other assessments imposed by any United States Federal, state or local or foreign taxing authority, including Income Taxes, excise, property, sales, transfer, franchise, special franchise, payroll, recording, withholding, social security or other taxes, or any liability for taxes incurred by reason of joining in the filing of any consolidated, combined or unitary Tax Returns, in each case including any interest, penalties or additions attributable thereto; provided, however, that “Taxes” shall not include sewer rents or charges for water.

“Third Party Claim” shall have the meaning set forth in Section 9.2(a).

“Transferable Permits” shall have the meaning set forth in Section 2.2(a)(v).

SCHEDULES  
TO  
RETAINED FACILITIES ASSIGNMENT  
AND ASSUMPTION AGREEMENT  
FOR THE  
ROSETON SWITCHYARD, GAS TRANSMISSION FACILITIES  
AND REGULATOR STATION FACILITIES

BY AND BETWEEN

CENTRAL HUDSON GAS & ELECTRIC CORPORATION,  
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.,

AND

NIAGARA MOHAWK POWER CORPORATION

SCHEDULE 2.2(a)(i)

Assignee Real Estate

Reference is hereby made to Exhibit A attached hereto.

**Stewart Title  
Insurance Company**

Exhibit A to  
Schedule 2.2(a)(i)

Title No: 99A-12837-O

**Schedule A Description (#1)**

*Tax Lot ~~8~~-1-67.2  
(Liber 1955 Page 972)*

ALL that parcel of land situate in the Town of Newburgh, County of Orange and State of New York bounded and described as follows:

**BEGINNING** at a point on the northeasterly line of Soap Hill Road, where it is intersected by the westerly boundary line of lands conveyed to Common School District #5, Town of Newburgh;

**THENCE** along the northeasterly line of Soap Hill Road following a wire fence the following 15 courses and distances:

North 77 degrees 45 minutes 30 seconds West 37.38 feet,

North 74 degrees 46 minutes 50 seconds West 92.54 feet,

North 73 degrees 14 minutes 50 seconds West 84.62 feet,

North 72 degrees 26 minutes 10 seconds West 119.58 feet,

North 75 degrees 36 minutes 10 seconds West 100.11 feet,

North 70 degrees 13 minutes 20 seconds West 100.11 feet,

North 72 degrees 26 minutes 00 seconds West 25.25 feet,

North 77 degrees 23 minutes 50 seconds West 42.28 feet,

North 71 degrees 18 minutes 20 seconds West 65.30 feet,

----- 1  
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**TOGETHER** with all the rights, title and interest of the party of the first part of, in and to the land lying in the street in front of and adjoining said premises.

**Stewart Title  
Insurance Company**

Schedule A, Tax Lot 8-1-67.2 Cont...

North 75 degrees 34 minutes 50 seconds West 26.25 feet,

North 80 degrees 05 minutes 50 seconds West 48.69 feet,

North 83 degrees 21 minutes 20 seconds West 65.22 feet,

North 78 degrees 39 minutes 20 seconds West 19.27 feet,

North 73 degrees 01 minutes 30 seconds West 6.17 feet and

North 70 degrees 31 minutes 00 seconds West 2.69 feet to the southeasterly corner of lands now or formerly of Beretta;

**THENCE** along the easterly line of lands now or formerly of Beretta the following five courses and distances:

North 10 degrees 28 minutes 50 seconds West 2.58 feet,

North 23 degrees 16 minutes 40 seconds West 172.28 feet,

North 22 degrees 16 minutes 20 seconds West 19.73 feet,

North 22 degrees 47 minutes 10 seconds West 202.55 feet and

North 23 degrees 21 minutes 10 seconds West 148.30 feet to a point in the southeasterly line of the Old Marlboro Turnpike, the said point being the northwesterly corner of the herein described parcel and being the northeasterly corner of lands of Beretta;

**THENCE** along the southeasterly line of the Old Marlboro Turnpike following a wire fence the following ten courses and distances:

North 54 degrees 52 minutes 20 seconds East 33.43 feet,

North 49 degrees 00 minutes 20 seconds East 86.21 feet,

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2

**TOGETHER** with all the rights, title and interest of the party of the first part of, in and to the land lying in the street in front of and adjoining said premises.

**Stewart Title  
Insurance Company**

Schedule A, Tax Lot 8-1-67.2 Cont... (3)

North 44 degrees 27 minutes 30 seconds East 130.55 feet,

North 43 degrees 22 minutes 10 seconds East 28.15 feet,

North 43 degrees 15 minutes 50 seconds East 103.07 feet,

North 39 degrees 46 minutes 20 seconds East 68.84 feet,

North 35 degrees 41 minutes 40 seconds East 96.95 feet,

North 27 degrees 27 minutes 50 seconds East 43.07 feet,

North 22 degrees 23 minutes 00 seconds East 182.47 feet and

North 22 degrees 44 minutes 20 seconds East 131.80 feet to the southwesterly corner of parcel of land conveyed by Cacciatore to Central Hudson Gas & Electric Corp.;

**THENCE** through lands now or formerly of Phoenix Development Company, Inc. the following two courses and distances:

South 53 degrees 45 minutes 20 seconds East 1251.19 feet and

South 72 degrees 15 minutes 20 seconds East 34.47 feet to lands now or formerly of Peter Brooks;

**THENCE** along the same the following four courses and distances:

South 9 degrees 47 minutes 10 seconds West 103.91 feet,

South 8 degrees 37 minutes 20 seconds West 95.23 feet,

South 7 degrees 45 minutes 10 seconds West 38.63 feet and

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3

**TOGETHER** with all the rights, title and interest of the party of the first part of, in and to the land lying in the street in front of and adjoining said premises.

**Stewart Title  
Insurance Company**

**Schedule A, Tax Lot 8-1-67.2 Cont... (4)**

South 11 degrees 42 minutes 10 seconds West 174.73 feet to a point in the northerly line of lands of Common School District #5, Town of Newburgh;

**THENCE** along the northerly and westerly lines of said school property following a wire fence in the part the following three courses and distances:

Soutl. 80 degrees 15 minutes 10 seconds West 27.50 feet,

North 72 degrees 24 minutes 40 seconds West 275.00 feet and

South 25 degrees 43 minutes 20 seconds West 407.40 feet to the point or place of **BEGINNING**.

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**TOGETHER** with all the rights, title and interest of the party of the first part of, in and to the land lying in the street in front of and adjoining said premises.

SCHEDULE 2.2(a)(iii)

Tangible Personal Property

Electric Switchyard Facilities

The 345 kV switchyard including all land, equipment, 345 kV structures, and fence surrounding such switchyard, except the Winning Bidder's disconnect switches, two ground switches, and four associated steel switch structures.

Gas Facilities

The portion of the MP-R gas transmission pipeline and the Roseton gas regulator station including the Point of Interconnection with the Winning Bidder's gas facilities located on the Winning Bidder's Real Estate for which the Assignee will have permanent easements.

Electrical Interconnection Facilities

Assignors' protective relay schemes, current and potential devices, and alternating current and control cables located on the Assignee Real Estate and the Winning Bidder's Real Estate, and the following cables located on the Winning Bidder's Real Estate:

<b>Equipment Description</b>	<b>Location</b>
Cables:	
IYM1-3	Duct bank between the Roseton Station and the Switchyard
CMC1-72	Duct bank between the Roseton Station and the Switchyard
CMC2-72	Duct bank between the Roseton Station and the Switchyard

Communication Equipment

All communication equipment on the Assignee Real Estate and communication equipment located on the Winning Bidder's Real Estate for which the Assignee will have permanent easements, including the following:

1. All copper communications cables terminating at one or both ends in the switchyard or other Assignee communication facilities and associated terminating equipment, including the punch block and the bridging clips.

SCHEDULE 2.2(a)(iv)

Contracts

1. Marcy-South 345kV Transmission Facilities – Transmission Reinforcement Agreement by and between the Parties and the Power Authority of the State of New York (the “Authority”), dated December 7, 1983 (and all additional agreements contemplated therein and relating thereto, the “Marcy-South Agreements”).

SCHEDULE 2.3(a)(iv)

Assumed Consent Order Obligations

There are no consent order obligations relating to the Retained Facilities.

SCHEDULE 2.3(b)(v)

Retained Consent Order Obligations

There are no consent order obligations relating to the Retained Facilities.

SCHEDULE 5.3(a)

Consents and Approvals; No Violation

1. The Marcy South Agreements.

SCHEDULE 5.3(b)

Assignor Required Regulatory Approvals

Assignors will be required to obtain the following Required Regulatory Approvals:

Federal

1. FERC approval, to the extent required, under Section 203 of the Federal Power Act (“FPA”) for each of the Assignors to transfer of FERC jurisdictional facilities.

New York

2. NYPSC approval, to the extent required, pursuant to Section 70 of the Public Service Law of the State of New York of the transfer by the Assignors to Central Hudson of the Assigned Assets.

SCHEDULE 6.3(b)

Assignee Required Regulatory Approvals

Assignee will be required to obtain the following Required Regulatory Approvals:

Federal

1. FERC approval, to the extent required, under Section 203 of the FPA for the Assignee to transfer of FERC jurisdictional facilities.

New York

1. NYPSC approval, to the extent required, pursuant to Section 70 of the Public Service Law of the State of New York of the transfer by the Assignors to Assignee of the Assigned Assets.

BARGAIN AND SALE DEED  
WITH LIEN COVENANT

THIS INDENTURE, made as of this \_\_\_\_ day of \_\_\_\_\_, 2000 between

NIAGARA MOHAWK POWER CORPORATION, a New York corporation having an office at 300 Erie Boulevard West, Syracuse, New York 13202, and CONSOLIDATED EDISON OF NEW YORK, INC., a New York corporation having an office at 4 Irving Place, New York, New York 10003,

grantors,

and

CENTRAL HUDSON GAS & ELECTRIC CORPORATION, a New York corporation having an office at 284 South Avenue, Poughkeepsie, New York 12601,

grantee,

WITNESSETH, that grantors, in consideration of ONE AND 00/100 DOLLAR (\$1.00), lawful money of the United States, and other good and valuable consideration paid by grantee, hereby grant and release unto grantee, the successors and assigns of grantee forever,

ALL OF THE GRANTORS' RIGHT, TITLE AND INTEREST IN AND TO THOSE TRACTS OR PARCELS OF LAND situate in the Town of Newburgh, County of Orange, State of New York, together with the buildings and improvements thereon, and more particularly described on Schedule A annexed and made a part hereof.

TOGETHER with the appurtenances and all the estate and rights of grantors in and to the said premises.

TO HAVE AND TO HOLD the premises herein granted unto grantee, the successors and assigns of grantee forever, as herein set forth.

This deed is subject to the trust fund provisions of Section 13 of the Lien Law.

No grantor's undivided interest as tenant-in-common in the premises constitutes all or substantially all of the assets of that grantor.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, grantors have duly executed this Indenture as of the day and year first above written.

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_

STATE OF NEW YORK        )  
COUNTY OF ONONDAGA    ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2000 before me, the undersigned, a notary public in and for the State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, grantors have duly executed this Indenture as of the day and year first above written.

CONSOLIDATED EDISON  
COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_

STATE OF NEW YORK        )  
COUNTY OF NEW YORK    ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2000 before me, the undersigned, a notary public in \_\_\_\_\_ and for the State, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public

Schedule A

[Insert Description of real property found on Schedule 2.2(a)(i)  
of the Retained Facilities Agreement]

## OPINION OF COUNSEL TO ASSIGNOR

1. Assignor is a corporation validly existing and in good standing under the laws of its jurisdiction of incorporation. Assignor has all necessary corporate power and authority to execute and deliver the Agreement and each of the Ancillary Agreements to which Assignor is a party and to consummate the transactions contemplated thereby; and the execution and delivery of the Agreement and each of the Ancillary Agreements to which Assignor is a party and the consummation by Assignor of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action required on the part of Assignor.

2. The Agreement and each of the Ancillary Agreements to which Assignor is a party have been duly and validly executed and delivered by Assignor, and assuming that the Agreement and each such Ancillary Agreement constitutes a valid and binding obligation of each other party thereto, subject to receipt of all Required Regulatory Approvals, constitute valid and binding obligations of Assignor, enforceable against Assignor in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally and general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether enforcement is considered in a proceeding at law or in equity). With respect to the foregoing opinion, (i) insofar as provisions contained in the Agreement and the Ancillary Agreements provide for indemnification, exoneration or limitations of liability, the enforceability thereof may be limited by public policy considerations and (ii) the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

3. The execution, delivery and performance of the Agreement and each Ancillary Agreement to which Assignor is a party does not (a) conflict with the Certificate of Incorporation or Bylaws of Assignor, (b) to the knowledge of Assignor's counsel, constitute a violation of or default under those agreements or instruments set forth on a Schedule attached to the opinion and which have been identified to such counsel by Assignor as all the agreements and instruments which are material to the business or financial condition of Assignor, or (c) violate any order, writ, injunction, decree, statute, rule or regulation, of which Assignor's counsel has knowledge, applicable to Assignor or the Assigned Assets, except for such violations which would not, individually or in the aggregate, create a Material Adverse Effect.

4. Except for the Assignor Required Regulatory Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any United States Federal or New York State Governmental Authority is necessary for the consummation by Assignor of the transactions contemplated by the Agreement and each of the Ancillary Agreements to which Assignor is a party, other than such declarations, filings, registrations, notices, authorizations, consents or approvals (i) which, if not obtained or

made, would not, individually or in the aggregate, create a Material Adverse Effect or (ii) which relate to the Transferable Permits.

In rendering such opinion, such counsel may (A) rely in respect of matters of fact upon certificates of officers and employees of Assignor and upon information obtained from public officials, (B) assume that all documents submitted to counsel as originals are authentic, that all copies submitted to counsel conform to the originals thereof, and that the signatures on all documents examined by counsel are genuine, (C) state that the opinion is limited to federal laws and the laws of the State of New York, (D) state that counsel expresses no opinion with respect to the title of Assignor to any of the Assigned Assets, (E) state that counsel expresses no opinion with respect to state or local taxes or tax statutes to which Assignor or the Assigned Assets may be subject, (F) state that counsel expresses no opinion with respect to any bulk sales, bulk transfer or similar laws to which Assignor or the Assigned Assets may be subject, (G) state that counsel expresses no opinion with respect to provisions of the Agreement and the Ancillary Agreements relating to subject matter jurisdiction of the United States District Court for the Southern District of New York or relating to the waiver of an inconvenient forum, and (H) with respect to the opinions expressed in paragraphs 3 and 4 above, state that counsel is relying as to such matters on the opinions of in-house, local and other special counsel to Assignor to the extent of the matters set forth in such opinions. Certificates and opinions relied upon by Assignor's counsel shall be delivered to Assignee together with the opinion of Assignor's counsel.

## OPINION OF COUNSEL TO ASSIGNEE

1. Assignee is a corporation validly existing and in good standing under the laws of the State of New York. Assignee has all necessary corporate power and authority to execute and deliver the Agreement and each of the Ancillary Agreements to which Assignee is a party and to consummate the transactions contemplated thereby; and the execution and delivery of the Agreement and each of the Ancillary Agreements to which Assignee is a party and the consummation by Assignee of the transactions contemplated thereby have been duly and validly authorized by all necessary corporate action required on the part of Assignee.

2. The Agreement and each of the Ancillary Agreements to which Assignee is a party have been duly and validly executed and delivered by Assignee, and assuming that the Agreement and each such Ancillary Agreement constitutes a valid and binding obligation of each other party thereto, subject to receipt of all Required Regulatory Approvals, constitute valid and binding obligations of Assignee, enforceable against Assignee in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors' rights generally and general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether enforcement is considered in a proceeding at law or in equity). With respect to the foregoing opinion, (i) insofar as provisions contained in the Agreement and the Ancillary Agreements provide for indemnification, exoneration or limitations of liability, the enforceability thereof may be limited by public policy considerations and (ii) the availability of a decree for specific performance or an injunction is subject to the discretion of the court requested to issue any such decree or injunction.

3. The execution, delivery and performance of the Agreement and each Ancillary Agreement to which Assignee is a party does not (a) conflict with the Certificate of Incorporation or Bylaws of Assignee, (b) to the knowledge of Assignee's counsel, constitute a violation of or default under those agreements or instruments set forth on a Schedule attached to the opinion and which have been identified to such counsel by Assignee as all the agreements and instruments which are material to the business or financial condition of Assignee, or (c) violate any order, writ, injunction, decree, statute, rule or regulation, of which Assignee's counsel has knowledge, applicable to Assignee or the Assigned Assets, except for such violations which would not, individually or in the aggregate, create a Material Adverse Effect.

4. Except for the Assignee Required Regulatory Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of any United States Federal or New York State Governmental Authority is necessary for the consummation by Assignee of the transactions contemplated by the Agreement and each of the Ancillary Agreements to which Assignee is a party, other than such declarations, filings, registrations, notices, authorizations, consents or approvals (i) which, if not obtained or

made, would not, individually or in the aggregate, create a Material Adverse Effect or (ii) which relate to the Transferable Permits.

In rendering such opinion, such counsel may (A) rely in respect of matters of fact upon certificates of officers and employees of Assignee and upon information obtained from public officials, (B) assume that all documents submitted to counsel as originals are authentic, that all copies submitted to counsel conform to the originals thereof, and that the signatures on all documents examined by counsel are genuine, (C) state that the opinion is limited to federal laws and the laws of the State of New York, (D) state that counsel expresses no opinion with respect to the title of Assignee to any of the Assigned Assets, (E) state that counsel expresses no opinion with respect to state or local taxes or tax statutes to which Assignee or the Assigned Assets may be subject, (F) state that counsel expresses no opinion with respect to any bulk sales, bulk transfer or similar laws to which Assignee or the Assigned Assets may be subject, (G) state that counsel expresses no opinion with respect to provisions of the Agreement and the Ancillary Agreements relating to subject matter jurisdiction of the United States District Court for the Southern District of New York or relating to the waiver of an inconvenient forum, and (H) with respect to the opinions expressed in paragraphs 3 and 4 above, state that counsel is relying as to such matters on the opinions of in-house, local and other special counsel to Assignee to the extent of the matters set forth in such opinions. Certificates and opinions relied upon by Assignee's counsel shall be delivered to Assignor together with the opinion of Assignee's counsel.

## ROSETON TAX AGREEMENT

THIS ROSETON TAX AGREEMENT (the "Agreement"), dated as of September 14, 2000, by and among Central Hudson Gas & Electric Corporation, a New York corporation ("Central Hudson"), Niagara Mohawk Power Corporation, a New York corporation ("Niagara Mohawk"), and Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison") (Central Hudson, Niagara Mohawk and Con Edison are sometimes collectively referred to herein as the "Parties").

WHEREAS, each of the Parties owns an undivided interest in the approximately 1,200 MW Roseton generating facility located in Newburgh, New York (the "Roseton Plant") in the following amounts: Central Hudson - 35%; Niagara Mohawk - 25%; and Con Edison - 40%;

WHEREAS, Central Hudson and Con Edison have entered into that certain Roseton Joint Sale Agreement, dated January 3, 2000 (the "Con Edison Auction Agreement"), and Central Hudson and Niagara Mohawk have entered into that certain Roseton Auction Agreement, dated May 28, 1999 (the "Niagara Mohawk Auction Agreement") (the Con Edison Auction Agreement and the Niagara Mohawk Auction Agreement are sometimes collectively referred to herein as the "Auction Agreements") in connection with the proposed sale by the Parties (the "Asset Sale") of their respective ownership interests in the Roseton Plant (exclusive of the Retained Facilities (as defined herein)), pursuant to the terms of the Asset Purchase and Sale Agreement, dated August 7, 2000 (the "Asset Sale Agreement") by and among the Parties and Dynegy Power Corp.;

WHEREAS, pursuant to the Auction Agreements, the Parties have entered into the Retained Facilities Assignment and Assumption Agreement dated as of the date hereof (the "Retained Facilities Agreement"), pursuant to which Con Edison and Niagara Mohawk will assign their respective ownership interests in certain assets located at the Roseton Plant (the "Retained Facilities") to Central Hudson;

WHEREAS, the Parties have entered into an Agreement, dated October 31, 1968 (the "1968 Tax Agreement"), pursuant to which the Parties acknowledged and agreed that their interests as co-tenants in the Roseton Plant would be treated as interests in a partnership (the "Tax Partnership") for federal income tax purposes, pursuant to Rev. Rul. 68-344, 1968-1 C.B. 569, which treatment was ratified by the Internal Revenue Service in a private letter ruling issued to Central Hudson on July 24, 1972; and

WHEREAS, the Parties desire to set forth herein their understanding with respect to the federal income tax treatment of the transactions contemplated by the Auction Agreements, the Asset Sale Agreement and the Retained Facilities Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made herein, the Parties agree as follows:

1. The assignments of Niagara Mohawk's and Con Edison's undivided interests in the Retained Facilities to Central Hudson pursuant to the Auction Agreements and the Retained Facilities Agreement will be treated for federal income tax purposes as a distribution to Central Hudson by the Tax Partnership in liquidation of Central Hudson's interest in the Tax Partnership, in accordance with Income Tax Regulations § 1.732-1(b).

2. The sole consideration to be received by Niagara Mohawk and Con Edison in connection with the assignments of their interests in the Retained Facilities will be their rights to receive proceeds from the Asset Sale pursuant to Section 4.1 of the Con Edison Auction Agreement and Section 5.1 of the Niagara Mohawk Auction Agreement. The percentage interests of Niagara Mohawk and Con Edison in the proceeds of the Asset Sale will be equal to the amount of consideration received by each of Niagara Mohawk and Con Edison pursuant to their respective Auction Agreements divided by the total amount of consideration received by all three Co-Tenants.

3. The Parties intend to treat the sale of their interests under the Asset Sale Agreement as a sale of assets by the Tax Partnership, followed by the liquidation of the Tax Partnership. Taxable gain will be allocated to each Party in accordance with the 1968 Tax Agreement, including Section 7 thereof, if applicable, and IRC §§ 704(b) and 704(c)(1)(A), if applicable, to put each Party in the same position as if it had sold an interest in the Tax Partnership.

4. Each of the Parties agrees to file its income tax returns consistent with the terms of this Agreement.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to the conflict of laws principles thereof.

6. No modification or amendment to this Agreement shall be binding on any Party unless it shall be in writing and signed by the authorized representatives of each of the Parties.

7. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Roseton Tax Agreement on their behalf as of the date first written above.

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

Attest: \_\_\_\_\_  
Name:  
Title:

NIAGARA MOHAWK POWER CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

Attest: \_\_\_\_\_  
Name:  
Title:

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: \_\_\_\_\_  
Name:  
Title:

Attest: \_\_\_\_\_  
Name:  
Title:

## EXHIBIT E

### Estimated Allocation of Fossil Generation Auction Proceeds (in millions) Based on Methodology Under the Roseton Auction Agreements<sup>1</sup>

Auction Total Bid	\$903
Con Edison Allocation of Proceeds	128
Niagara Mohawk Allocation of Proceeds	80
Central Hudson Allocation of Auction Proceeds	695

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<sup>1</sup> The estimates include the estimated increase of auction proceeds for Niagara Mohawk and Con Edison for consideration of the transfer of the Retained Facilities but exclude the adjustments for the book value of fuel, spare parts inventory, permitted capital expenditures and the Con Edison Spare Transformer