97-G-0388

Exhibits 11-60

60

Brooklyn Union Gas ONE METROTECH CENTER BROOKLYN, NEW YORK 11201-3850 (718)403- 2976 TELEX 70-5330

November 16, 1993

Mr. Robert C. Paladino
Executive Vice President
York Research Corporation
280 Park Avenue
Suite 2700 West
New York, New York 10017

Re: <u>Brooklyn Navy Yard Cogeneration Project</u>

Dear Bob:

Pursuant to your request at our meeting last week, enclosed is a schedule summarizing legal costs incurred to process York's prior application for transportation and peaking services in connection with the above project. Such costs, without regard to Brooklyn Union staff time and resources, far exceed York's original $10,000 deposit.

Upon receipt of another $10,000 deposit to defray costs to process York's new request for service on behalf of Brooklyn Navy Yard Cogeneration Partners, L.P., Brooklyn Union will prepare a transportation and peaking services agreement reflecting the matters at our meeting.

Sincerely,

Ronald G. Lukas

Ronald G. Lukas

RGL/aj

Case No
Date 1-16-98
Ex. No. 60

Summary Schedule

Invoice Date	Amount Paid	Description of Services
04/23/92	$ 2,860.45	Conferences with Company officials and counsel for York; research, reports and advice on York projects status, options under PSC by-pass policy, Public Service Law, Brooklyn Union tariff, and PSC regs for negotiation of transportation and peaking service arrangements with cogenerator, brokering issues raised by York and Liberty; reviewed correspondence, PSC St. Lawrence order, and FERC brokering rules and Mega NOPR proposals on capacity brokering; research and preparation of information check list on rate, cost, by-pass, gas supply, and York engineering matters for York negotiated transport rate and peaking service offer.
07/17/92	15,938.16	Conferences with Company officials and representative of York; attend meetings with York personnel; research, reports and advice on York projects status, review and draft response to Liberty capacity brokering issues raised by York; suggest warranty language for York underlying supply proposal; review PSC order regarding filing of negotiated contracts, and FERC brokering rules; assist in preparing responses to York request for transportation and peaking arrangement and draft York precedent and gas services contract; and research treatment of deposit for income tax purposes.
10/21/92	3,252.00	Conferences with Company officials and representatives of Mission Energy and York Research; assistance in negotiation with York; reports regarding PSC order on tariff addendum filing requirements and applicability to arrangement with

		York; assistance in preparation of written report to York and Mission regarding probable service quality with and without the Liberty project; and reports regarding Navy Yard project developments.
01/29/93	2,563.75	Conferences with Company officials; review of York arrangements with Lilco and assistance in development of proposals to York in light of Lilco involvement; reports on status of York project; and research and advice regarding options to offer York revised services.
05/28/93	1,026.50	Conferences with Company officials; research and assistance in preparation of proposals for revised service offering; advice on regulatory requirements/issues on revised service offering.
Total	$25,640.86	

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Brooklyn Union Gas ONE METROTECH CENTER BROOKLYN, NEW YORK 11201-3850 (718)403-2976 TELEX 70-5330

May 20, 1992

York Research Corporation
280 Park Avenue
Suite 2700W
New York, New York 10017

Attn: Robert C. Paladino

Re: York Research Request for Brooklyn Union Transportation Service and Proposal for Peaking Service

Gentlemen:

We have reviewed the materials submitted by York Research in response to our April 24, 1992 letter and have received the projects' deposit to defray contract processing costs.

Based upon the foregoing, Brooklyn Union is prepared to meet again with your projects' sponsors, commence preparation of transportation and peaking services agreements reflecting the terms and conditions outlined on Attachment A to the April 24, 1992 letter, and complete the engineering studies required to develop rates and conditions of service. Please note, however, that due to certain deficiencies identified in the York Research materials, and the fact that the services proposed by your projects involve critical peak supply arrangements and may require facilities construction, Brooklyn Union will not finalize the transportation and peaking services agreements relating to the Navy Yard and/or Warbasse projects, or process the requisite regulatory application, unless and until the items listed in our April 24, 1992 letter are submitted in complete and satisfactory form as described below:

i. Financeability The materials submitted are stale and do not address the Warbasse project. Please submit current confirmation from an acceptable non-affiliated financial advisor attesting to each project's financeability as presently proposed.

ii. Gas Supply The materials submitted do not provide sufficient evidence of a reliable delivery obligation to assure us that the proposed peak supply arrangement is as secure as comparable peaking

Case No.
Date 1-16-98
Ex. No. 59

gas commitments to Brooklyn Union. In particular, we note the absence of a warranty provision and the limited liability of Seller in the event of breach. In addition, the 90% take commitment may not be compatible with the flexibility and operational tolerance limits of Brooklyn Union's system, given our understanding of your projects' dispatch and operational characteristics.

iii. Other Contracts The steam host/power purchase arrangements still listed as pending must be completed for each project prior to finalization of the transportation and peaking services agreements.

iv. Alternate Fuel The material submitted is inconclusive. If you would like Brooklyn Union to take into account the alternate fuel actually used by each project in computing the price paid by Brooklyn Union for peaking gas, then the alternate fuel for the projects must be determined.

v. Receipt and Delivery Points Our preliminary analyses indicate that our existing facilities cannot provide year round service to your projects from Tetco Station 058. Subject to further engineering studies, Brooklyn Union believes the proposed Liberty interconnection is the more desirable receipt point. For each delivery point requested, please provide the maximum daily and annual demand quantities.

vi. Owners/Commitments In addition to the obvious need to know the identify of the parties that will be responsible for performing the contractual obligations to Brooklyn Union under the transportation and peaking services agreements for both projects, Brooklyn Union requires this information to assess whether and from whom performance/financial guarantees and/or letters of credit may be required. We note that, based on the limited financial information submitted to date, there may be material issues regarding the financial integrity and operational capability of the projects' owner. Brooklyn Union hereby commits to maintaining the confidentiality of further non-public information identified by you as sensitive and requests that information on each project's owners, parent companies, equity commitments and percentage interests be supplied and updated as necessary.

vii Ancillary Sites Are there ancillary sites other than the Warbasse Houses for which you request services? If so, provide the information requested by this letter, our April 24 letter, and our initial processing information requests for such sites.

viii Audited Financials The materials submitted are stale. Kindly submit audited materials for the fiscal year ended 1991 for each project owner. Current audited financial statements for each final project owner will also be required prior to execution of the transportation and peaking services agreements with both projects.

We look forward to receiving the above information and to meeting with you to negotiate and prepare the proposed contractual arrangements.

Yours truly,

Ronald Lukas

Ronald G. Lukas
Director , Rate & Regulation

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RESPONSE OF THE BROOKLYN UNION GAS COMPANY TO ADDITIONAL INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P.

Additional Int.

24. As of February 13, 1992 (the date of the letter by which Brooklyn Union provided a term sheet to BNYCP's predecessor), what specific evidence of (1) site control; (2) construction commitments; (3) upstream capacity and supply commitments; (4) market commitments; (5) financial commitments, and; (6) major governmental authorizations (as those terms are used by Brooklyn Union in its response to Judge Garlin's question 3) had been provided to Brooklyn Union?

Answer: The information that had been provided at that time was incomplete, unverified, and in many instances not documented. This was why the document provided to York Research and labeled "term sheet" was not a definitive and complete offer of services or terms, but rather was a preliminary listing of concepts and ideas on a potential business transaction with York.

57

RESPONSE OF THE BROOKLYN UNION GAS COMPANY TO ADDITIONAL INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P.

Additional Int.

23. Identify what "security measures" (as previously defined) were provided by KIAC and when they were provided in relation to contract execution and project development.

Answer: KIAC provided a $10,000 cash advance in March, 1992 to defray the cost of processing the interruptible contract; in addition, KIAC was required to and did pay for and complete construction of all required incremental facilities prior to commencement of service.

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Brooklyn Union Gas ONE METROTECH CENTER BROOKLYN, NEW YORK 11201-3850 (718)403-2976 TELEX 70-533

May 11, 1992

KIAC Partners
JFK International Airport
Jamaica, New York 11430

Attn: Richard Roberts

Re: KIAC Requests for Brooklyn Union Sales and Transportation Service and Proposal for Peaking Service

Gentlemen:

We have reviewed KIAC's responses to our processing information requests regarding the above transportation and sales service request and peaking service proposal.

Based upon our review of these responses, we have concluded that prior to finalization of transportation and peaking services agreements with your project additional information is necessary. In particular, Brooklyn Union requires:

(i) written confirmation from an acceptable non-affiliated financial advisor attesting to the project's financeability;

(ii) a copy of an executed precedent agreement or equivalent letter of intent with a gas supplier;

(iii) certification that all contractual arrangements with steam host(s) and power purchaser(s) are in place; and

(iv) audited and most current financial statements for KIAC and project owners.

Upon your project's submission of the above information in acceptable form and payment of a $10,000 deposit to defray Brooklyn Union's costs to study, develop and process the requisite contractual arrangements and regulatory filings, Brooklyn Union will complete preparation of transportation and peaking services agreements reflecting the terms and conditions outlined on Attachment A, and conclude all engineering studies required to finalize the agreement.

Yours truly,

Ronald Lukas

RONALD G. LUKAS
Director, Rate & Regulation

Public Service Commisson
Case No.
Date 1-15-98
Ex. No. 56

RGL/daw

cc: Dave T. Metcalfe

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BROOKLYN UNION RESPONSE TO INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO DIRECT TESTIMONY OF RONALD G. LUKAS

1. (a) How many customers have asked for individually tailored arrangements but were rejected, as suggested at page 5, lines 4-6?

   (b) identify all such customers.

   (c) identify what records Brooklyn Union maintains regarding such requests and rejections.

   (d) Provide copies of all such records.

Answer:

(a) Very few inquires have been made for this type of service. Most requests are not pursued, since they relate to efforts to aggregate service at a number of locations, rather than to contract for service at a single facility.

(b) Brooklyn Union objects to the question as not relevant to issues in this proceeding and unduly burdensome to compile.

(c) No records identifying such inquiries are maintained.

(d) N/A

Public Service Commission
Case No.
Date 1-15-98
Ex. No. 55

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RESPONSE OF THE BROOKLYN UNION GAS COMPANY TO INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO DIRECT TESTIMONY OF EDWARD SONDEY

1. Out of the existing 65 cogeneration customers identified on page 3, line 22, how many are (a) served by the company's high pressure system; and (b) served by direct connection to the New York Facilities System?

Answer:

(a) All

(b) One.

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1996

RETURN THIS ORIGINAL
TO THE P.S.C

ELECTRIC AND/OR GAS UTILITIES
CLASSES A AND B
ANNUAL REPORT

OF

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Exact legal name of reporting electric and/or gas utility
(If name was changed during year, show also the previous name and date of change)

4 IRVING PLACE

NEW YORK, NEW YORK 10003

(Address of principal business office at end of year)

FOR THE

Year Ended
1996

TO THE

STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

Public Service Commisson
Case No.
Date 1-15-98
Ex. No. 53

Name, title, address and telephone number (including area code), of the person to contact concerning this report:

JOHN F. CIOFFI, VICE PRESIDENT AND CONTROLLER
4 IRVING PLACE, NEW YORK, NEW YORK 10003 TELEPHONE NUMBER (212) 460-3055

Form 182-96

Name of Respondent	This Report is:	Date of Report	Year of Report
Consolidated Edison Company of New York, Inc.	(1) [ ] An Original (2) [ ] A Resubmission	(Mo, Da, Yr) 3/31/97	December 31, 1996

PURCHASED POWER (Account 555)
(INCLUDING POWER EXCHANGES)

1. Report all power purchases made during the year. Also report exchanges of electricity (i.e., transactions involving a balancing of debits and credits for energy, capacity, etc.) and any settlements for imbalanced exchanges.
2. Enter the name of the seller or other party in an exchange transaction in column (a). Do not abbreviate or truncate the name or use acronyms. Explain in a footnote any ownership interest or affiliation the respondent has with the seller.
3. In column (b), enter a Statistical Classification Code based on the original contractual terms and conditions of the service as follows:

RQ - for requirements service. Requirements service is service which the supplier plans to provide on an ongoing basis (i.e., the supplier includes projected load for this service in its system resource planning). In addition, the reliability of requirements service must be the same as, or second only to, the supplier's service to its own ultimate consumers.

LF - for long-term firm service. "Long-term" means five years or longer and "firm" means that service cannot be interrupted for economic reasons and is intended to remain reliable even under adverse conditions (e.g., the supplier must attempt to buy emergency energy from third parties to maintain deliveries of LF service). This category should not be used for long-term firm service which meets the definition of RQ service. For all transactions identified as LF, provide in a footnote the termination date of the contract defined as the earliest date that either buyer or seller can unilaterally get out of the contract.

IF - for intermediate-term firm service. The same as LF service except that "intermediate-term" means longer than one year but less than five years.

SF - for short-term firm service. Use this category for all firm services, where the duration of each period of commitment for service is one year or less.

LU - for long-term service from a designated generating unit. "Long-term" means five years or longer. The availability and reliability of service, aside from transmission constraints, must match the availability and reliability of the designated unit.

IU - for intermediate-term service from a designated generating unit. The same as LU service except that "intermediate-term" means longer than one year but less than five years.

EX - for exchanges of electricity. Use this category for transactions involving a balancing of debits and credits for energy, capacity, etc. and any settlements for imbalanced exchanges.

OS - for other service. Use this category only for those services which cannot be placed in the above-

Line No.	Name of Company or Public Authority (Footnote Affiliations) (a)	Statistical Classification (b)	FERC Rate Schedule or Tariff Number (c)	Average Monthly Billing Demand (d)	Actual Demand (MW) Average Monthly NCP Demand (e)	Actual Demand (MW) Average Monthly CP Demand (f)
1	New York Power Authority (3)					
2	IP3/Poletti	LU	40			
3	HQ/ST 4 Basic					
4	Other					
5						
6	Pan Energy - Gas Conversion					
7	Phibro - Gas Conversion		168			
8	LILCO (2)					
9	Enron					
10	Ontario Hydro (3)					
11	PSE&G (2)	IF	58			
12	Northeast Utilities (2)	IF	48			
13						
14	Total					

PURCHASED POWER (Account 555)
(INCLUDING POWER EXCHANGES)

Line No.	Name of Company or Public Authority (Footnote Affiliations) (a)	Statistical Classification (b)	FERC Rate Schedule or Tariff Number (c)	Average Monthly Billing Demand (d)	Actual Demand (MW) Average Monthly NCP Demand (e)	Actual Demand (MW) Average Monthly CP Demand (f)
1						
2	Niagara Mohawk (2)	OS	36			
3	NYSEG for Gilboa					
4	NYSEG (2)	RQ	113			
5	NYPA - Short term (3)	SF				
6	Atlantic City					
7	PECO (2)	SF	66			
8	General Public Utilities		73			
9	Catex/Vitol		145			
10	CNG		148			
11	Baltimore Gas and Electric					
12	Orange & Rockland		139			
13	Englehard					
14	[illegible]o Quebec					
15	[illegible]o Quebec -Banked Power					
16	Central Hudson (2)	SF	57			
17	Aquila		166			
18	CMEX - Gas Conversions		167			
19	Penn. Power & Light (2)	LU				
20	Electric Clearinghouse Inc.					
21	Westcoast - Gas Conversions					
22	Enron - Sithe replacement					
23	Enron Energy		151			
24	US Gen - Mass. Power Replacement					
25	Williams - Gas Conversions					
26						
27	Indeck					
28	Bronx Zoo (4)	LU				
29	Co - Gen Tech (4)	LF				
30	Continental (4)	LU				
31	Mass. Power					
32	[illegible]ck					
33	[illegible]C					
34	Montefiore (4)					
35	Resco (4)	IF				
36	Navy Yard					
37	Selkirk (4)					
38	Sithe (4)					
39	Warbasse (4)					
40						
41	New York Power Pool					
42	Economy					
43	Supp & Emer					
44	BP 14					
45	Other					
46						
47	Hydro Quebec					
48	NYSEG Borderline (2)	RQ	113			
49						
50	Total					

PURCHASED POWER (Account 555)
(INCLUDING POWER EXCHANGES)

Line No.	Name of Company or Public Authority (Footnote Affiliations) (a)	Statistical Classification (b)	FERC Rate Schedule or Tariff Number (c)	Average Monthly Billing Demand (d)	Actual Demand (MW) Average Monthly NCP Demand (e)	Average Monthly CP Demand (f)
1	New York Power Authority (Gilboa) (3)					
2						
3						
4	Received from Enron for Sithe Replacement					
5						
6						
7	Amortization of NUG Termination Costs					
8	Recoverable Fuel Costs					
9	NUG Reconciliations					
10	Gas Importers Tax					
11	HQ Returned Banking Deferred					
12						
13						
	(1) Associated Utilities					
	(2) Non-Associated Utilities					
16	(3) Other Public Utilities					
17	(4) Independent Power Producers					
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
31						
34						
35						
36						
37						
38						
39						
40						
41						
42						
43						
44						
45						
46						
47						
48						
49						
50	Total					

Name of Respondent	This Report is:	Date of Report (Mo, Da, Yr)	Year of Report
Consolidated Edison Company of New York, Inc.	(1) [ ] An Original (2) [ ] A Resubmission	3/31/97	December 31, 1996

PURCHASED POWER (Account 555) (Continued)
(Including power exchanges)

defined categories, such as all nonfirm service regardless of the length of the contract and service from designated units of less than one year. Describe the nature of the service in a footnote for each adjustment.
AD - for out-of-period adjustment. Use this code for any accounting adjustment or "true-ups" for service provided in prior reporting years. Provide an explanation in a footnote for each adjustment.

4. In column (c), identify the FERC Rate Schedule Number or Tariff, or, for nonFERC jurisdictional sellers, include an appropriate designation for the contract. On separate lines, list all FERC rate schedules, tariffs or contract designations under which service, as identified in column (b), is provided.
5. For requirements RQ purchases and any type of services involving demand charges imposed on a monthly (or longer) basis, enter the monthly average billing demand in column (d), the average monthly non-coincident peak (NCP) demand in column (e), and the average monthly coincident peak (CP) demand in column (f). For all other types of service, enter NA in columns (d), (e) and (f). Monthly NCP demand is the maximum metered hourly (60-minute integration) demand in a month. Monthly CP demand is the metered demand during the hour (60-minute integration) in which the supplier's system reaches its monthly peak. Demand reported in columns (e) and (f) must be in megawatts. Footnote any demand not stated on a megawatt basis and explain.
6. Report in column (g) the megawatthours shown on bills rendered to the respondent. Report in columns (h) and (i) the megawatthours of power exchanges received and delivered, used as the basis for settlement. Do not report net exchange.
7. Report demand charges in column (j), energy charges in column (k), and the total of any other types of charges, including out-of-period adjustments, in column (l). Explain in a footnote all components of the amount shown in column (l). Report in column (m) the total charge shown on bills received as settlement by the respondent. For power exchanges, report in column (m) the settlement amount for the net receipt of energy. If more energy was delivered than received, enter a negative amount. If the settlement amount (1) includes credits or charges other than incremental generation expenses, or (2) excludes certain credits or charges covered by the agreement, provide an explanatory footnote.
8. The data in column (g) through (m) must be totaled on the last line of the schedule. The total amount in column (g) must be reported as Purchases on page 401, line 10. The total amount in column (h) must be reported as Exchange Received on page 401, line 12. The total amount in column (i) must be reported as Exchange Delivered on page 401, line 13.
9. Footnote entries as required and provide explanations following all required data.

	POWER EXCHANGES		COST/SETTLEMENT OF POWER				
Megawatthours Purchased (g)	Megawatthours Received (h)	Megawatthours Delivered (i)	Demand Charges ($) (j)	Energy Charges ($) (k)	Other Charges ($) (l)	Total (j + k + l) or Settlement ($) (m)	Line No.
						$0	1
880,314			39,295,140	11,134,543		50,429,683	2
2,622,901			10,134,696	48,946,353	18,236,400	77,317,449	3
9,403			(55,806)	(3,065,784)	(640,000)	(3,761,590)	4
						0	5
359,793			305,187	10,228,112		10,533,299	6
504,097			430,592	14,030,111		14,460,703	7
51,897				1,997,394		1,997,394	8
79,876			62,304	2,327,085		2,389,389	9
63,567				956,555	154,960	1,111,515	10
17,750				432,605		432,605	11
176,149				5,728,279		5,728,279	12
							13
							14

PURCHASED POWER (Account 555) (Continued)
(Including power exchanges)

	POWER EXCHANGES		COST/SETTLEMENT OF POWER				
Megawatthours Purchased (g)	Megawatthours Received (h)	Megawatthours Delivered (i)	Demand Charges ($) (j)	Energy Charges ($) (k)	Other Charges ($) (l)	Total (j + k + l) or Settlement ($) (m)	Line No.
						$0	1
256,008				$5,518,679		$5,518,679	2
225,312				3,366,778		3,366,778	3
226,113				4,268,245	546,733	4,814,978	4
205,429				4,355,832		4,355,832	5
33,956				910,238		910,238	6
2,174,407				48,141,393		48,141,393	7
96,376				2,214,654		2,214,654	8
450,281			67,634	11,563,205		11,630,839	9
353,729			160,165	9,817,424		9,977,589	10
2,423,341				53,231,180		53,231,180	11
2,860				85,585		85,585	12
5,100				105,260		105,260	13
273,973				5,795,892	1,339,302	7,135,194	14
6,000				0		0	15
42,510				1,291,483		1,291,483	16
203,048			156,872	6,023,997		6,180,869	17
33,253			32,255	906,019		938,274	18
66,272				1,826,423		1,826,423	19
21,646			13,764	652,085		665,849	20
51,200			39,936	1,504,077		1,544,013	21
0				1,390,702		1,390,702	22
29,011				644,541		644,541	23
34,306				755,158		755,158	24
62,400			48,543	1,383,328		1,431,871	25
						0	26
			(6,381,647)			(6,381,647)	27
9,859				243,938	20,038	263,976	28
3,811,033			89,348,058	198,517,550		287,865,608	29
79,759				6,653,693		6,653,693	30
20,069				533,744		533,744	31
686,749			46,802,994	16,485,335	3,754,619	67,042,948	32
58,718			78,832	1,580,601		1,659,433	33
513				13,950		13,950	34
402,413				13,986,626		13,986,626	35
517,926				12,249,284		12,249,284	36
1,622,731			71,323,688	39,233,389	7,805,618	118,362,695	37
5,794,199			3,747,082	319,355,240		323,102,322	38
10,197			6,120,582	125,967	97,479	6,344,028	39
						0	40
						0	41
1,191,460			99,988	37,595,532		37,695,520	42
6,342				384,930		384,930	43
200				3,200		3,200	44
343			244,776	1,272,056	179,980	1,696,812	45
						0	46
				(187,000)		(187,000)	47
898				100,282		100,282	48
						0	49
							50

PURCHASED POWER (Account 555) (Continued)
(Including power exchanges)

Megawatthours Purchased (g)	POWER EXCHANGES: Megawatthours Received (h)	POWER EXCHANGES: Megawatthours Delivered (i)	COST/SETTLEMENT OF POWER: Demand Charges ($) (j)	COST/SETTLEMENT OF POWER: Energy Charges ($) (k)	COST/SETTLEMENT OF POWER: Other Charges ($) (l)	Total (j + k + l) or Settlement ($) (m)	Line No.
	210,244	314,349	$3,441,876		$2,400,000	$5,841,876	1
						0	2
						0	3
40,360						0	4
						0	5
						0	6
					71,075,814	71,075,814	7
					(10,373,736)	(10,373,736)	8
					(258,909)	(258,909)	9
					2,542,499	2,542,499	10
					78,506	78,506	11
						0	12
						0	13
						0	14
						0	15
						0	16
						0	17
						0	18
						0	19
						0	20
						0	21
						0	22
						0	23
						0	24
						0	25
						0	26
						0	27
						0	28
						0	29
						0	30
						0	31
						0	32
						0	33
						0	34
						0	35
						0	36
						0	37
						0	38
						0	39
						0	40
						0	41
						0	42
						0	43
						0	44
						0	45
						0	46
						0	47
						0	48
						0	49
26,296,047	210,244	314,349	$265,517,511	$906,615,748	$96,959,303	$1,269,092,562	50

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Responses Of
The Brooklyn Union Gas Company
To First Set Of Interrogatories
And Document Requests Of
New York City Energy Group, L.P.

New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company
Case 97-G-0388

7. Brooklyn Union states in paragraph 23 of the Answer that "Brooklyn Union provides sales and transportation services to a number of cogeneration customers that operate facilities that are more similar in size and service characteristics to those facilities contemplated by NYCEG." With respect to that statement:

   a. state the name, location, size (in megawatts of capacity), and gas supply needs of each such cogeneration customer;

   b. state whether any of the above customers requested an individually negotiated contract;

   c. provide the transportation rate paid by each such customer;

   d. explain why such cogeneration customers are more similar in size and service characteristics to NYCEG than KIAC and BNYCP; and

   e. provide of all documents that relate to this statement.

Answer: a. Brooklyn Union objects to this question to the extent that it requests the name and precise location of individual customers. Such information is confidential and commercially sensitive. Moreover, such information is unlikely to lead to the production or development of relevant or material evidence. Attached is a partial list of individual cogeneration customers served by Brooklyn Union that have one or more characteristics similar to those portrayed by NYCEG, as well as their size, annual consumption, and current transportation rate or delivery margin.

b. Certain of Brooklyn Union's interruptible cogeneration customers negotiate rates on a monthly basis.

c. See response to question 7.a.

d. Brooklyn Union objects to this question to the extent that it requests information concerning the terms and conditions of service provided to BNYCP. Brooklyn Union is required by its contract with BNYCP to maintain the confidentiality of the commercially sensitive terms of its contract with BNYCP.

As discussed in Brooklyn Union's Verified Answer, the level of interruptibility requested by NYCEG is more consistent with firm or temperature controlled service than the interruptible service provided to KIAC. Moreover, as can be seen from a review of Brooklyn Union's response to 7.a., the size of the load portrayed by NYCEG is much closer to the size of the load of a number of the customers listed in 7.a. than it is to the size of KIAC's daily and annual load. Finally, Brooklyn Union's offer of terms to KIAC was made as part of an effort to avoid bypass. Neither NYCEG nor any of the customers listed in the response to 7.a. appears to be in a position to bypass Brooklyn Union.

e. Brooklyn Union objects to this question because it is overly broad, unduly vague and therefore unduly burdensome. Brooklyn Union has provided information concerning its cogeneration customers in its response to question nos. 7.a. through 7.d.

Responses Of
The Brooklyn Union Gas Company
To First Set Of Interrogatories
And Document Requests Of
New York City Energy Group, L.P.

New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company

Case No. 97-G-0388

Attachment To
Question No. 7.a

The Brooklyn Union Gas Company
Representative List of Natural Gas Cogeneration
Customers in our Territory

Natural Gas Transportation Customers

Customer	Service Classification No.	Annual Usage Dth	Cogeneration Capacity	Current Rate up to 50,000 Dth ($/dth)	Current Rate Over 50,000 Dth ($/dth)
A	11, TS-5N	3,500,000	110.0 MW	$1.30	$0.50
B	11, TS-5B	1,120,000	12.0 MW	$1.30	$0.50
C	11, TS-5B	1,430,000	18.0 MW	$1.30	$0.50
D	11, TS-5B	905,000	12.0 MW	$1.30	$0.50

Natural Gas Sales Customers

Customer	Service Classification No.	Annual Usage Dth	Cogeneration Capacity
E	5A	1,800,000	6.0 MW
F	4A	139,180	2.0 MW
G	4A	101,110	1.6 MW
H	4A	82,237	1.2 MW
I	6C	334,000	11 MW

Equivalent On-System Transportation Rates For Brooklyn Union Sales Customers Above April 1997

SC 4A On-System Transport Rate

First 1 Dth or less per month	$125.89
Next 99 Dth per month	$1.82
All over 100 Dth	$1.72

SC 6C On-System Transport Rate

First 1 Dth or less	$292.32
All over 1 Dth	$1.16

NCC
5/01/97

Responses Of
The Brooklyn Union Gas Company
To Interrogatories
And Document Request Of
New York City Energy Group, L.P.

New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company
Case 97-G-0388

29. With respect to the Brooklyn Union attachment to Question No. 7.a., please explain why the customer listed as Customer A under Natural Gas Transportation Customers has an Annual Usage of 3,500,000 Dth. Given its Cogeneration Capacity of 110.0 MW, 3,500,000 Dth of annual usage appears to be low.

Answer: In reviewing the response to Question No. 7.a., Brooklyn Union discovered that the attachment to that response contained errors. Attached is a revised attachment to the response to Question No. 7.a. which renders this question moot.

The Brooklyn Union Gas Company
Representative List of Comparable Natural Gas Cogeneration
Customers in Our Territory
(Corrected Attachment to Response "7a")

Natural Gas Interruptible Transportation Customers:

Customer	Service Classification No.	Annual Usage	Cogeneration Capacity	Average Unit Rate for Deliveries Up to 50,000 Dth/Mth ($/Dth)	Unit Rate for Deliveries Over 50,000 Dth/Mth ($/Dth)
A	11, TS-5B	1,120,000	12.0 MW	$0.74	$0.50
B	11, TS-5B	1,430,000	18.0 MW	$0.74	$0.50
C	11, TS-5B	905,000	12.0 MW	$0.74	$0.50

Notes: (1) Average unit rates exclude gross receipts tax, other surcharges and credits, and line loss.
(2) Average unit rates represent the average for the twelve months ended June 1997.

Natural Gas Sales Customers:

Customer	Service Classification No.	Annual Usage	Cogeneration Capacity
D	4A	139,180	2.0 MW
E	4A	101,110	1.6 MW
F	4A	82,237	1.2 MW
G	6C	334,000	11.0 MW

Equivalent Firm and Temperature Controlled
On-System Transportation Rates
For Brooklyn Union Sales Customers Above

SC 4A Firm Transport Rate

Monthly Billing:		
First	1 Dth or less	$125.89
Next	99 Dth	$1.82
All over 100 Dth		$1.72

SC 6C Temperature Controlled Transport Rate

Monthly Billing:		
First	1 Dth or less	$292.32
All over 1Dth		$1.23 (1)

(1) Represents the average for the twelve months ended June 1997

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RESPONSES OF THE BROOKLYN UNION GAS COMPANY

<u>TO COMMISSION STAFF INTERROGATORIES</u>

CASE NO. 97-G-0388

III. Interrogatories for Brooklyn Union

Q2. By the breakdown in the prior question (and you need not identify by name), identify the size (MW), MDQ, approximate annual consumption, character of service (firm, interruptible, etc.) and applicable rate.

Answer: Attached as Exhibit B, is a listing of congeneration customers showing size, equipment and date service began at the site. A more detailed analysis of those customers more closely similar to the NYCEG proposal is attached in response to Question 3 in this section.

EXHIBIT B

Cogeneration Summary - Brooklyn Union Service Territory

Existing Electric Cogeneration Facilities

	Customer	System Configuration		Rate	Approx. Start-Up
1.	Amstar Sugar	6.0 MW	Gas powered steam turbine	5A	1900
2.	Arrow Linnen	800 kw	Steam engine	6	1900
3.	Rochedale Village	12 MW	Steam turbine dual fuel	SC 11 TS 5	1962
4.	Warbasse Houses	12 MW	Steam turbine and diesel engine	SC 11 TS 5	1964
5.	Kings Plaza	11 MW	Dual fuel eng-gen, 3500 tons GC	6	1972
6.	Starret City	18 MW	Steam turbine dual fuel	SC 11 TS 5	1974
7.	Newtown Creek WTP	7 MW	7 Enterprize dual fuel eng.(upgrade)	*	1978
8.	Magnolia	1 MW	Dual fuel engine	2	1979
9.	Admiral Plastics (SETCO)	800 kw	Cat gas engine (Shut down-moving)	*	1980
10.	BQ Racket Club	75 kw	Tecogen gas	*	1985
11.	Paerdegat Health Club	500 kw	Cat diesel	*	1985
12.	Big Six Towers	2.0 MW	Cat diesels (3)	*	1985
13.	Brooklyn Developmental Ctr.	1.0 MW	Cat diesels (3) Converting (1)/gas 1997	6	1985
	Owl's Head Water TP	4.0 MW	Sewage plant tri-fuel	*	1986
	NY Telephone	2.0 MW	Dual fuel engines (Selling bldg.)	*	1986
16.	Methodist Hospital	2.0 MW	Waukesha gas engine	4A	1991
17.	Kingsbrook Jewish Med. Ctr.	1.1 MW	Cooper Superior (2) gas engines	6	1991
18.	Honeywell Farms	2.0 MW	Cat gas engines (3)	6	1991
19.	St. Vincent's Hospital	200 kw	Onsi PC25A gas fuel cell (RDD)	4A	1992
20.	Lehigh Carting(Res. Recycling)	800 kw	Cat eng. 65 Townsend St.-moving	4A	1992
21.	Staten Island U. Hospital N.	1.1 MW	Cat gas engine (RDD project)	6	1992
22.	Watchtower	200 kw	Cat gas engine (peak shaving)	4A	1993
23.	St. Mary's Hospital	1.2 MW	Cat gas engines	4A	1993
24.	Lutheran Medical Center	1.6 MW	Cat gas engines	4A	1993
25.	Chromium Plating & Polishing	500 kw	Waukesha gas engine	4A	1993
26.	Epner Technology	165 kw	Waukesha gas engine	4A	1993
27.	Black Bull (4-Recycle)	800 kw	Cat gas engine	4A	1994
28.	Golten Marine	100 kw	Ford (Intelligen) gas engine	4A	1994
29.	Continental Bakeries	500 kw	Gas engine - restarted	6	1994
	Royal Carting (Crumb Rubber)	400 kw	Cat gas engine	6	1994
	Wonder Wheel	150 kw	Cat gas engine	2	1994
	Arrow Lock	560 kw	Waukesha gas engine	2	1995
33.	KIAC (JFK Airport)	110 MW	Gas turbines (BU-GEI)	SC 11 TS 5	1995
34.	Cascade Laundry	860 kw	Cooper Superior - gas engine	*	1995
35.	Private Brands	500 kw	Cat gas engine	4A	1995
36.	Arrow Lock	125 kw	Hercules gas engine	2	1996
37.	Brooklyn Navy Yard	280 MW	Combined cycle gas/steam turbine	SC 11 TS 5	1996
38.	Sun Chemical	400 kw	2 Onsi PC25C gas fuel cells (RDD)	4A	1996
39.	Staten Island U. Hospital N.	2.1 MW	Fairbanks Morse gas engine	6	1997
40.	Glenmore Plastics	500 kw	Cummins gas engine	4A	1997
41.	Superior Fiber	125 kw	Cummins (used) gas engine	4A	1997
42.	Premier Color	750 kw	Mitsubishi diesel (dual fuel converted)	4A	1997.
43.	Hillside Nursing Home	125 kw	John Deere (ISI) gas engine	4A	1997
44.	Afrodite Laundry	125 kw	Mitsubishi diesel (dual-fuel converted)	4A	1997
45.	14 Van St. Corp.	100 kw	Ford (Magnetek) gas engine	2	1997
46.	Arrow Lock	24 kw	Capstone gas micro-turbine (RDD)	2	1997
47.	Brooklyn Developmental Ctr.	1 MW	Converting existing diesel to gas	6	1997

* Cogen unit not operating on natural gas.

Cogeneration Summary - Brooklyn Union Service Territory

Existing Mechanical Cogeneration Facilities

Customer	System Configuration		Rate	Approx. Start-Up
1. Blue Ridge Farms	500 Tons	Refrigeration- Cummins/Frick (2)	4A	1991
2. Ultra Creative Corp.	200 HP	Air Compressor- Cat eng/Quincy (3)	4A	1993
3. Continental Bakeries	220 HP	Air Compressor- Cat/Quincy screw	6	1994
4. Coca Cola Bottling	150 HP	Air Compressor- Cat/Quincy screw	4A	1994
5. Van Blarcom Enclosures	200 HP	Air Conpressor- Cat/Sullair system	4A	1994
6. Hall Street Storage	440 Tons	Refrigeration- Cat/Quincy system	4A	1994
7. Landowne Packaging	130 HP	Air Compressor- Waukesha/Leroy	4A	1994
8. Devon Litho	150 HP	Air Compressor- Cat /Quincy system	*	1994
9. Coca Cola Bottling	600 Tons	Refrigeration- Cat engines/Frick (2)	4A	1995
10. Honeywell Farms	400 Tons	Refrigeration- Cat engines (2)	6	1995
11. Arnold's Bagelicious (Q. Oats)	280 Tons	Refrig.- Cat/Frick (2-340 hp@-30f)	4A	1995
12. Kalex Chemical	100 HP	Air Compressor- Cat/Quincy system	4A	1995
13. Gutman Plastics	280 HP	Air Compressor- Cat/Quincy	4A	1995
14. Standard Folding Carton	280 HP	Air Compressor- Cat/Quincy screw	4A	1995
15. Watchtower	100 HP	Air Compressor- Dearing(G-Dnv/Ford)	4A	1996
16. Star Corrugated	280 HP	Air Compressor- Cat engine/Quincy	4A	1996
17. Wing Gong Laundry	75 HP	Air Compressor- Hercules/Quincy (2)	6	1996
18. Envelope Manufacturing	100 HP	Vacuum Compr.- Cat/Gardner-Denver	4A	1997
19. Interstate Envelope	300 HP	Vacuum Compr.- Keyspan contract	4A	1997

* Cogen unit not operating on natural gas.

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RESPONSES OF THE BROOKLYN UNION GAS COMPANY TO ADDITIONAL INQUIRIES CONCERNING PRIOR RESPONSES TO INTERROGATORIES AND SUPPLEMENTAL INTERROGATORIES

NYPSC Case 97-G-0388

<u>RGL Direct - Interrogatory #9.</u>

Mr. Lukas adheres to the prior interrogatory response and declines to create a formal definition of "minimum annual" large volume.

<u>Brooklyn Union Direct - Supplemental Interrogatory #2.</u>

Mr. Lukas adheres to the prior interrogatory response, except to note that the consumption, load factor, and other service characteristics of NYCEG's recent conceptual plans are unknown and unverifiable, in contrast to the Rate 5 cogeneration customers shown on the response to NYCEG interrogatory 29.

<u>Brooklyn Union Direct - Supplemental Interrogatory #7.</u>

Mr. Lukas adheres to the prior interrogatory response, except to note that the actual cost savings realized as a result of the BNYCP peaking service arrangement and flowed through to firm ratepayers are identified on page 6 of his direct testimony and in Exhibit (RGL-6), and the workpapers furnished to NYCEG with Brooklyn Union's direct case. The cumulative savings analysis requested can be done by NYCEG from material already in its possession. Mr. Lukas declines to perform such analysis, and the additional hypothetical analysis sought by counsel based on contrary-to-fact assumptions.

<u>Brooklyn Union Answering Testimony - Supplemental Interrogatory #2(b).</u>

We know of no Commission rule that requires a party to take positions on factual issues prior to full development of an evidentiary record. Brooklyn Union's evidentiary case is clear regarding the decisional weight to be given unverifiable assertions basic to demands for service.

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Brooklyn Union Answering Testimony - Supplemental Interrogatory #9.

See response to #7 above and prior interrogatory response.

Brooklyn Union Answering Testimony - Supplemental Interrogatory #22.

These competitors include the numerous suppliers of gas, suppliers of oil, contractors, and other providers of energy equipment (including cogeneration equipment, fuel cells, etc.) operating, now or in the future in this multi-fuel market. NYCEG is as able as Brooklyn Union to compile lists of these entities.

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BROOKLYN UNION RESPONSE TO INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO DIRECT TESTIMONY OF RONALD G. LUKAS

9. On page 5, you state that only "two large volume" customers have individually negotiated contracts. Please state how you define "large volume" and provide all documents that support your definition of large volume.

nswer:

The volumes for the customers referred to are set out in Exhibit (RGL-5).

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EXECUTION COPY

FACILITIES CONSTRUCTION AND REIMBURSEMENT AGREEMENT

This Facilities Construction and Reimbursement Agreement ("FCRA") is made and entered into as of the 21ST day of June, 1995, by and between BROOKLYN NAVY YARD COGENERATION PARTNERS, L.P., a Delaware limited partnership with offices located at 366 Madison Avenue, Suite 1103, New York, New York 10017 ("BNYCP"), and THE BROOKLYN UNION GAS COMPANY, a New York corporation with offices located at One MetroTech Center, Brooklyn, New York 11201 ("Brooklyn Union").

W I T N E S E T H :

WHEREAS, BNYCP and Brooklyn Union entered a letter agreement dated March 23, 1994, setting forth certain agreed upon terms and conditions for the construction of a lateral transmission main and service main more fully described herein, the reimbursement of all costs incurred by Brooklyn Union at the direction or request of BNYCP and all other costs reasonably incurred by Brooklyn Union in connection with the negotiation, implementation, and performance of this agreement, and providing for certain deposits and a more formal agreement setting out all agreed upon terms for the proposed construction and reimbursement; and

WHEREAS, BNYCP has made deposits totalling $488,200 with Brooklyn Union, all in order to defray the costs to Brooklyn Union associated with various pre-construction orders and activities; and

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Date 1-15-98
Ex. No. 48

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WHEREAS, as contemplated by the March 23, 1994 letter agreement, the parties have finalized their agreement as to the terms and conditions pursuant to which the proposed mains construction will occur and pursuant to which Brooklyn Union will be reimbursed therefor, and the parties now wish to memorialize this understanding.

NOW THEREFORE, for and in consideration of the premises and mutual covenants herein contained, BNYCP and Brooklyn Union hereby agree as follows:

(1) The terms and conditions of the above referenced letter agreement (a copy of which is annexed hereto as Appendix "A") are incorporated herein and made a part hereof. Should there be any conflict or inconsistency between the terms and conditions of said letter agreement and those set forth herein, the terms and conditions of this FCRA shall control.

(2) Subject to the receipt of all necessary governmental authorizations and permits, Brooklyn Union shall design, construct and own: (a) a 16" lateral transmission main from an interconnection with the existing New York Facilities System to a point adjacent to the Navy Yard located in Brooklyn, New York (Section 7, Block 2023) together with the requisite appurtenant facilities (the "Transmission Facilities"); and (b) a 12" service main from a point at or near the terminus of the Transmission Facilities to a point approximately ten (10) feet upstream of the intake flange to BNYCP's gas compressors near the proposed Navy Yard cogeneration plant, together with the requisite appurtenant

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and metering facilities (the "Service Facilities"). The Service Facilities shall include a metering station with filter scrubber and meters with such temperature, pressure, instantaneous and accumulated flow signals as are requested to be available by BNYCP; any connections or lines to such signal equipment as is requested will be installed by BNYCP at its own cost and expense. The Transmission and Service Facilities are hereinafter referred to collectively as the "Subject Facilities." The proposed route and location of the Subject Facilities is more fully depicted and described on the map annexed hereto as Appendix "B". Brooklyn Union will design and construct the Subject Facilities with capacity sufficient to deliver and meter the quantities of gas to be transported on a firm basis pursuant to the form of agreement attached to said Precedent Agreement, at the delivery pressure available from time to time from the Subject Facilities, but not less than 125 p.s.i.g. and not more than 385 p.s.i.g. Based upon BNYCP's representation to Brooklyn Union that the proposed cogeneration plant will be ready for commercial operation as of November 30, 1995, and BNYCP's January 6, 1995 request that the Subject Facilities in the Navy Yard be completed by September 15, 1995, the parties hereto shall endeavor and use their best efforts to install the Subject Facilities by September 15, 1995, and to schedule the proposed construction contemplated herein so that the Subject Facilities can be operational on or before September 15, 1995; provided, however, it is understood and agreed that Brooklyn Union does not and cannot guarantee or insure that the Subject

Facilities will be operational by September 15, 1995, and that Brooklyn Union will not be liable to BNYCP or otherwise in the event the Subject Facilities are not completed by such date.

(3) In accordance with the terms and conditions of this FCRA, BNYC shall reimburse Brooklyn Union for or pay all verifiable costs and expenses incurred by Brooklyn Union at the direction or request of BNYCP, and all other costs reasonably incurred by Brooklyn Union and related to the negotiation, implementation, and performance of this FCRA and construction of the Subject Facilities, including but not limited to: (a) the filing and approval fees Brooklyn Union is required to pay governmental authorities or others relating to the work or for securing right of way; (b) costs for design, engineering and other third-party services, preparation of this FCRA, purchase of materials, other contracting, site remediation and clean up, and the construction and installation of the Subject Facilities, including necessary vendor charges; and (c) any overtime or additional charges occasioned by project changes or the construction schedule requested by BNYCP. BNYCP also agrees to reimburse Brooklyn Union for any federal, state, or local taxes and tax liabilities incurred by Brooklyn Union as a result of its performance of this FCRA and BNYCP's reimbursement of costs hereunder. Company labor in connection with administration, implementation and performance of this FCRA shall be charged at direct salary cost plus a 66% loading factor for indirect costs. Direct salary will be based on the actual salaries and hours of the personnel assigned. Based upon the best information available at

the time of the execution of this FCRA, Brooklyn Union estimates that the total cost for the foregoing construction, facilities and associated tax liabilities will be $5,416,000, consisting of the components set out in Appendix "C" hereto. Brooklyn Union will use due diligence to complete the work within the cost estimate set out in Appendix C; provided, however, that the estimates set forth herein are not and shall not be construed as a cap on Brooklyn Union's right to reimbursement, and do not in any way limit BNYCP's obligation to pay or reimburse Brooklyn Union for all costs actually and reasonably incurred by Brooklyn Union in connection with performance of this FCRA and the proposed construction and reimbursement.

(4) It is Brooklyn Union's intention to account, for tax purposes, for the reimbursements of the cost of the Subject Facilities owned by it as a "contribution in aid of construction" as defined by Section 118(b) of the Internal Revenue Code and/or comparable state and local law, and to treat the same as taxable reimbursements. BNYCP agrees to reimburse Brooklyn Union for any federal, state or local income tax liability resulting from the taxable reimbursement (the "Tax Gross Up"). Based on current known tax rates and depreciation schedules, it is agreed that the Tax Gross Up shall be calculated at 28.4% of the reimbursements of the costs of the Subject Facilities to be owned by Brooklyn Union. Further, it is agreed that in the event BNYCP obtains a valid final private letter ruling or other comparable order of Internal Revenue Service or other taxing authority having jurisdiction that the

contributions in question are not taxable income, then to the extent Brooklyn Union is not required to pay or remit the tax, or is entitled to a refund of taxes paid on account of the contributions, Brooklyn Union shall refund the reimbursements theretofore made by BNYCP on account of such tax liabilities.

(5) Brooklyn Union intends to treat all reimbursements received pursuant to this FCRA as taxable under State and local sales tax laws at the current combined State and local rate of 8.25%, except to the extent BNYCP furnishes Brooklyn Union with a valid exempt use certificate as to State sales tax. In the event that BNYCP obtains a valid final advisory opinion or other binding and final ruling or order from the New York State Department of Taxation and Finance or other taxing authority having jurisdiction that the reimbursements in question are not subject to state and/or local sales tax, then to the extent Brooklyn Union is not required to pay or remit the tax, or is entitled to a refund of taxes paid on account of the reimbursements, Brooklyn Union shall refund the amounts theretofore paid by BNYCP on account of such sales tax liabilities.

(6) Brooklyn Union will cooperate with BNYCP in its efforts to obtain a ruling, refund or order on the income and sales tax treatments of reimbursements under this FCRA. Notwithstanding any other provision of this FCRA, BNYCP agrees to indemnify and hold Brooklyn Union harmless with respect to any federal, state, or local tax liabilities arising from the construction of the Subject Facilities and from any reimbursements provided for in this FCRA

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(excepting employment taxes associated with Brooklyn Union labor or with third-party labor where the third-party has assumed responsibility). This indemnification shall apply to tax liabilities under existing, new, or amended laws and regulations and shall survive the performance of any other provisions of this FCRA.

(7) BNYCP shall reimburse Brooklyn Union in accordance with the following payment schedule:

(a) 25% of the total estimated cost stated above (less the advances heretofore paid by BNYCP) shall be paid to Brooklyn Union upon the execution and delivery of this FCRA;

(b) 30% of the total estimated cost shall be paid to Brooklyn Union not later than seven (7) days after the award of the initial construction contract pertaining to the proposed construction contemplated hereunder;

(c) 30% of the total estimated construction cost shall be paid to Brooklyn Union at the time the Subject Facilities are 50% completed (as measured by linear feet of main installed);

(d) 15% of the total estimated cost shall be paid to Brooklyn Union upon completion of the proposed construction, which construction shall be deemed completed when the Subject Facilities are tested, cleaned, and ready for final "tie in" to BNYCP's proposed compressor facilities at the proposed Navy Yard cogeneration plant (whether or not such plant is operational); and

(e) the balance of any and all unrecovered costs incurred by Brooklyn Union, less any credits due to BNYCP

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(including, but not limited to, costs and/or credits associated with contractor or vendor adjustments, final "tie in", post-construction clean up, any other costs or credits incurred by Brooklyn Union, and final adjustments to reconcile estimated to actual costs), shall be invoiced to BNYCP by Brooklyn Union as soon as reasonably possible after completion of construction, as defined in paragraph 7(d), but in no event shall such invoices be furnished later than one (1) year after said completion of construction. Such invoices shall be segregated as to Transmission Facilities and Service Facilities, and shall briefly describe the work and be itemized to reflect all material items of expense and cost, and all itemized vendor charges or invoices. Brooklyn Union will employ a record-keeping system for employee labor that is capable of audit by BNYCP. The total amount of actual costs reflected on all invoices will be compared to the total payments of estimated costs made by BNYCP to Brooklyn Union, and any discrepancy between the total actual costs and the total payments of estimated costs will be paid by BNYCP or reimbursed to BNYCP by Brooklyn Union, as appropriate.

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SECTION 9

(b) BNYCP shall have the right during normal business hours and upon reasonable prior notice to examine, on any day on which Brooklyn Union is open for business, the books and records of Brooklyn Union relating to work for which reimbursement is sought under this FCRA in order to verify any statement, charge or computation made hereunder. Any payment hereunder shall be without prejudice to the right of the paying party to dispute the accuracy or validity of the subject invoice or statement. All statements and invoices shall be deemed final and binding unless the paying party has notified the other party of any dispute on or before twelve (12) months after the date of the statement or invoice.

(16) The parties agree to submit any disputes concerning the final reconciliation of estimated costs to actual costs provided for in paragraph 7(e) hereof to non-binding mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association prior to exercising legal rights before any judicial tribunal. To that end, upon the occurrence of a dispute, the following procedures shall apply:

(a) The party requesting mediation shall notify the other party in writing of the nature of the dispute and its desire to resolve the dispute through mediation.

(b) Within ten (10) days thereafter, the parties shall meet to appoint a mediator, who shall be a person with at least ten (10) years experience on energy construction projects; if the parties are unable to agree on a mediator, the mediator shall be appointed by the New York City office of the American Arbitration Association.

(c) Thereafter, the parties shall arrange a time to meet with the mediator, at which employees of each party with authority to make decisions and bind each party shall be present to resolve the dispute. Such meeting shall be not later than thirty (30) days after the initial notice, or twenty (20) days after appointment of a mediator.

(d) Discussions with the mediator shall continue until the parties have (i) come to agreement as to resolution of the dispute or (ii) reached an impasse and failed to resolve the dispute.

(e) At the conclusion of an unsuccessful effort to resolve the dispute through mediation, either party may exercise its right to pursue enforcement of the provisions of the FCRA by appropriate legal action.

(f) The parties shall each bear their own costs of mediation and shall share the expenses of the mediator.

(17) This FCRA shall be governed by and construed in accordance with the laws of the State of New York. Each of the parties hereby agrees to submit to the nonexclusive jurisdiction of the United States District Court for the Eastern District of New York and/or of any New York State Court sitting in Kings or New

York County for the purposes of all legal proceedings arising out of or relating to this FCRA. Each of the parties hereby irrevocably waives, to the fullest extent permitted by law, any objection to the selection of this venue and any claim that any proceeding brought in such a court has been brought in an inconvenient forum. Each of the parties further irrevocably waives, to the fullest extent permitted by law, any and all rights to a trial by jury with regard to any matter or dispute arising out of or in connection with this FCRA.

(18) Notwithstanding anything to the contrary contained herein, a party shall not be liable for its failure to perform obligations set forth in this FCRA if and to the extent such failure has been occasioned by the occurrence of a force majeure event. The term "force majeure event" as used herein shall include acts of God, fires, floods, storms, hurricanes, strikes, labor disputes, riots, insurrections, acts of war (whether declared or otherwise), unforeseeable acts of governmental or judicial bodies, inability to obtain necessary governmental authorizations and permits applicable to the proposed construction, the breakdown, malfunctioning or failure of all or any part of the Subject Facilities caused by an event of force majeure, or any other unforeseeable causes beyond the reasonable control of and which do not involve the fault, negligence or willful misconduct of the party claiming force majeure. The parties understand and agree that a failure or inability by either party to obtain and/or maintain sufficient funds to perform their obligations shall not

constitute a force majeure event. If either party because of an event of force majeure is rendered wholly or partly unable to perform its obligations hereunder, that party shall be excused from whatever performance is prevented by the force majeure to the extent so prevented, provided that such suspension of performance shall be of no greater scope and of no longer duration than is required by the force majeure, and further provided that (a) the party claiming force majeure gives the other party written notice describing the particulars of the occurrence within fourteen (14) days of its occurrence, and (b) the party claiming force majeure uses reasonable diligence to remedy its inability to perform.

(19) The parties recognize and agree that certain provisions of this FCRA and any related filings with the New York Public Service Commission do or will contain commercially sensitive or confidential trade secret information. The parties agree to maintain such provisions in strict confidence in accordance with and subject to the standards and provisions of paragraph "11." of the proposed "Precedent Agreement" between them, provided that BNYCP shall be permitted to disclose to Consolidated Edison Company of New York, Inc. ("Con Edison"), under a confidentiality agreement of comparable effect and naming Brooklyn Union as a beneficiary thereof, the estimated cost differential between the proposed 16" transmission main and a hypothetical 12" transmission main at the same location, the drawing appended hereto, invoices and supporting data, and documentation prepared in the course of performance of this FCRA stating and supporting the configuration, location, and

estimated and actual costs (including the payment schedule and the indirect loadings applicable to Brooklyn Union labor) of the Transmission Facilities (and the payment thereof by BNYCP) provided for in this FCRA. No other data or provision of this FCRA or other agreements between the parties shall be disclosed to Con Edison without the prior written consent of Brooklyn Union. Upon receipt of Brooklyn Union's written consent, which shall not be unreasonably withheld, BNYCP also shall be permitted to disclose this FCRA to potential lenders and investors in the BNYCP project under a confidentiality agreement of comparable effect and naming Brooklyn Union as a beneficiary thereof.

(20) The rights and obligations created under this FCRA are solely for the benefit of the parties hereto, and no person or entity not a party to this FCRA (other than successors and properly authorized assigns) shall have any rights under or by virtue of this FCRA.

(21) Except for assignments solely for the purpose of creating a security interest for financing, each of the parties hereby agrees not to assign or otherwise transfer its rights and interests under this FCRA without the prior written consent of the other party.

(22) This FCRA, or any extension or renewal hereof, shall not be amended or otherwise modified unless such amendment or modification is in writing and signed by both parties hereto.

(23) All notices, requests, invoices, and other communications pertaining to this FCRA shall be personally delivered, telecopied,

or sent by registered or certified mail properly addressed to the recipient for the particular party as specified on the signature page hereto. All such notices or other communications shall be deemed to have been duly given when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt by the intended party.

(24) No delay or failure to enforce any provision of this FCRA shall constitute a waiver or limitation of rights enforceable under this FCRA.

(25) This FCRA shall fully and completely supersede all other prior understandings or agreements, written or oral (other than the terms and conditions set forth in the letter agreement annexed hereto) between the parties relating to the construction, installation, operation and maintenance of the Subject Facilities. The rights and obligations of the parties under this FCRA are neither conditioned nor contingent upon fulfillment or satisfaction of the provisions or conditions of the proposed Precedent Agreement, which shall not be taken or construed to modify such rights and obligations.

(26) This FCRA shall be binding upon and shall inure to the benefit of the successors and properly authorized assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this FCRA to be executed and delivered by their duly authorized representatives or officers as of the day and year first above written.

CONFIDENTIAL

THE BROOKLYN UNION GAS COMPANY

By: /S/ CRAIG G. MATTHEWS
Name: ~~Edward J. Sondey~~ CRAIG G. MATTHEWS
Title: ~~Senior~~ EXECUTIVE Vice-President

Address for Notices:

The Brooklyn Union Gas Company
One MetroTech Center
Brooklyn, New York 11201
Telecopier #: (718) 488-1761

Attn: JOEL COOPER-DIRECTOR, SYSTEM PLANNING

BROOKLYN NAVY YARD COGENERATION PARTNERS, L.P.

By Each of its Partners:
MISSION ENERGY NEW YORK, INC.

A General Partner

By: /S/ JAMES C. HENNEFORTH
Name: JAMES C. HENNEFORTH
Title: VICE PRESIDENT

B-41 ASSOCIATES, L.P.

A General Partner

By: B-41 Management Corp.

A General Partner of B-41 Associates, L.P.

By: /S/ ROBERT C. PALADINO
Name: ROBERT C. PALADINO
Title: VICE PRESIDENT

CONFIDENTIAL

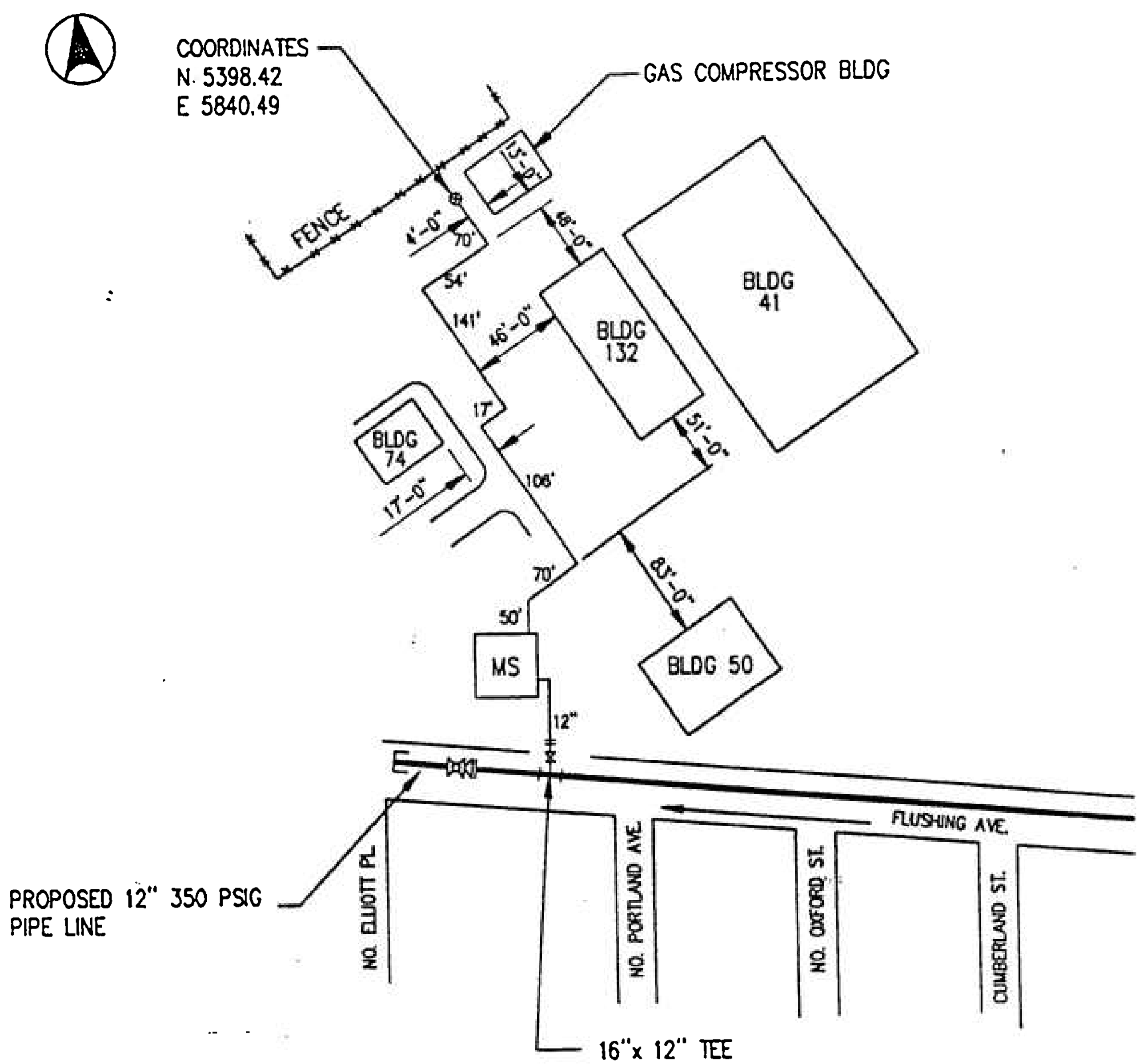
Address for Notices:

Brooklyn Navy Yard Cogeneration Partners, L.P.
366 Madison Avenue
Suite 1103
New York, New York 10017
Telecopier #: (212) 949-1932

Attn: Project Director

CONFIDENTIAL

APPENDIX "B"



Public Service Commisson
Case No. 97-G-0388
Date 1-15-98, 1-16-98
Ex.. No. 47 [redacted]

NAVY YARD PROJECT - TETCO SUPPLY

The following are some points related to our ability to supply the Navy Yard project from the existing TETCO (058) delivery point in Staten Island.

- If we hypothetically were dealing with an isolated system where BUG had only its load to deal with and there were one or more delivery points into this isolated area, then load and supply requirements would be 1:1 and would be controllable.

- The current New York Facilities System available firm capacity is on a downward trend. We expect to be unable to add new growth after the late 1990's without a new delivery point into the system. Brooklyn Union's design day firm requirements alone are expected to increase from 1067 MDTH in fy 91/92 to 1184 MDTh in fy 97/98. Contracting for 50 MDTh, or even 25 MDTh per day firm delivery at design conditions through the existing delivery system would not be prudent. **Without Liberty (or some other point) we cannot guarantee delivery of large additional volumes of gas through the system based on future growth and daily requirements of the other two facilities companies.**

- Existing delivery problems for member companies at various temperatures, due to BUG loads, has resulted in LILCO being unable to move all the gas that they want from TETCO.

- Based on the uncertainty of the other companies requirements we can't guarantee firm service as stated above. This is expected to be exasperated in future years, without a new delivery point, due to not only firm growth in the three Companies service territories; but also by new future projects both powergen and electric cogen.

- Delivery through TETCO (058) is subject to allocations in the New York Facilities System between the three member companies. We do not have the right to move additional gas except within the confines of the New York Facilities agreement. Deliveries in excess of firm contract percentages are subject to allocation between the companies in proportion to firm contracts. Likewise any capacity left on the table by any company is subject to allocation between the remaining companies.

- Presently TETCO provides operational flexibility to allow us to deliver gas on a pattern to match our demand. Any additional gas allowed to flow through the station on a flat basis could reduce station capacity and limit the allowed flexibility.

Public Service Commisson
Case No.
Date 1-15-98
Ex. No. 47

- Accurate modeling of the system to predict with any certainty the risk of curtailment or delivery ability is highly subjective to the assumptions used. The model can show capacity or no capacity depending on inputs. The model lets Transco deliveries to float regardless of quantities and pressure. Care must be taken to review results for exceeding the capacity of the stations.

- System pressures are controlled at reduced values through the two Manhattan Transco delivery points in the period from April through November to allow the Hunts Point Compressor to move gas south into the system from the Tennessee system. During other periods the pressure is limited by the station set points and the upstream pipelines ability to maintain adequate pressure. Transco the largest transporter delivers on pressure control. Their tariff has a minimum delivery pressure of 275 psig.

- Pressure in the area of the Navy Yard has historically been in the range of 200 psig to 275 psig. Low end temperatures generally are around 200 to 215 psig. We make every effort to stay at or above this range to allow LNG liquefaction.

- On an interruptible basis we anticipate, short term, that gas can be delivered through TETCO 058 in the required quantities for temperatures at or above 20 degrees fahrenheit. Below this, temperature interruptions can occur. In the last ten years we have seen a maximum of 10 days where the temperature range fell at or below 20 degrees.

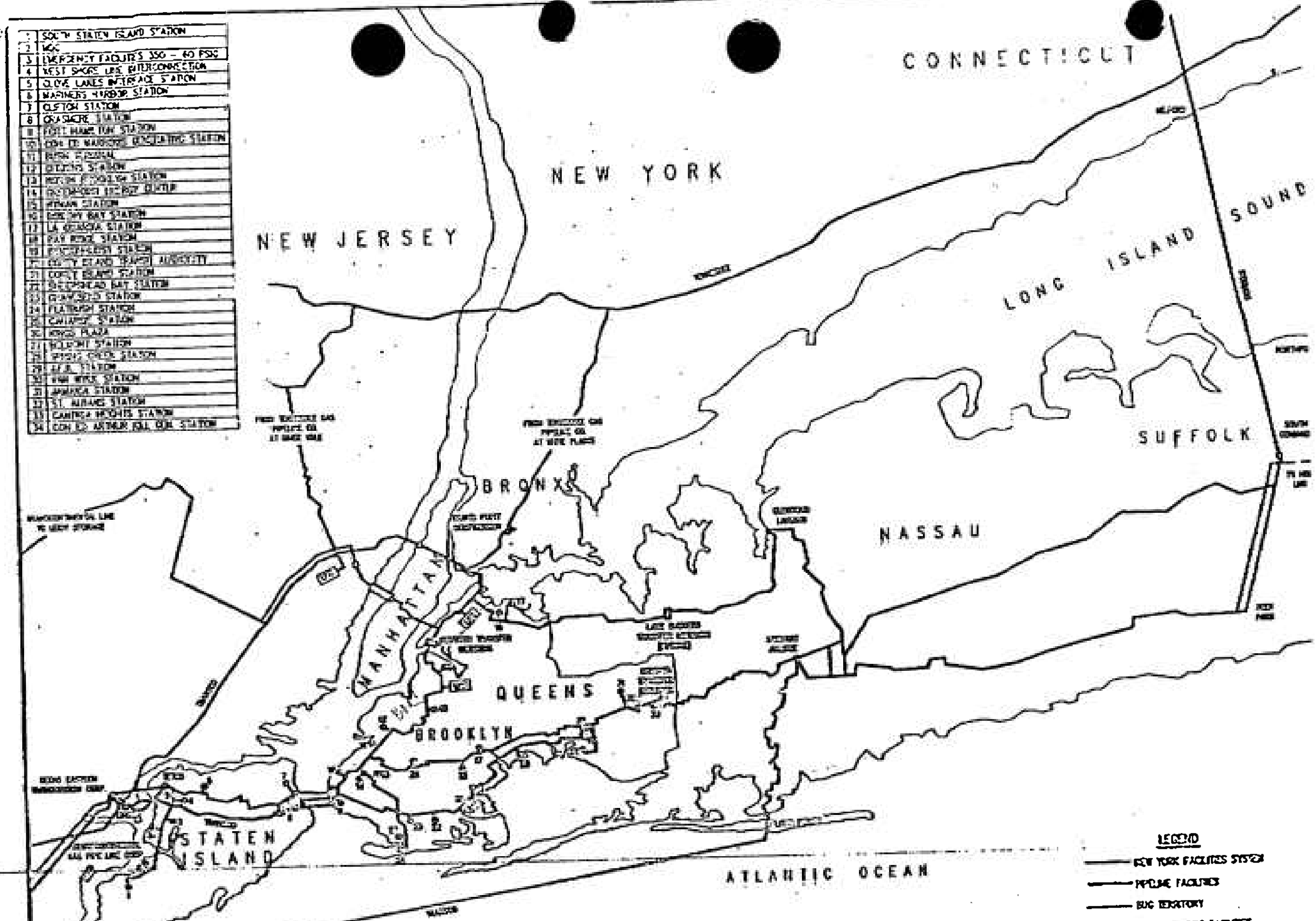
- In the future a compressor may be required to give back the required inlet pressure to the LNG facility to bring the pressure back to 215 psig or so. Need to compress approximately 2100 DTh per hour (50,000 DTh per day) from roughly 190 psig to 215 psig. This may be required regardless of delivery point. Liberty does not preclude this requirement.

- The delivery of required gas volumes through Iroquois cannot be relied on because LILCO may not be able to move the increased gas volumes away from the delivery point until significant east end load growth takes place. The Commack delivery point is also subject to allocations. This area is subject to LILCO's loads and growth and we can only estimate.

- Interruptible service could possibly be provided by one or more of the existing pipelines.

TETCO GOETHALS	DT/DAY	CUMULATIVE
TRANSPORTATION EXCHANGE:	29,317	29,317
	20,808	50,125
	6,834	56,959
		56,959
END-USERS	20,000	76,959
		76,959
CD-1/FT-1	56,718	133,677
		133,677
CNG-TETCO	14,721	148,398
		148,398
SS-2	20,461	168,859
SS-3	10,340	179,199
SS	51,904	231,103
SS-1 (TETCO)	62,286	293,389
KEYSTONE	15,880	309,269
		309,269
PENNEAST	27,500	336,769
APEC-TETCO	5,000	341,769

	341,769	



METROPOLITAN AREA NATURAL GAS NETWORK

T E T C O G O E T H A L S S T A T I O N A L L O C A T I O N S

	MCF	DTH
FIRM STATION CAPACITY	340600	350136
ESTM STATION CAPACITY	194553	200000
EXCESS (DEFICIT)	-146047	-150136
BTU	1028	

	BUG	CON EDISON	LILCO	TOTALS
PERCENT	46.50%	38.25%	15.25%	100.00%
BASE SPLIT	-69813	-57427	-22895	-150136
FIRM CONTRACT	174143	139705	36289	350136
BASE ALLOTMENT	104330	82278	13393	200000
REQUEST			3000	
EXCESS (DEFICIT)	0	0	10393	
PERCENT	54.87%	45.13%	0.00%	100.00%
SHARE	5702	4690	-10393	10393
FINAL ALLOTMENT	110032	86968	3000	200000
NEW DAY HOURS	MAX 10000	MIN 6340	AVG 8336	

CAMBRIA CANARSIE [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

30" 700ms

[illegible]

50' Base Allotment

[illegible]

TG3A TETCO GOETHALS STATION ALLOCATIONS 08-JUN-92 HRDCPY JHP

DATA ENTRY SUCCESSFUL SUCCESSFUL ACTIVATION PAGE 1/1

T E T C O G O E T H A L S S T A T I O N A L L O C A T I O N S

	MCF	DTH
FIRM STATION CAPACITY	340600	350136
ESTM STATION CAPACITY	390600	401536
EXCESS (DEFICIT)	50000	51400
BTU	1028	

	BUG	CON EDISON	LILCO	TOTALS
PERCENT	46.50%	38.25%	15.25%	100.00%
BASE SPLIT	23901	19660	7838	51400
FIRM CONTRACT	174143	139705	36288	350136
BASE ALLOTMENT	198044	159365	44126	401536
REQUEST				
EXCESS (DEFICIT)	0	0	0	
PERCENT	46.50%	38.25%	15.25%	100.00%
SHARE	0	0	0	0
FINAL ALLOTMENT	198044	159365	44126	401536
NEW DAY HOURS	MAX 20076	MIN 12728	AVG 16736	

CAMBRIA CANARSIE CITIZENS SPRCREEK CLIFTON SHPHDBAY BOWRYBAY FRSHKILL

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**RESPONSE OF THE BROOKLYN UNION GAS COMPANY
TO COMMISSION STAFF INTERROGATORIES**

Case 97-G-0388

Question:

C1. With respect to Mr. Cooper's testimony at page 5 regarding his system flow and pressure analysis, which concludes that providing firm service to NYCEG will result in a pressure drop of 3 psig at the inlet of Brooklyn Union's LNG liquefaction facilities:

(a) Please describe the modeling tool used for that analysis:

(i) Is this the same modeling tool that would be used to determine the impact on the New York Facilities System (NYFS) of providing service to NYCEG? If so, what does the analysis show with respect to impacts on the NYFS?

(ii) What assumptions were made concerning receipt points for gas delivered to the NYFS on behalf of NYCEG? If no such assumptions were made, please explain how the model can be run without such information.

(b) Would the impact on the LNG facility be the same if NYCEG were to be served with 30 days of interruptibility? Please explain.

(c) You have proposed that NYCEG pay the cost of mitigating the impact on the LNG facility; namely, the installation of 375 feet of 20 inch pipe at a cost of \$380,000. In contrast, the impacts of the Brooklyn Navy Yard (BNY) on the LNG facility are to measured (more than two years after the start of its operation) and then BNY will pay the cost of improvements needed if the pressure drop is 8 psig.

(i) Why is a different pressure drop used to trigger corrective action for BNY vs. NYCEG?

(ii) Why shouldn't BNY and NYCEG share the cost of such improvements, just as you propose that they share the cost of the special purpose line installed to serve BNY?

Answer:

C 1. (a) The modeling tool used for analysis of the NYCEG impact on LNG liquefaction was initially GASSS a mainframe version of Stoner Associates steady state gas modeling software and in the final analysis Stoner SWS PC based steady state modeling software.

C 1. (a)(i) The same modeling software could be used to evaluate the effect of the service demanded by NYCEG on the New York Facilities System. Since specific verifiable data such as where gas would be tendered to BU has not been provided and the NYCEG proposal is at best hypothetical and speculative, Mr. Cooper concluded that further analyses of impacts on New York Facilities System from providing the firm transportation service demanded over the life of the contract were not warranted at this time.

C 1. (a)(ii) The assumptions that were made were that all flow controlled delivery points were operating at full contract volumes and that the pressure controlled delivery points would supply any variability or incremental gas. Each such delivery point was set to typical winter set point values. Regardless of these assumptions, the effect on pressure loss through the spur to the Brooklyn Union LNG facility is independent of delivery points, but only a factor of the inlet pressure to the spur and the gas flowing through the spur to the LNG liquefaction equipment and to the distribution systems served by the same spur.

C 1. (b) This question cannot be answered without conducting a multiplicity of studies to determine system pressures at various points under hypothetical conditions when NYCEG presumably would be in operation and Brooklyn Union liquefaction is operating. However, it is safe to assume that the pressure loss would be approximately the same under most of the hypothetical conditions that could be analyzed.

C 1. (c) The question's assumption that the BNYCP impacts must be measured more than two years after the start of operation is not correct. The contract with BNYCP gives Brooklyn Union the right to make measurements under specific conditions for up to the second August after start up of the plant. This permits, but does not require, Brooklyn Union to take into account two complete operating seasons where an impact could be observed. Brooklyn Union has chosen to make these measurements and tests during the second winter (which, based on normal load growth, should be more likely to reveal the extent of any adverse BNYCP impact). The pressure threshold was the product of negotiations and was set at 8 psig. If the tests indicate a pressure drop greater than this value, BNYCP would be responsible for the costs of modifications to restore the pressure loss up to $2 million.

C 1. (c)(i) The 8 psig threshold was part of a negotiation and was accepted as part of an overall service arrangement that was beneficial to Brooklyn Union and the customers it serves. In the context of NYCEG's refusal to negotiate a compensatory service arrangement, the additional pressure loss caused by NYCEG is one more "straw that breaks the camel's back". Furthermore the BNYCP contributions to fixed costs would provide substantial resources to address any loss of liquefaction efficiency or incremental reinforcement required that is not directly reimbursed. It also should be noted that a similar pressure drop threshold relative to the proposed daily MDQ could be considered (ie BNYCP @ 60,000 MDT/day = 8 psig; by comparison NYCEG @ 15,300 MDT/day = (15.3/60) x 8 psig = 2.04 psig). Since Mr. Cooper's analysis indicates that for BNYCP an actual pressure drop of 10 psig can be expected, and an incremental pressure drop of 3 psig would be caused by NYCEG, both parties would pay or compensate for the capital costs to remedy the pressure drops caused by their respective operations.

C 1. (c)(ii) Each party should share the cost of the existing special purpose line since that was a condition that was part of the contract negotiated with BNYCP and but for BNYCP's funding of the entire cost of this line, NYCEG could not receive the service it demands. There is no such sharing provision in the BNYCP contract dealing with the LNG pressure deterioration, and there is a difference between an existing line entirely paid for by BNYCP and each party's responsibility to fund new facilities to restore pressure in part of the gas system that is paid for by firm ratepayers. In the case of the LNG spur, the new facilities required to remedy the adverse impacts caused by each party can be separately identified, and each party can be made responsible for restoration of the loss of pressure caused by the operation of its facility. Finally, should the NYCEG load ever materialize, the related construction required would be in a different time frame.

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BROOKLYN UNION RESPONSE TO SUPPLEMENTAL INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, LP. DIRECTED TO BROOKLYN UNION'S DIRECT TESTIMONY

13. Concerning the LNG pressure drop mitigation costs:

(a) Provide a copy of the system flow and pressure analysis referred to in Mr. Cooper's testimony (p.5, lines 2-9).

(b) Did Brooklyn Union conduct similar analyses for KIAC and BNYCP? If yes, provide copies; if no, explain why one was conducted for NYCEG, but not for KIAC and/or BNYCP.

(c) Did the system flow and pressure analysis net out existing NYCHA load? If not explain why not, and provide an estimate of the impact of netting out the NYCHA load.

(d) Explain why an estimated drop of 3 psi is deemed to compromise the operating efficiency of the liquefaction system (Cooper p.5, lines 6-9), whereas in the BNYCP contract, BNYCP's obligation to reimburse Brooklyn Union for similar costs is triggered only if there is a drop of 8 psi prior to August 1 of the third contract year under normal winter conditions when temperatures fall below 20°?

(e) Explain what alternatives to the addition of 375 feet of 20 inch main were considered. Does Brooklyn Union consider the addition of 20 inch main to be the lowest cost alternative?

(f) Would the addition of 20 inch main as proposed by Mr. Cooper diminish or eliminate the likelihood that Brooklyn Union would seek reimbursement from BNYCP for such costs?

(g) What margin of protection above and beyond the 3 psi drop would the addition of 20 inch main provide?

Answer:

13.(a) The marked printouts of the analyses underlying Mr. Cooper's testimony are attached. All cases were run at common assumptions: 15-20° F.; LNG liquefying; see also response to Staff IR C.1. Base case: LNG pressure = 216 psig; BNYCP case: LNG pressure = 206 psig; NYCEG case: LNG pressure= 203 psig.

BROOKLYN UNION RESPONSE TO SUPPLEMENTAL INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, LP. DIRECTED TO BROOKLYN UNION'S DIRECT TESTIMONY

13.(b) KIAC -- No similar analysis was conducted for the KIAC service agreement, given the fully interruptible nature of the service, the fact that it required no dedicated delivery capacity, and the location of the load on Brooklyn Union's system near JFK Airport. BNYCP -- similar analysis was conducted; outputs/printouts were not retained. NYCEG demands 365-day firm transportation service.

13.(c) No. The temperature-controlled NYCHA load is served off the 15 pound system and does not affect inlet pressures to the LNG plant. Hence, a "netting out" of the NYCHA load would have no impact on LNG inlet pressures.

13.(d) See response to Staff IR C.1. Both pressure drops compromise the operation of Brooklyn Union's system by impairing the efficiency of its LNG liquefaction operation. It should be noted that the service demanded by NYCEG also would have a detrimental effect on BNYCP's operations by reducing the delivery pressure to BNYCP and hence requiring additional compression on their part

13.(e) Compression was considered. Mr. Cooper considers the addition of main to be the lowest cost alternative.

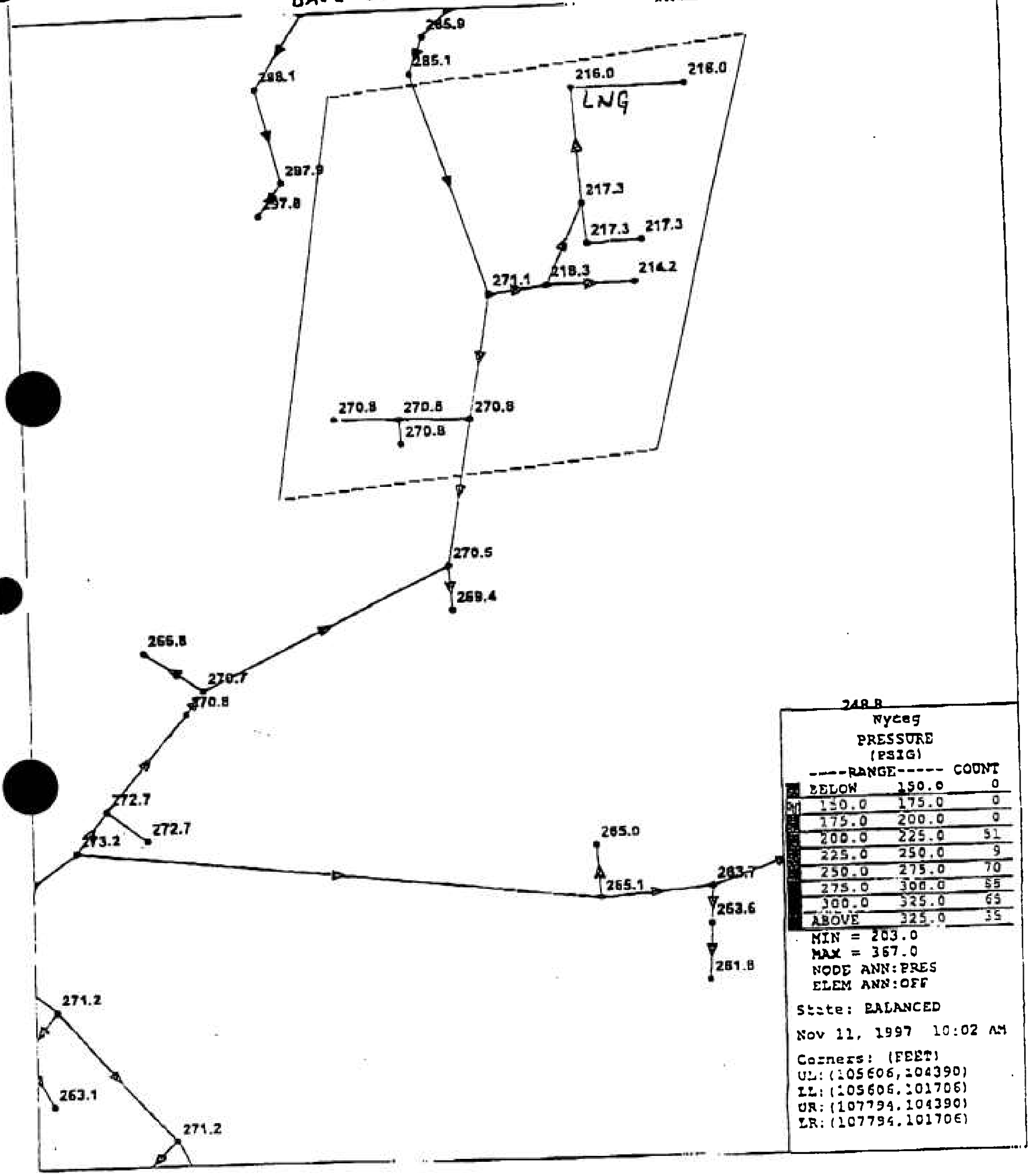
13.(f) No.

13.(g) None.

NEW YORK FACILITIES IN AREA OF GREENPOINT AND NAVY YARD

TEMPERATURE RANGE 15 - 20 DEGREES F.

BASE CASE – NO LOAD AT NAVY YARD, LNG LIQUIFYING



SOLUTION COMPLETED IN 3 ITERATIONS

ALL REGULATORS WITHIN LIMITS

SUPPLIES:

	FLOW	ALLOWABLE			
LONG BEACH -	314 MDTH/D	(533)	345 PSIG	NARROWS	310 PSIG
LINDEN -----	285 MDTH/D	(403)	364 PSIG		
134th ST ---	425 MDTH/D	(533)	315 PSIG		
CNTRL MANH -	414 MDTH/D	(734)	320 PSIG	72nd ST	311 PSIG
IGTS -------	255 MDTH/D		334 PSIG		
TETCO ------	511 MDTH/D		367 PSIG		
WHITE PLAINS	100 MDTH/D		216 PSIG		

BORDERLINE METERING:

NEWTOWN CREEK	-242.6 MMCFD	(+ TO CON EDISON)
LAKE SUCCESS	-18.3 MMCFD	(+ TO LILCO)
CAMBRIA HGTS	20.9 MMCFD	(+ TO LILCO)

LNG PLANTS:

CON EDISON	0 MDTH/D	298 PSIG
BUG	-52 MDTH/D	216 PSIG
LILCO	0 MDTH/D	324 PSIG

REGULATORS:

HUNTSPOINT FLOW 159 MMCFD

HUNTSPOINT PRESSURE	UPSTREAM	292 PSIG	DOWNSTREAM	220 PSIG
STEWART AVE	UPSTREAM	324 PSIG	DOWNSTREAM	255 PSIG

LOW POINTS:

BBELMOT	249 PSIG
GREENPOINT	214 PSIG
BAYSHORE	282 PSIG

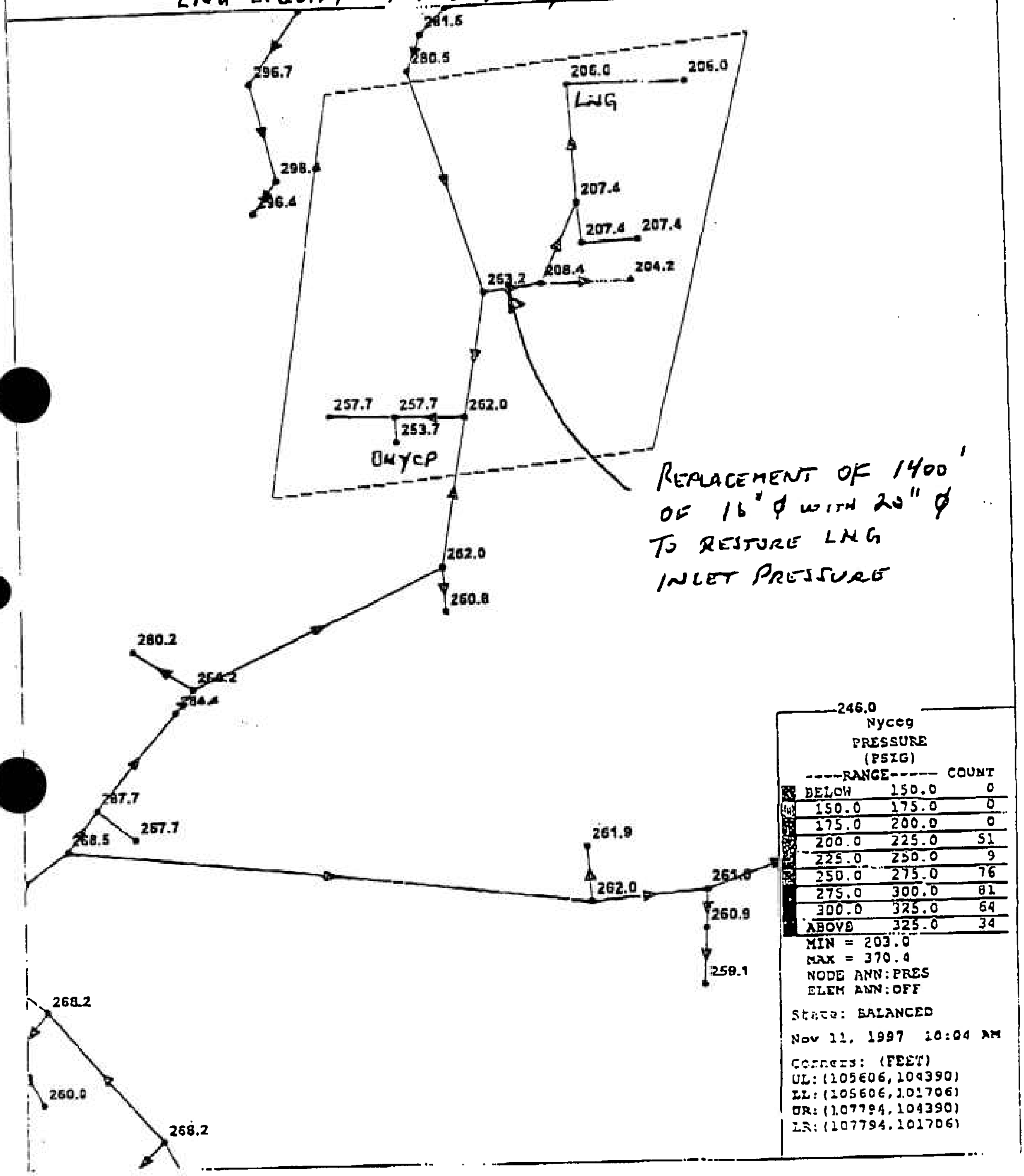
DELIVERY POINT ENTITLEMENTS:

		ALLOWABLE
DPE LB & LINDEN	580 MMCFD	(725)
DPE CM & 134th	813 MMCFD	(1030)
DPE LINDEN, CM & 134th	1088 MMCFD	(1339)

NEW YORK FACILITIES IN AREA OF GREENPOINT AND NAVY YARD

TEMPERATURE RANGE 15 - 20 DEGREES F.

LNG LIQUIFYING + 60,000 ~~M~~DT/DAY @ BNYCP



SOLUTION COMPLETED IN 3 ITERATIONS

ALL REGULATORS WITHIN LIMITS

SUPPLIES:

	FLOW	ALLOWABLE			
LONG BEACH -	330 MDTH/D	(533)	345 PSIG		
LINDEN -----	302 MDTH/D	(403)	370 PSIG	NARROWS	310 PSIG
134th ST ---	439 MDTH/D	(533)	315 PSIG		
CNTRL MANH -	427 MDTH/D	(734)	320 PSIG	72nd ST	310 PSIG
IGTS -------	255 MDTH/D		332 PSIG		
TETCO ------	511 MDTH/D		366 PSIG		
WHITE PLAINS	100 MDTH/D		216 PSIG		

BORDERLINE METERING:

NEWTOWN CREEK	-267.8 MMCFD	(+ TO CON EDISON)
LAKE SUCCESS	-17.7 MMCFD	(+ TO LILCO)
CAMBRIA HGTS	5.0 MMCFD	(+ TO LILCO)

LNG PLANTS:

CON EDISON	0 MDTH/D	296 PSIG
BUG	-52 MDTH/D	206 PSIG
LILCO	0 MDTH/D	321 PSIG

REGULATORS:

HUNTSPOINT FLOW	159 MMCFD				
PRESSURE	UPSTREAM	291 PSIG	DOWNSTREAM	220 PSIG	
STEWART AVE	UPSTREAM	322 PSIG	DOWNSTREAM	255 PSIG	

LOW POINTS:

BBELMOT	246 PSIG
GREENPOINT	204 PSIG
BAYSHORE	279 PSIG

DELIVERY POINT ENTITLEMENTS:

		ALLOWABLE
DPE LB & LINDEN	612 MMCFD	(725)
DPE CM & 134th	838 MMCFD	(1030)
DPE LINDEN, CM & 134th	1131 MMCFD	(1339)

SOLUTION COMPLETED IN 3 ITERATIONS

ALL REGULATORS WITHIN LIMITS

SUPPLIES:

	FLOW	ALLOWABLE			
LONG BEACH -	334 MDTH/D	(533)	345 PSIG		
LINDEN -----	307 MDTH/D	(403)	372 PSIG	NARROWS	310 PSIG
134th ST ---	442 MDTH/D	(533)	315 PSIG		
CNTRL MANH -	431 MDTH/D	(734)	320 PSIG	72nd ST	310 PSIG
IGTS -------	255 MDTH/D		331 PSIG		
TETCO ------	511 MDTH/D		365 PSIG		
WHITE PLAINS	100 MDTH/D		216 PSIG		

BORDERLINE METERING:

NEWTOWN CREEK	-274.6 MMCFD	(+ TO CON EDISON)
LAKE SUCCESS	-17.5 MMCFD	(+ TO LILCO)
CAMBRIA HGTS	1.0 MMCFD	(+ TO LILCO)

LNG PLANTS:

CON EDISON	0 MDTH/D	296 PSIG
BUG	-52 MDTH/D	203 PSIG
LILCO	0 MDTH/D	320 PSIG

REGULATORS:

HUNTSPOINT FLOW	159 MMCFD				
PRESSURE	UPSTREAM	251 PSIG	DOWNSTREAM	220 PSIG	
STEWART AVE	UPSTREAM	321 PSIG	DOWNSTREAM	255 PSIG	

LOW POINTS:

BBELMOT	245 PSIG
GREENPOINT	201 PSIG
BAYSHORE	279 PSIG

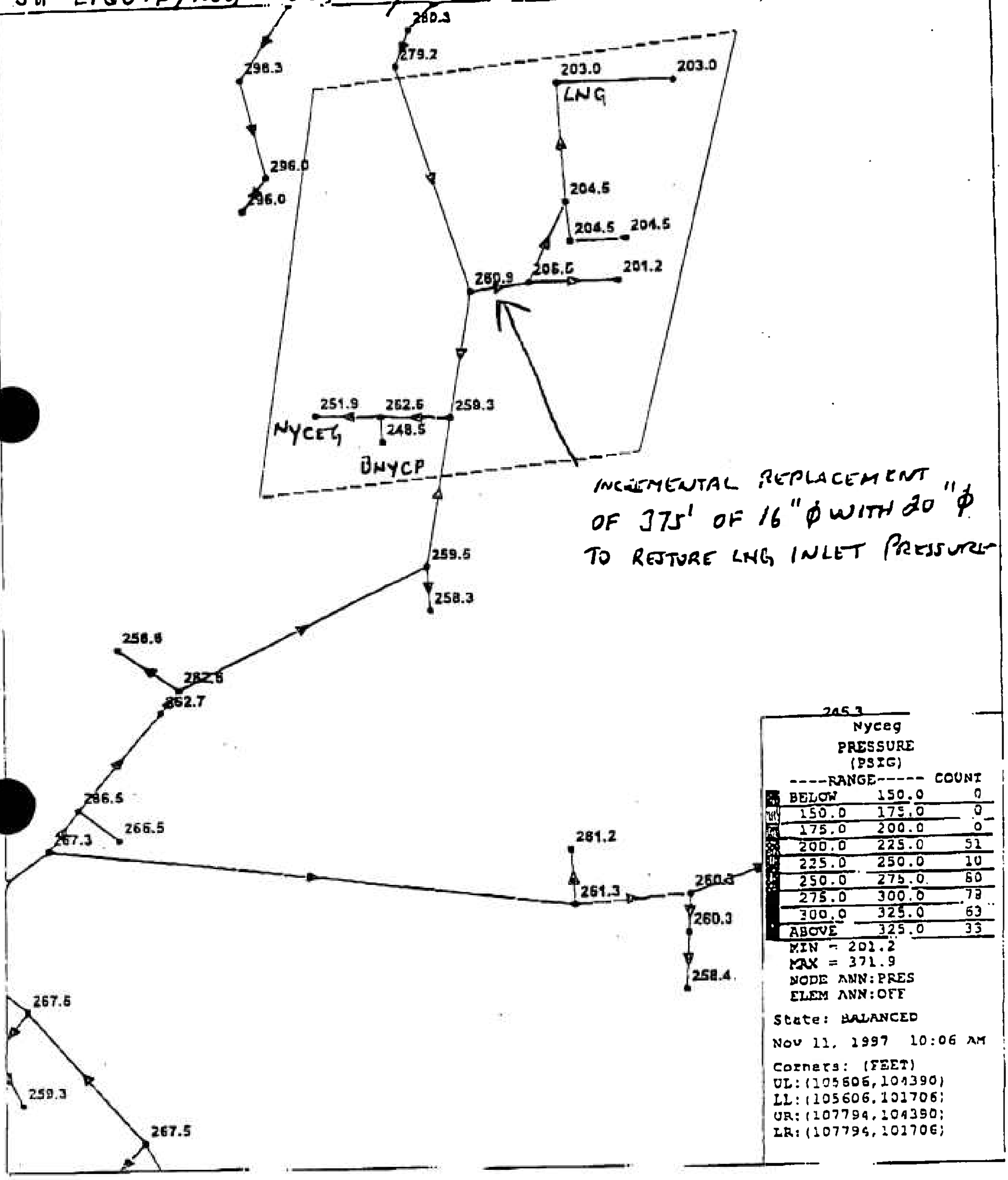
DELIVERY POINT ENTITLEMENTS:

		ALLOWABLE
DPE LB & LINDEN	620 MMCFD	(725)
DPE CM & 134th	645 MMCFD	(1030)
DPE LINDEN, CM & 134th	1142 MMCFD	(1339)

NEW YORK FACILITIES IN AREA OF GREENPOINT AND NAVY YARD

TEMPERATURE RANGE 15 - 20 DEGREES F.

NG LIQUIFYING + 60,000 MDT/DAY @ BNYCP + 15,300 MDT/DAY @ NYCEG



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RESPONSE TO INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO ANSWERING TESTIMONY OF THE BROOKLYN UNION GAS COMPANY

28. JC p. 2-3. (a) Identify separately all "day-one" and "life of contract" incremental facilities and their costs related to the service to BNYCP.

(b) Provide copies of all day-one and life of contract investment studies conducted in connection with the BNYCP service.

Answer:

(a) Day one incremental facilities costs for the BNYCP project are shown in Exhibit (RGL-5). Costs incurred to restore pressures to the LNG facilities will not be finally determined until the test provided for in the BNYCP contract is conducted. See also response to NYCEG IR 13.

(b) Such investment studies were addressed in Mr. Cooper's answering testimony (p.4), the responses to PSC Staff IR C1. and NYCEG IR 13(b), and in the workpapers furnished with Brooklyn Union's direct evidence.

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1-14-98
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BROOKLYN UNION RESPONSE TO INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO DIRECT TESTIMONY OF JOEL COOPER

2. State whether or not Brooklyn Union (a) justified at the time and (b) is now justifying, the BNYCP arrangements as a response to a by-pass threat?

<u>Answer:</u>

2. Exhibit JC-3 is provided to illustrate elements of the context in which the BNYCP and KIAC service arrangements were developed because these transactions have now been placed in issue by NYCEG. Brooklyn Union did not disclose internal views concerning order of magnitude bypass costs to either party or to PSC personnel. Brooklyn Union's filings regarding the BNYCP service arrangements speak for themselves and were previously furnished to NYCEG.

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BROOKLYN UNION RESPONSE TO INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO DIRECT TESTIMONY OF JOEL COOPER

5. (a) Explain separately how (i) incremental operation and maintenance costs; (ii) incremental property taxes; and (iii) special franchise tax expense, were calculated, and explain the reason for the variance between the high and low cases.

(b) Making the same assumption as explained in Question 3, and further assuming that NYC Energy Group retains ownership of the maximum amount of the new facilities, provide estimates for O&M, property taxes and special franchise tax expense.

Answer:

5. (a) (i) Incremental O&M was calculated using an estimated annual direct cost to Brooklyn Union of $20,000 plus overheads estimated @ 170% of directs. Recurring O&M would include items such as leak surveys, valve inspection and operation, corrosion inspection, liquids removal, telephone lines, etc. For the low case, which involves a service line and metering, 2/3 of the high case O&M directs was assumed.

5.(a)(ii) Incremental property tax was assumed to be the same as for BNYCP.

5.(a)(iii) Incremental special franchise tax was calculated in the same manner as that described in the BNYCP agreement, based on the estimated costs of incremental facilities located in public ROW.

The variance between the high and low cases is the result of the difference in facilities configurations and costs. The foregoing was explained in Mr. Cooper's testimony and detailed in the workpapers previously furnished to NYCEG.

5.(b) There is no basis for assuming that NYCEG can "retain" ownership of facilities constructed by Brooklyn Union as part of its system; there is no basis for assuming that NYCEG has the capability to finance any facilities. The estimates would not change.

4a.

BROOKLYN UNION RESPONSE TO INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO DIRECT TESTIMONY OF JOEL COOPER

3. Assuming that NYC Energy Group perform the maximum amount of construction work consistent with any Brooklyn Union requirement for conducting its own work that directly impacts its existing system, identify what portion, if any, of the cost estimates shown on Exhibit JC-1, p.1 would remain Brooklyn Union's responsibility.

Answer:

3. All.

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M E M O R A N D U M

TO: E. J. Sondey, Senior Vice President, Executive Dept.

FROM: R. G. Lukas, Director, Rate & Regulation

DATE December 19, 1991

RE: P.S.C. STAFF COMMENTS ON LIBERTY PIPELINE AND KIAC PROJECT

On December 10, 1991, Jim DeMetro and I met with Ron Streeter, Charlie Puglisi, Chris Corbett and Dan Downs of the P.S.C. Staff to discuss regulatory issues concerning the proposed transportation, sales and peaking service agreements to be entered into between BUG and KIAC for the Kennedy Airport cogeneration facility. As the meeting got underway, Charlie Puglisi indicated that his boss, Jack Zekoll, was "jumping up and down" over the Liberty project. While Charlie understood that the purpose of the meeting was not to justify Liberty, he did state some concerns about the project that we should "bring back to Brooklyn". These concerns are:

1. The proposed siting of the Liberty line. Charlie asked why we selected the Kennedy location to bring the line on shore and tie into the Facilities System. The intimation was that this site was chosen as a convenience to KIAC rather than based purely on economic and engineering studies. In that regard, he wondered why Liberty was building so far inland thus making the cogeneration project an easy "bypass" threat.

2. Charlie indicated that Jack was questioning why Iroquois, or the cheap expansion that was claimed to be available on that pipeline, did not obviate the need for Liberty. Charlie asked why the fact that Brooklyn Union was proposing to provide KIAC with 16,000dth/day of Priority B service prior to the building of Liberty did not itself prove that the Company had a supply surplus. We reminded Charlie he was ignoring the interruptible nature of Priority B service, the Company's future peak day needs and the strategic value of an additional underwater crossing.

3. Charlie also questioned how the proposed North/South Facilities line fit together with our need for Liberty. After the meeting, we recalled that during the Iroquois certification process we indicated that one of the major benefits that Iroquois would provide would be to backfeed the Facilities System and thus eliminate the need for a North/South line.

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Date 1-14-98
Ex.. No. 40

None of Charlie's comments were delivered in a hostile tone. They did indicate, however, that before Staff could endorse the project a number of questions would need to be answered.

With regard to Brooklyn Union's Pre-Liberty agreements with KIAC, Ron Streeter indicated that Staff would have to decide whether or not this project would be eligible for an individually negotiated transportation rate (TS-5n) during the Pre-Liberty phase given the fact that KIAC may not be considered a bypass threat until Liberty is built. He indicated that if there was a problem he would get back to us within a reasonable time after we filed (about 30 days). We will need to emphasize in our TS-5n application that KIAC will agree now not to bypass Brooklyn Union if Liberty is built. Also we will have to quantify the economic benefits to be provided to firm ratepayers from this service (TS-5n transportation as well as S.C. No. 5B sales profits).

Ronald Infan

cc: J. DeMetro
O. Magnani

A:LIBKIAC.MEM

39

Coastal
The Energy People

DON B. WHALEY
MANAGER
BUSINESS DEVELOPMENT
[illegible] SUPPLY PROJECTS
ANR PIPELINE COMPANY

MEMORANDUM

December 9, 1991

TO: See Distribution

FROM: Don B. Whaley DB Whaley

RE: Liberty Pipeline Company Precedent Agreements

Attached are the precedent agreements to be used in conjunction with Liberty's open season. In our teleconference last week, we had agreed to add a paragraph 14 to provide for modification by written agreement only. It was later pointed out that paragraph 9 accomplished this goal.

Please let me know if there are any further inconsistencies.

Attachments

DBW/dc

PRECEDENT AGREEMENT

This Precedent Agreement is made this _____ day of __________, 1991, by and between ______________ (hereinafter referred to as "Shipper") and Liberty Pipeline Company.

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from points of interconnection with Transcontinental Gas Pipe Line Corporation near Morgan, New Jersey and Texas Eastern Transmission Corporation near Woodbridge, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. Firm Service Obligation. Subject to the conditions herein, Liberty Pipeline Company hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of ___________Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibit ___ to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years commencing on the date the facilities of Liberty Pipeline Company and the upstream interstate pipelines described on Appendix B (as amended from time to time) are capable of rendering firm transportation service for Shipper. This initial period of service will be automatically extended from year to year unless canceled by either party on at least two (2) years prior written notice.

2. Rates and Terms of Service. The transportation service will be provided at the maximum applicable rate in accordance with Liberty Pipeline Company's Rate Schedule FT included in Liberty Pipeline Company's Federal Energy Regulatory Commission Gas Tariff, as that Rate Schedule and Tariff may be changed from time to time, and the terms and conditions of the Service Agreement attached hereto as Appendix A.

3. Execution of Service Agreements. Concurrently with the satisfaction or waiver of all of the conditions precedent set forth below, Liberty Pipeline Company and Shipper shall

execute and deliver the Service Agreement in substantially the form attached hereto as Appendix A ; provided, however, the commencement date for service by Liberty Pipeline Company and the date that Shipper shall begin incurring charges under such Service Agreement shall be the date described in paragraph 1 above.

4. Conditions Precedent. Liberty Pipeline Company's obligation to provide firm transportation service and Shipper's obligation to accept such service shall be subject to the following:

a. Acceptance by Liberty Pipeline Company of regulatory authorizations necessary for, and the vote of its Management Committee (at its sole discretion) to commence construction and operation of the Facilities; provided, however, the regulatory authorizations shall be in a form and substance acceptable to Liberty Pipeline Company and Shipper; and

b. Acceptance by the upstream pipelines set forth in Appendix B of regulatory authorizations necessary for gas to be transported for Shipper as provided in paragraph 1 above; provided, however, the regulatory authorizations shall be in a form and substance acceptable to the upstream pipelines and Shipper.

5. Obligation to Seek Regulatory Authorizations. Upon execution of binding Precedent Agreements fully subscribing the Facilities, Liberty Pipeline Company will apply for, and will seek with due diligence to obtain, all regulatory authorizations it deems necessary to

construct the Facilities and provide the transportation service as described in paragraph 1 above, commencing by November 1, 1994. Liberty Pipeline Company shall not be obligated to apply to FERC for a certificate of public convenience and necessity until the upstream pipelines identified on Appendix B have provided written notice to Liberty Pipeline Company that they are ready and able to file applications with FERC for authority to construct and operate all facilities necessary for firm upstream transportation, and all certificate applications for Liberty Pipeline Company and the upstream pipelines shall be filed concurrently or substantially concurrently.

6. Shipper's Obligation to Make Other Transportation Arrangements. Shipper shall seek with due diligence to enter into the firm transportation arrangements for Shipper's portion of the upstream arrangements set forth in Appendix B necessary to allow gas to be transported for Shipper as provided in paragraph 1. Shipper shall use due diligence to have its upstream transporters apply for and seek with due diligence to obtain all regulatory authorizations necessary to provide such transportation service and take such action as necessary to implement such upstream firm transportation arrangements.

7. Termination. This Precedent Agreement will automatically terminate upon execution of the Service Agreement substantially in the form attached hereto as Appendix A or upon sixty (60) days prior written notice by either party in the event of one or more of the following:

a. Liberty Pipeline Company has not, by November 1, 1994, accepted regulatory authorizations necessary for, and its Management Committee has not voted (at its sole discretion) to commence construction and operation of the Facilities.

b. Shipper has not executed precedent agreements for upstream firm transportation as reflected on Appendix B which by January 31, 1992 are no longer subject to approval by Shipper's Board of Directors or Trustees.

c. The upstream transporting pipelines set forth in Appendix B have not accepted by November 1, 1994 regulatory authorizations necessary for gas to be transported for Shipper as provided in paragraph 1.

If such notice is given, this Precedent Agreement shall terminate upon the expiration of the sixty (60) day period unless within such period the condition precedent has been satisfied or has been waived by the parties.

8. Assignment. Any company which shall succeed by purchase or by merger or consolidation to the properties, substantially in entirety, of either Shipper or Liberty Pipeline Company, as the case may be, shall be entitled to the rights and subject to the obligations of its predecessor in title under this Precedent Agreement. Each of the parties may, without relieving itself of its obligations under this Precedent Agreement, assign any of its rights hereunder to a company or partnership with which it is affiliated, but otherwise no assignment of this Precedent Agreement or any of the rights and obligations hereunder shall be made by either party without the written consent of the other. Nothing contained

herein shall prevent either party from pledging, mortgaging or assigning its rights as security for its indebtedness and either party may assign to the pledgee or mortgagee (or to a trustee for a holder of such indebtedness) any monies due or to become due under any Service Agreements.

9. Modification or Waiver. No modification or waiver of the terms and provisions of this Precedent Agreement shall be made except by the execution of a written amendment to this Precedent Agreement.

10. Notices. Notices under this Precedent Agreement shall be sent to:

If to Liberty Pipeline Company:

Liberty Pipeline Company
c/o Liberty Operating Company
2800 Post Oak Blvd
Houston, Texas 77252
Attention: President

If to [Shipper]:
____
____
____
Attention:____________________
____

Any party may change its address by written notice to that effect to the other party.

Notices given hereunder shall be deemed to have been effectively given upon the third (3rd) day following the day when the notice properly addressed and postpaid has been placed in the United States mail. It is expressly understood and agreed, however, that any notices referred to hereunder may first be delivered by telex, facsimile or other similar means, in accordance with the dates and times provided therein, and shall be mailed as soon as practicable thereafter.

11. Limitation of Liability. Shipper agrees that any liability relating to and any and all claims against Liberty Pipeline Company shall be limited to the assets of Liberty Pipeline Company, and Shipper waives its rights to proceed against the individual partners of Liberty Pipeline Company or their affiliates. Execution of this Precedent Agreement does not bind any affiliate of such partner or require any such partner to cause any affiliate to undertake any obligation in connection with this agreement

12. No Third Party Rights Or Obligations. This Precedent Agreement shall not create any rights in third parties, and no provision thereof shall be construed as creating any obligations for the benefit of, or rights in favor of, any person or entity other than Liberty Pipeline Company or Shipper.

13. Governing Law. The construction, interpretation, and enforcement of this Precedent

Agreement shall be governed by the laws of the State of New York, excluding any conflict of law rule which would refer any matter to the laws of a jurisdiction other than the State of New York.

14. Other Agreements.

IN WITNESS WHEREOF, the parties hereto have caused this Precedent Agreement to be duly executed in multiple originals by their proper officers thereunto duly authorized as of the date first hereinabove written.

Liberty Pipeline Company
by its agent Liberty Operating
Company

BY:__________________________

TITLE:________________________

____

BY:__________________________

TITLE:________________________

PRECEDENT AGREEMENT

This Precedent Agreement is made this _____ day of __________, 1991, by and between Consolidated Edison Company of New York, Inc. (hereinafter referred to as "Shipper") and Liberty Pipeline Company.

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from points of interconnection with Transcontinental Gas Pipe Line Corporation near Morgan, New Jersey and Texas Eastern Transmission Corporation near Woodbridge, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. Firm Service Obligation. Subject to the conditions herein, Liberty Pipeline Company

hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of ___________Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibit ___ to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years commencing on the date the facilities of Liberty Pipeline Company and the upstream interstate pipelines described on Appendix B (as amended from time to time) are capable of rendering firm transportation service for Shipper. This initial period of service will be automatically extended from year to year unless canceled by either party on at least two (2) years prior written notice.

2. Rates and Terms of Service. The transportation service will be provided at the maximum applicable rate in accordance with Liberty Pipeline Company's Rate Schedule FT included in Liberty Pipeline Company's Federal Energy Regulatory Commission Gas Tariff, as that Rate Schedule and Tariff may be changed from time to time, and the terms and conditions of the Service Agreement attached hereto as Appendix A.

3. Execution of Service Agreements. Concurrently with the satisfaction or waiver of all of the conditions precedent set forth below, Liberty Pipeline Company and Shipper shall execute and deliver the Service Agreement in substantially the form attached hereto as Appendix A ; provided, however, the commencement date for service by Liberty Pipeline Company and the date that Shipper shall begin incurring charges under such Service

Agreement shall be the date described in paragraph 1 above.

4. <u>Conditions Precedent</u>. Liberty Pipeline Company's obligation to provide firm transportation service and Shipper's obligation to accept such service shall be subject to the following:

a. Acceptance by Liberty Pipeline Company of regulatory authorizations necessary for, and the vote of its Management Committee (at its sole discretion) to commence construction and operation of the Facilities; provided, however, the regulatory authorizations shall be in a form and substance acceptable to Liberty Pipeline Company and Shipper; and

b. Acceptance by the upstream pipelines set forth in Appendix B of regulatory authorizations necessary for gas to be transported for Shipper as provided in paragraph 1 above; provided, however, the regulatory authorizations shall be in a form and substance acceptable to the upstream pipelines and Shipper.

5. <u>Obligation to Seek Regulatory Authorizations.</u> Upon execution of binding Precedent Agreements fully subscribing the Facilities, Liberty Pipeline Company will apply for, and will seek with due diligence to obtain, all regulatory authorizations it deems necessary to construct the Facilities and provide the transportation service as described in paragraph 1 above, commencing by November 1, 1994. Liberty Pipeline Company shall not be obligated to apply to FERC for a certificate of public convenience and necessity until the upstream pipelines identified on Appendix B have provided written notice to Liberty Pipeline

Company that they are ready and able to file applications with FERC for authority to construct and operate all facilities necessary for firm upstream transportation, and all certificate applications for Liberty Pipeline Company and the upstream pipelines shall be filed concurrently or substantially concurrently.

6. Shipper's Obligation to Make Other Transportation Arrangements. Shipper shall seek with due diligence to enter into the firm transportation arrangements for Shipper's portion of the upstream arrangements set forth in Appendix B necessary to allow gas to be transported for Shipper as provided in paragraph 1. Shipper shall use due diligence to have its upstream transporters apply for and seek with due diligence to obtain all regulatory authorizations necessary to provide such transportation service and take such action as necessary to implement such upstream firm transportation arrangements.

7. Termination. This Precedent Agreement will automatically terminate upon execution of the Service Agreement substantially in the form attached hereto as Appendix A or upon sixty (60) days prior written notice by either party in the event of one or more of the following:

a. Liberty Pipeline Company has not, by November 1, 1994, accepted regulatory authorizations necessary for, and its Management Committee has not voted (at its sole discretion) to commence construction and operation of the Facilities.

b. Shipper has not executed precedent agreements for upstream firm transportation as reflected on Appendix B which by January 31, 1992 are no longer subject to approval by Shipper's Board of Directors or Trustees.

c. The upstream transporting pipelines set forth in Appendix B have not accepted by November 1, 1994 regulatory authorizations necessary for gas to be transported for Shipper as provided in paragraph 1.

If such notice is given, this Precedent Agreement shall terminate upon the expiration of the sixty (60) day period unless within such period the condition precedent has been satisfied or has been waived by the parties.

8. <u>Assignment</u>. Any company which shall succeed by purchase or by merger or consolidation to the properties, substantially in entirety, of either Shipper or Liberty Pipeline Company, as the case may be, shall be entitled to the rights and subject to the obligations of its predecessor in title under this Precedent Agreement. Each of the parties may, without relieving itself of its obligations under this Precedent Agreement, assign any of its rights hereunder to a company or partnership with which it is affiliated, but otherwise no assignment of this Precedent Agreement or any of the rights and obligations hereunder shall be made by either party without the written consent of the other. Nothing contained herein shall prevent either party from pledging, mortgaging or assigning its rights as security for its indebtedness and either party may assign to the pledgee or mortgagee (or to a trustee for a holder of such indebtedness) any monies due or to become due under any Service Agreements.

9. <u>Modification or Waiver</u>. No modification or waiver of the terms and provisions of

this Precedent Agreement shall be made except by the execution of a written amendment to this Precedent Agreement.

10. Notices. Notices under this Precedent Agreement shall be sent to:

If to Liberty Pipeline Company:

Liberty Pipeline Company
c/o Liberty Operating Company
2800 Post Oak Blvd
Houston, Texas 77252
Attention: President

If to [Shipper]:

____
____
____
Attention:____________________
____

Any party may change its address by written notice to that effect to the other party. Notices given hereunder shall be deemed to have been effectively given upon the third (3rd) day following the day when the notice properly addressed and postpaid has been placed in the United States mail. It is expressly understood and agreed, however, that any notices referred to hereunder may first be delivered by telex, facsimile or other similar means, in accordance with the dates and times provided therein, and shall be mailed as soon as practicable thereafter.

11. Limitation of Liability. Shipper agrees that any liability relating to and any and all

claims against Liberty Pipeline Company shall be limited to the assets of Liberty Pipeline Company, and Shipper waives its rights to proceed against the individual partners of Liberty Pipeline Company or their affiliates. Execution of this Precedent Agreement does not bind any affiliate of such partner or require any such partner to cause any affiliate to undertake any obligation in connection with this agreement

12. <u>No Third Party Rights Or Obligations</u>. This Precedent Agreement shall not create any rights in third parties, and no provision thereof shall be construed as creating any obligations for the benefit of, or rights in favor of, any person or entity other than Liberty Pipeline Company or Shipper.

13. <u>Governing Law</u>. The construction, interpretation, and enforcement of this Precedent Agreement shall be governed by the laws of the State of New York, excluding any conflict of law rule which would refer any matter to the laws of a jurisdiction other than the State of New York.

14. <u>Other Agreements</u>. Shipper's obligations under this Precedent Agreement are subject to (i) the filing of this Precedent Agreement with the New York State Public Service Commission which Shipper agrees to effectuate by January 31, 1992, and (ii) Shipper's receipt and acceptance by November 1, 1994 of such governmental authorizations as are required for Shipper to construct facilities necessary to receive and transport the deliveries of gas as contemplated herein and under the related Service Agreement. Shipper agrees to use due diligence to make the filings and seek to secure such governmental

authorizations.

IN WITNESS WHEREOF, the parties hereto have caused this Precedent Agreement to be duly executed in multiple originals by their proper officers thereunto duly authorized as of the date first hereinabove written.

Liberty Pipeline Company
by its agent Liberty Operating
Company

BY:________________________

TITLE:______________________

Consolidated Edison Company
of New York, Inc.

BY:________________________

TITLE:______________________

mlb/liberty.prc

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MAR-02-1992 13:29 FROM LEBOEUF,LAMB,LEIBY&MACRAE TO 0671304#17186436306# P.02

LEBOEUF, LAMB, LEIBY & MACRAE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

520 MADISON AVENUE
NEW YORK, NY 10022
(212) 715-8000
FACSIMILE: (212) 715-8500
TELEX: 423416 (OR) 1561363

EASTERN U.S.: NEW YORK, NY; WASHINGTON, DC; ALBANY, NY; BOSTON, MA; HARRISBURG, PA; HARTFORD, CT; NEWARK, NJ

WESTERN U.S.: LOS ANGELES, CA; SALT LAKE CITY, UT; SAN FRANCISCO, CA

SOUTHERN U.S.: JACKSONVILLE, FL; RALEIGH, NC

EUROPEAN COMMUNITY: BRUSSELS, BELGIUM AND LONDON, ENGLAND

USSR: MOSCOW

DIRECT DIAL
(212) 715-8220

March 2, 1992

Mr. Edward J. Sondey
Brooklyn Union Gas
One MetroTech Center
Brooklyn, New York 11201-3851

Re: Liberty Pipeline

Dear Mr. ~~Sondey~~: Ed

Liberty Pipeline's counsel has approached us to discuss the possibility of having York Research Corporation's Brooklyn cogeneration projects take an assignment of a portion of Brooklyn Union's transportation capacity on the Liberty project rather than contracting for such capacity in their own right. As this approach is different from the discussions we previously had with you, we believe that clarification is required.

Liberty has represented that they informally proposed this arrangement to Brooklyn Union and that Brooklyn Union has agreed to take and assign up to 50,000 MM Btu of firm transportation capacity per day to York's projects in Brooklyn Union's service territory. These discussions apparently flow from Liberty's "preference" for handling a York transportation allotment through Brooklyn Union. We understand that Liberty perceives that it may be more difficult to finance their project if York's and other project-financed projects were their customers rather than an LDC.

York would be amenable to discussing with Brooklyn Union a proposed arrangement in which Brooklyn Union commits to a

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Mr. Edward J. Sondey
March 2, 1992
Page 2

50,000 MM Btu delivery quantity and, in turn, assigns that quantity to York's projects. We would appreciate if you would confirm to me or Robert Paladino at York if such an understanding has been reached between Liberty and Brooklyn Union. We would then work with you and Liberty to document and complete the necessary arrangements.

Sincerely,

Jon R. Mostel

JRM:lv

cc: Ronald Lukas, Brooklyn Union
Robert Paladino, York Research

TOTAL P.07

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PROPOSED LIBERTY PIPELINE WOULD PROVIDE FIRM TRANSPORTATION OF UP TO 500 MDTH PER DAY TO NEW YORK

In an application filed 9/21/92, Liberty Pipeline Co. (CP92-715) proposed a 38.2-mile, 30-inch pipeline from South Amboy, New Jersey to a point near Howard Beach, New York. Together with separately proposed construction by Texas Eastern Transmission Corp., Texas Gas Transmission Corp., Transcontinental Gas Pipe Line Corp. (TGPL) and Trunkline Gas Co., the proposed transportation-only pipeline would enable additional deliveries of up to 500,000 dth/d into the New York metropolitan area.

Liberty is a partnership formed by subsidiaries of: ANR Pipeline Co., Texas Eastern, Transco Gas Co., Consolidated Edison Co. of New York, Inc., Brooklyn Union Gas Co. (BUG) and Long Island Lighting Co. (LILCO). The pipeline would be project-financed with an anticipated capital structure of 75% non-recourse debt and 25% partner-contributed equity.

The proposed pipeline would consist of: (1) a 29.8-mile offshore segment extending from interconnections with Texas Eastern and TGPL at South Amboy across Raritan Bay and Lower New York Bay to a point offshore Long Island near Rockaway, New York; and (2) an 8.4-mile onshore segment between Rockaway and an interconnection with the New York Facilities System (NYFS) near Howard Beach. The NYFS is owned and operated by ConEd, BUG and LILCO. The estimated cost of the proposed pipeline is $152.2 million in 1994 dollars.

An open season for Liberty's capacity closed on 12/20/91. The following shippers have executed precedent 20-year agreements for firm transportation: ConEd (166,667 dth/d), LILCO (149,166 dth/d), BUG (123,667 dth/d), New York Power Authority (NYPA) (35,000 dth/d), KIAC Partners (16,000 dth/d) and Nissequogue Cogen Partners (9,500 dth/d). KIAC and Nissequogue are proposed cogeneration facilities.

For illustrative purposes, Liberty submitted pro forma tariff sheets reflecting rates assuming debt bearing an interest rate of 10%. The partnership, however, would seek the longest commercially viable loan available at the time of financing.

Liberty proposed that it be allowed a 15% rate of return on equity. It cited comments by the financial community in the mega-NOPR proceeding which demonstrated "that current returns on equity earned by interstate natural gas pipelines are too low, and that such returns must be substantially improved in order to allow pipelines to continue to attract necessary equity capital in the marketplace." Liberty asserted that, "in light of the perceived risks associated with new project financed pipeline projects, and the other factors noted above, a return on equity of 15% is appropriate."

The pipeline's tariff would incorporate various aspects of Order Nos. 636/636-A including: straight fixed variable (SFV) rate design, flexible receipt/delivery points and limitations on abandonment. "Liberty has endeavored to conform this pro forma tariff to the requirements of the Commission's Order Nos. 636 and 636-A as they appear to be applicable to a project financed, open access transportation-only pipeline," the application explained.

In support of its application, Liberty claimed, among other things, that "the enhanced operational flexibility [of the NYFS] related to new supply access and new delivery points cannot be overemphasized." Through Liberty, the New York LDCs would have direct access to the interstate pipeline systems of Texas Eastern and TGPL and indirect access to the systems of ANR, Texas Gas, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co. "These interconnections will provide shippers on Liberty access to every major supply area in the United States," Liberty declared.

1-4-88
Ex. No 37

Liberty indicated that, as upstream transporters, the interstate pipelines listed above will be "essential links" in the project. Of these pipelines, four will require additional facilities to serve Liberty shippers. Related applications include:

1. TGPL's application (CP92-721), also filed 9/21/92, to construct and operate: about 17.2 miles of 36-inch looping pipeline on the Leidy Line in Lycoming and Clinton counties, Pennsylvania; 12,000 horsepower of additional compression at its Princeton Compressor Station 205; and about 1.1 miles of 26-inch pipeline near Morgan, New Jersey, among other things. The new facilities would cost approximately $72 million and would allow deliveries totalling 115,000 Mcf/d for Liberty shippers. The following Liberty shippers have executed precedent agreements: ConEd (38,334 Mcf/d), BUG (20,833 Mcf/d), LILCO (38,333 Mcf/d), KIAC (16,000 Mcf/d) and Nissequogue (1,500 Mcf/d).

As initial rates, TGPL proposed incremental rates reflecting the SFV methodology, including an initial monthly reservation charge of $10.28/Mcf.

2. An application by Texas Eastern (CP92-720) to construct and operate: approximately 58.2 miles of 30-inch to 36-inch looping and replacement line in Ohio, Pennsylvania and New Jersey; 2 miles of 42-inch looping line in New Jersey; 11.7 miles of 24-inch pipeline from Texas Eastern's existing system in South Plainfield, New Jersey to an interconnection with Liberty at South Amboy; 29,300 horsepower of additional compression at various existing compressor stations in Ohio and Pennsylvania; a new meter station near South Amboy; and two replacement compressor units at the Hanover Compressor Station. The estimated cost of the facilities is $166 million which would be recovered through proposed incremental Rate Schedule FTS-6. Texas Eastern proposed initial FTS-6 reservation and excess transportation rats of $24.788/dth and $0.8149/dth.

Texas Eastern and shippers have entered precedent agreements covering the entire proposed capacity of 128,333 dth/d. Shippers on the proposed facilities include: ConEd (36,666 dth/d), BUG (20,333 dth/d), LILCO (28,334 dth/d), NYPA (35,000 dth/d) and Nissequogue (8,000 dth/d).

3. A joint application filed 9/21/92 by Texas Eastern (CP92-717) and Trunkline (CP92-718) proposing construction and operation, by whichever pipeline then owns the "Lebanon Lateral," of a 5,350 compressor unit at a new compressor station to be built near Glen Karn, Ohio and a 3,400 horsepower compressor unit at the existing Gas City station. Trunkline was previously authorized to install 5,000 horsepower at Gas City and has since installed a 2,700 horsepower unit. In the September 21 application, it was proposed that the 3,400 horsepower unit be installed instead of the remaining authorized 2,300 horsepower unit. The proposed facilities would cost about $22.3 million.

Texas Eastern and Trunkline filed jointly due to a pending application (CP92-459, CP92-460) to transfer ownership of the Lebanon Line from Trunkline to Texas Eastern effective 11/1/92.

The total expansion capacity would be about 29,703 dth/d -- of which 29,000 dth/d is committed to Elizabethtown Gas Co. Liberty shippers would use 59,720 dth/d of existing/currently-authorized capacity and 703 dth/d of expansion capacity.

4. Texas Gas' application (CP92-730), filed 9/24/92, to build about 40.9 miles of 36-inch pipeline loop in Ohio and Kentucky at an estimated cost of $54 million. Liberty shippers which would use the proposed facilities include: ConEd (34,080 dth/d), BUG (17,721 dth/d), LILCO (34,080 dth/d) and KIAC (16,358 dth/d).

Inside F.E.R.C.

An exclusive weekly report on the Federal Energy Regulatory Commission

September 28, 1992

WITH EXTREME POSITIONS STAKED OUT, ENERGY CONFEREES SEEK AGREEMENTS

The conferees trying to hammer out an energy bill spent much of last week in a feeling-out process that produced some interesting offers and counteroffers, including the proposed deletion of the entire natural-gas section from the legislation. At press time, it appeared that House and Senate staffers, with the parameters more clearly defined by the extreme positions, were settled in for a long night Thursday in hopes of beginning to forge the compromises that could move the process forward.

Despite a lack of real movement on contentious issues like prorationing and transmission access, committee members shuttling in and out of the meetings last week continued to express optimism that the job will get done. "We're getting there" even though it may not appear that way, said Rep. Philip Sharp, D-Ind. Other House conferees agreed, noting that the conference process can be a ponderous one where the most activity occurs at the end. "I think we've still got a decent chance at a bill," offered Sen. Bennett

(continued on page 6)

LIBERTY, UPSTREAM TRANSPORTERS FILE PROJECTS TO SERVE NEW YORK CITY

As expected, a group of pipelines and distributor-customers has agreed to share the capital costs of building a major new project to increase gas service to the New York City area. Sponsors of Liberty Pipeline Co. last week filed at Ferc for authorization to put the $152 million line, with capacity of up to 500,000 Mcf/day, into service in time for the 1994-95 winter heating season.

Subsidiaries of three pipeline companies and three distributors would hold ownership shares in the project, which was first announced more than a year ago (*IF*, 15 July '91, 1). Through subsidiaries, the pipeline companies in the partnership are Transco Energy Co., 35%; Panhandle Eastern Corp., 30%; and Coastal Corp., 25%. Holding shares of 3 1/3% each would be subsidiaries of Consolidated Edison Co. of New York Inc., Long Island Lighting Co. and Brooklyn Union Gas Co. The Transco Energy subsidiary would build and operate the 38-mile, 30-inch-diameter line.

Transcontinental Gas Pipe Line Corp. is expected to file at Ferc next month a similar proposal for an expan-

(continued on page 10)

CPUC ADOPTS TRANSMISSION-ACCESS PROGRAM, EYES ALL-SOURCE BIDDING

In a pair of significant decisions, the California Public Utilities Commission recently unveiled an interim transmission-access program and announced plans for a hearing to examine utility competitive bidding for power that includes all sources of supply.

The interim wheeling program is "designed to facilitate participation and competition in the wholesale market by as many [qualifying facilities] as possible within California, and also out of state," according to a CPUC statement. The program will be conducted in concert with the state's Final Standard Offer 4 auction, in which the three major electric utilities determine their need for power supply and then satisfy a portion of it through a competitive bidding process currently limited to QFs, a CPUC official explained.

At the same time, the state commission has tentatively scheduled an Oct. 21 *en banc* hearing on expanding competition to permit all-source bidding for power supply. It declined, however, to grant Southern California Edison Co.'s request to use the all-source format in its December solicitation. According to the CPUC, "the prerequisite steps to instituting this type of bidding process have yet to be achieved."

The hearing will be the first step toward that bidding process, and the CPUC identified a number of

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would be rebutted if the commission finds the wheeling purchaser didn't have "at least two other competitive alternatives for the ultimate delivery/transmission of the bulk power which is the object of the voluntary transmission agreement," Trabandt proposed.

IN RUSH TO EFFICIENCY, DON'T IGNORE SYSTEM RELIABILITY, NERC WARNS

Recent regulatory and legislative efforts "are encouraging efficient energy use while giving short shrift to reliability," the North American Electric Reliability Council warns in its latest 10-year assessment. Ferc decisions "must ensure continued conformance to the applicable reliability criteria" of NERC and its regional councils, because "pursuit of economic efficiency without consideration of *reliability* would constitute lessons learned — but forgotten."

Harking back to the Federal Power Commission's 1967 reliability report, which sprang from the 1965 Northeast blackout, NERC issued a reminder that "in connection with bulk electric systems . . . 'reliability must have priority' in any conflict with economics." Over the last quarter century, utilities "have demonstrated resourcefulness and versatility in actions taken to maintain that policy," said NERC. But in the face of mounting pressure for "greater efficiency in every element of energy production and use," where the "cornerstone . . . is a market-oriented approach," utilities should be concerned about reliability, it continued.

Utilities are planning adequate resources to meet projected power demand through 2001, but capacity margins "in many areas are approaching minimum levels required for reliability," NERC found. And as margins fall, "the appropriateness of these [minimum] levels and the assumptions on which they are based become critical." Utility resource plans are less specific than in the past as they now rely more on short lead time options, like demand-side management, combustion turbines and non-utility generators, it said.

"Challenges to resource adequacy include the long-term acceptance of DSM in some areas, the dissimilar operating characteristics of DSM compared to generating capacity, the complexity of integrating NUGs, reduced system flexibility as capacity margins trend toward minimum required levels and the need for continued dependence on aging generation capacity," according to NERC. By 2001, U.S. utilities plan to add 59,800 Mw, and non-utility generators plan another 19,100 Mw for a total increase of 11% above existing capacity. Peak electric demand in the U.S. is seen growing at 1.8%/year, from 563,000 Mw in 1992 to 661,500 Mw in 2001.

Looking at transmission, NERC again found that planned additions will be adequate through 2001. But growing opposition to new lines and the "potential mandated use of the transmission systems without due regard to reliability may affect this adequacy." Portions of the grid are being heavily loaded, and it is unacceptable to impose additional uses on existing systems if that reduces reliability, NERC maintained. "Unfortunately, the public debate on transmission services focuses primarily on economic considerations. Serious consideration of reliability issues is being ignored."

NERC also looked at increased utility gas use, and, like other groups, found that "the availability of natural-gas [reserves] is primarily an economic issue." Of greater concern is the ability of pipelines "to deliver fuel reliably to the increasing number of peaking combustion turbines, with their sudden start-up and operation for only a few hours a day." Can utilities get gas when they need it? That's the question the utilities ask "as they reflect on the prohibited use of this fuel in the 1970s and its recent curtailment in the winter of 1989," NERC observed. By 2001, NERC sees utility gas use reaching almost 4 Tcf. While that would significantly exceed the 2.6 Tcf burned last year, it means only that utility consumption "will have returned to the historical highs of the early 1970s," it pointed out.

Assuming the same ratio of gas use to power production for NUGs as for utilities, NERC foresees NUGs using 1 Tcf by 2001. And of perhaps greater significance, non-utility generation will be baseload with capacity factors of 60% or more and so is a good match for the expansion requirements of gas suppliers, NERC noted. Conversely, since new utility gas-fired capacity will be mostly peakload, the daily demand cycle will fluctuate. "The viability of that new gas-fired combustion-turbine capacity to serve electric demands reliably will require careful coordination between the electric systems and their operators and the gas suppliers," NERC concluded.

LIBERTY SPONSORS TARGET NEW YORK CITY MARKET . . . . begins on page 1

sion of its mainline in which two North Carolina distributors would hold ownership interests (*IF*, 31 Aug, 1).

In addition to the Liberty project itself (CP92-715), the Ferc applications cover expansions of upstream capacity on four pipelines needed to supply Liberty at a total cost — nearly $400 million — that dwarfs the Liberty expense. The sponsors sought preliminary determinations on non-environmental issues by March 1, 1993, and final determinations by Aug. 1, 1993, to pave the way for an in-service date of Nov. 1, 1994.

Liberty told Ferc that the project would provide increased supply security and diversification for the three LDC partners. Moreover, the enhanced operational flexibility that Liberty would offer "cannot be overemphasized," the application said, citing the potential to "relieve existing and anticipated bottlenecks through existing pipeline delivery points."

The Liberty line would begin in South Amboy, N.J., at points of receipt with Texas Eastern Transmission Corp. and Transco. The terminus, near John F. Kennedy International Airport on Long Island, would be a delivery point to the New York Facilities System, which is owned and operated by the three LDCs. A 30-mile segment would run under the Raritan and Lower New York bays; an 8-mile onshore segment then would extend to the terminus, which is in Brooklyn Union's service area.

Following an open season last year, six shippers signed precedent agreements for 20-year firm transportation service. Shippers' full entitlements would be: Con Ed, 166,667 Dt/day; LILCO, 149,166 Dt/day; Brooklyn Union, 123,667 Dt/day; New York Power Authority, 35,000 Dt/day; KIAC Partners, a cogenerator, 16,000 Dt/day; and Nissequogue Cogen Partners, 9,500 Dt/day.

But initial volumes would be only about half the pipeline's capacity, it appears. While the other three shippers would use their full entitlements, the three LDCs said they have made arrangements for upstream transportation initially for less than half their full rights on Liberty — 75,000 Dt/day for Con Ed, 66,666 Dt/day for LILCO and 41,166 Dt/day for Brooklyn Union. They said they will contract for additional upstream capacity in future years as required by growth in demand.

"Shippers on Liberty will have access to virtually every major gas supply area in the United States," said John DesBarres, head of Transco Energy. All of the initial volumes of 243,333 Dt/day would flow into Lebanon, Ohio, and then move on Texas Eastern either directly to Liberty or via Transco. Texas Gas Transmission Corp. would transport 135,000 Dt/day to Lebanon, ANR Pipeline Co. 48,333 Dt/day and Trunkline Gas Co. 60,000 Dt/day (with Panhandle Eastern Pipe Line Co. providing transportation upstream of Trunkline). From Lebanon, Texas Eastern would move 128,333 Dt/day to South Amboy and 115,000 Dt/day to Transco at Leidy, Pa.

Liberty would be project-financed, with the partners contributing 25% equity and debt making up the remaining 75% of capital. It sought a 15% return on equity and a straight fixed-variable rate design. Because it has long-term contracts for its full capacity, Liberty asserted that Ferc should not impose any "at-risk" requirement. Initial rates on Liberty would be a $6.07/Dt reservation charge for firm transportation and a 19.94¢/Dt commodity rate for interruptible transportation.

For the upstream transportation, Transco sought authorization (CP92-721) of construction carrying a $72 million price tag. To move the 115,000 Dt/day from Leidy to South Amboy, Transco will need to build a new tap to receive volumes from Texas Eastern, build 17 miles of 36-inch looping on its Leidy line, expand an existing compressor station, and construct a new metering and regulating station near South Amboy, it said.

Transco wants to transport the gas under a Natural Gas Act section 7(c) certificate rather than blanket authority because it intends to charge incremental rates — to which shippers have agreed — under new schedule FT-LP. It would use a straight fixed-variable rate design to derive an initial monthly reservation charge of $10.28/Mcf. It maintained that no at-risk condition is warranted and said that it has agreed with the Liberty shippers on the need for a capacity-release mechanism "as an important element of the business transaction."

Transco also sought approval of a "negotiated contractual mechanism that fairly allocates between [Transco] and the shippers the risk of a delayed in-service date caused through no fault" of Transco. No part of the project can go into service before all facilities are ready, and shippers have indicated they are unwilling to pay reservation charges before service begins, Transco explained. Therefore, it has reached an agreement with shippers that would allow Transco to continue to capitalize allowance for funds used during construction on any Transco facilities installed but not placed into service because of delay on any other related segment beyond 90 days from the date that the Transco facilities are ready to begin service.

Texas Eastern, too, would have to make a considerable investment in new facilities and, like Transco, wants individual section 7(c) transportation certificates, incremental rates and the right to include AFUDC in rates if its facilities are done more than 90 days prior to the in-service date of other related facilities. And, also like Transco, it asserted that it shouldn't be subject to any at-risk condition since capacity is fully subscribed under long-term contracts.

On the issue of case-specific certificates, Texas Eastern argued against a policy adopted by the commission earlier this year in a case involving Blue Lake Gas Storage Co. in which Ferc rejected an individual certificate and ordered service under a blanket certificate (*IF*, 4 May, 1). To the extent that Ferc intended to signal a generic policy change, it shouldn't do so without giving an opportunity for comment, Texas Eastern said. And "customer-specific section 7 authorization remains a valuable means for implementing major new pipeline construction and services," Texas Eastern added, "because it reduces uncertainties

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Case 97-G-0388
Response of The Brooklyn Union Gas Company to
Additional Interrogatories of New York City Energy Group

Additional Interrogatory 28. Under, (a) the ratemaking regime presently in effect for Brooklyn Union, and (b) the Brooklyn Union ratemaking regime provided for in the Brooklyn Union/LILCO merger settlement, identify and explain all ways in which the rates paid by core customers would be adversely impacted by the provision of service under the terms proposed by NYC Energy Group, as alluded to in witness Sondey's Supplemental Testimony at pages 4-5.

Answer: (a) As Mr. Sondey states in his Supplemental Testimony, Brooklyn Union uses a net benefits approach designed to provide reasonable assurance that departures from standard rates and terms will be provide the Company and its core customers greater benefits than could have been realized absent such an arrangement. In making this evaluation, the Company assesses net benefits likely to be realized over the probable term of a non-standard transportation arrangement, rather than employ a time horizon limited to the duration of any one rate plan. Under the rate plan currently in effect, all revenues from on-system sales and transportation services, both to core and non-core customers, were reflected in the revenue forecast upon which base rates to core customers were established. During the term of the plan, which ends on September 30, 2002, any variation in such revenues from those forecast are retained or absorbed by Brooklyn Union. After the end of the current rate plan, Brooklyn Union's base rates may be adjusted, either as the result of a Commission-initiated or Company-initiated rate proceeding. In either event, assuming the current ratemaking treatment for non-core revenues is continued, any change in rates commencing on October 1, 2002 likely would be based on Brooklyn Union's cost of service for a base year beginning on July 1, 2000 and ending on June 30, 2001. Therefore, assuming a hypothetical in-service date for the NYCEG facility in the Summer of 1999, the adverse impact to core customers resulting from the provision of service to NYCEG under terms that do not satisfy the net benefits standard will begin to be realized on July 1, 2000 and continue for the term of whatever service agreement is in effect for providing service.

(b) The ratemaking treatment and the adverse impact on core customers under the rate plan reflected in the Settlement Agreement dated December 10, 1997 in Case 97-M-0567 will be the same as that described in (a) above. In addition, under the rate plan currently in effect, there is no earnings sharing provision. However, the new plan, which also ends on September 30, 2002, contains an earnings sharing provision that requires Brooklyn Union to credit to core customers 60% of the first 100 basis points of any utility earnings in excess of 14.0% in each of Brooklyn Union's fiscal years ended September 30, 1998 and 1999, 13.75% in 2000, 13.5% in 2001 and 13.25% in 2002, and 50% of any earnings above 100 basis points in excess of the threshold levels for those years. Therefore, to the extent that Brooklyn Union's earnings are adversely impacted by providing service to NYCEG under terms that do not satisfy the net benefits standard, and such impact affects Brooklyn Union's opportunity to achieve utility earnings at levels in any year of the plan in excess of the threshold return for such year (or depresses utility earnings even if otherwise above the threshold return), core customers will be adversely affected in such year. Please be aware that Brooklyn Union operated under long term rate plans containing earnings sharing provisions in each of its fiscal years 1992-1996. In each of those years the Company achieved utility earnings that exceeded the threshold return for such year, which resulted in credits to core customers.

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Response of The Brooklyn Union Gas Company to
Additional Interrogatories of New York City Energy Group

Additional Interrogatory 29: Under (a) and (b) set forth in Additional Interrogatory 28, explain how revenues received from a new customer, that exceed the incremental costs incurred by Brooklyn Union to serve such new customer are to be used to benefit core customers, as alluded to in witness Sondey's Supplemental Testimony at page 3.

Answer: See response to Additional Interrogatory 28.

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Responses Of
The Brooklyn Union Gas Company
To First Set Of Interrogatories
And Document Requests Of
New York City Energy Group, L.P.

New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company
Case 97-G-0388

13. Provide all documents relating to Brooklyn Union's policy of requiring deposits or advance payments by prospective customers.

Answer: Brooklyn Union objects to this request to the extent that it requests the Company to provide any documents "relating to" its policy because such a request is overly broad, unduly vague and therefore, unduly burdensome. In addition, Brooklyn Union objects to this request because it seeks information that is confidential and proprietary. With respect to customers purchasing standard service under the Company's tariff, Brooklyn Union's policy concerning customer deposits or advance payments is set forth in the attached tariff sheets. With respect to specially-negotiated service agreements, it has been Brooklyn Union's practice to require parties seeking specially-negotiated terms and conditions submit an advance payment to defray the cost of conducting studies and analyses and designing facilities for those parties. Certain of the documents attached to the response to question no. 2.c. reflect Brooklyn Union's policy of requiring deposits from customers seeking specially-negotiated rates, terms and conditions.

Responses Of
The Brooklyn Union Gas Company
To First Set Of Interrogatories
And Document Requests Of
New York City Energy Group, L.P.

<u>New York City Energy Group, L.P. v.</u>
<u>The Brooklyn Union Gas Company</u>

Case No. 97-G-0388

Attachment To
Question No. 13

GENERAL INFORMATION—Continued

its system if, in its sole judgment, such action will prevent or alleviate the emergency condition.

8. Leakage:

The consumer must notify the Company immediately of the indication of any gas leakage.

9. Access to Company's Property:

(a) The Company shall have the right of access to its meters or appurtenances upon the consumer's premises at all reasonable times (unless during a period of emergency or where there is evidence of meter tampering or theft of services) for the purpose of reading meters, of inspecting or repairing its meters and appurtenances, or of removing its property, or for any other proper purpose.

(b) In the case of residential consumers, reasonable times will be defined as being between the hours of 8 a.m. to 6 p.m. on a non-holiday work day, or at such other time requested by the consumer. All authorized employees of the Company are provided with an identification card.

To provide against unauthorized or pretended collectors, the consumer should insist upon seeing the collector's identification card bearing his photograph, signature, and authority from the Company.

(c) Consumers shall not permit any unauthorized person to disconnect or interfere with the Company's meters or other appurtenances, and they shall protect the same from frost and injury, and be responsible for their safe keeping and make good to the Company any damage thereto.

(d) The consumer should notify the Company immediately of any interruption in the supply of gas.

10. Deposits:

(a) Non-Residential Customers:

For non-residential customers, a deposit of an amount equal to the charges for the estimated consumption of gas for two calendar months will be required of any applicant or customer, unless waived by the Company upon a showing of satisfactory credit reference. If a non-residential customer is not delinquent in payment of any bill for a period of not more than three years, the deposit and interest shall be refunded promptly at the end thereof. For the purpose of this rule, failure to pay any bill for gas service within 25 days from the due date shall constitute delinquency.

(b) Residential Customers:

As of January 1, 1982 no new residential customer shall be required to post a security deposit as a condition of receiving gas service unless such new customer is a seasonal or short-term customer.

For existing customers, a deposit may be required as a condition of receiving utility service if such customer is delinquent in payment of their utility bills. Otherwise, as of September 1, 1982, the Company shall no longer retain existing customers' security deposits. A current customer is considered delinquent for the purposes of a deposit assessment if such customer:

(i) accumulates two consecutive months of arrears without making reasonable payment (one-half of the total arrears) within 20 days of the date payment was due; or fails to make a reasonable payment of a bi-

Continued on next Leaf

GENERAL INFORMATION—Continued

monthly bill within 50 days after the bill is due (provided that the Company requests such a deposit within two months of such failure to pay), or

(ii) had gas service terminated for non-payment during the preceding six months.

If the Company intends to require a deposit under subparagraph (i), the customer must receive written notice, at least 20 days prior to the time the deposit may be assessed, informing them that failure to make timely payment will allow the Company to require the payment of a deposit.

If the Company requires a deposit from a current residential customer who is delinquent by virtue of failure to make a reasonable payment of arrears, the customer shall be permitted to pay the deposit in installments over a period not to exceed twelve months.

The Company shall not require any customer it knows to be a recipient of public assistance, supplemental security income or additional state payments to post a security deposit. Likewise, no security deposit will be required from any customer known to be 62 years of age or older unless such customer has had gas service terminated by the Company for non-payment of bills within the preceding six months.

In those instances where deposits are authorized to be collected, it may be equal to two times the estimated average monthly bill for a calendar year. In the case of a heating customer, deposits may not exceed two times the estimated average monthly bill for the heating season.

(c) For all customers, a deposit refund will be credited to the customer's account. Deposits shall be credited with simple interest at the rate prescribed from time to time by the Public Service Commission, as required by Subchapter A, Chapter III, Title 16 of the New York Code of Rules and Regulations, Part 225.3.

Whenever the Company has not initially required a deposit, or whenever a deposit has been required but thereafter refunded, or whenever a deposit is held by the Company but is insufficient to cover the deposit requirements described above and a customer is thereafter delinquent, the Company may require such customer to pay a new or additional deposit, subject to refund thereafter as specified above.

The Company may withhold its service or discontinue its service should any applicant or customer refuse or fail to pay a required deposit.

The Company shall review the status of residential accounts which are secured by deposits at least annually, and refund deposits accordingly.

11. Reading of Meters:

Meters are read monthly or bi-monthly. The Company reserves the right to read meters weekly or at any other interval or time.

Where the Company schedules meter readings every two months, the consumer shall have the option of reading his meter for the monthly period immediately succeeding the Company's scheduled meter reading and of securing a bill for the service supplied during such monthly period. In case the consumer elects so to read his meter and notifies the Company accordingly, the Company will furnish an appropriate form to be filled out by the consumer, who shall show thereon the reading of his meter on a specified date for such monthly period, and shall return such form to the Company within two days after such specified date. Upon the due receipt by the Company of the form correctly showing the required data, the Com-

Continued on next Leaf

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RESPONSE TO JUDGE ROBERT R. GARLIN'S QUESTIONS DIRECTED TO THE INITIAL TESTIMONY OF EDWARD J. SONDEY

1. Which of the requested items of information are, in the company's experience, invariably reliable as indicators of a prospective customer's "credit-worthiness?" Does the company request such information from all prospective transportation customers, including those who seek service under standard tariff rates?

Answer:

The only "invariably" reliable indicator of credit-worthiness for "project-financed" projects is a cash deposit, or a suitable letter of credit or payment guarantee furnished by a financially-responsible institution. For example, these were the security measures required by Brooklyn Union before undertaking or incurring any material costs in connection with the BNYCP project. For new industrial or commercial customers seeking new service under standard tariff terms and rates, Brooklyn Union requires a cash deposit. The deposit is maintained for three years, and thereafter refunded if the customer has established a good credit history. If the customer has a deficient credit history, the deposit is retained. Virtually all of Brooklyn Union's more than 7000 transportation customers were pre-existing sales customers with established credit histories.

**RESPONSE TO JUDGE ROBERT R. GARLIN'S QUESTIONS
DIRECTED TO THE INITIAL TESTIMONY OF
EDWARD J. SONDEY**

2. Is it the company's practice not to inquire whether a prospective customer can supply a letter of credit, as a measure of creditworthiness?

Answer:

For projects such as BNYCP with questionable economics, Brooklyn Union not only makes such inquiries, but also requires a letter of credit, cash deposits, or equivalent security as a condition of any material commitment. For standard tariff customers, see response to question 1.

RESPONSE TO JUDGE ROBERT R. GARLIN'S QUESTIONS DIRECTED TO THE INITIAL TESTIMONY OF EDWARD J. SONDEY

3. Which of the requested items of information are, in the company's experience, invariably reliable as indicators of the "viability" of a prospective customer's line of business or facility? (In your answer, provide a definition of the term viability," as employed in the company's evaluations.) Does the company request such information from all prospective transportation customers, including those who seek service under standard tariff rates?

Answer:

No single element is "invariably" an indicator that a project will be constructed and can operate. However, credible evidence that a project has obtained site control (in the form of land rights), construction commitments, upstream capacity and supply commitments, market commitments, financial commitments, and major governmental authorizations, are reliable indicia of a project likely to be constructed.

The term "viability" is used to describe the quantity of such evidence that may reasonably be relied upon to justify a commitment of staff and other resources to undertake the analyses, contractual documents, design work, and capital commitments appropriate to the service requested. The level of work is project-specific. The level of effort tends to be greater, however, when an *ad hoc* request for discounting or individually negotiated service terms is involved, since the Company has the responsibility to assure that core customers receive reasonable benefits from such transactions. For tariff customers at standard terms and rates, see response to question 1. Construction procedures for new standard tariff customers are generally addressed by Brooklyn Union's tariff.

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1991 MAY 15 P 2:31
THE BROOKLYN UNION GAS CO.
SECRETARY'S OFFICE

S.P.O. 90-G-0658SP7

Approved as Recommended
and So Ordered
By the Commission

SESSION MAY 8 1991

John J. Kelliher
Secretary

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

ISSUED & EFFECTIVE MAY 10 1991

April 24, 1991

TO: THE COMMISSION

FROM: POWER DIVISION - TARIFF ANALYSIS SECTION
GAS DIVISION

SUBJECT: 90-G-0658

The Brooklyn Union Gas Company has made a tariff filing (see Appendix) to establish a new interruptible transportation rate with individually negotiated contracts applicable to customers requiring large volume transportation.

SUMMARY OF
RECOMMENDATION: Staff recommends approval, provided the company files further revisions as described in this memorandum.

* * *

Summary

Brooklyn Union has filed a proposed new rate in its transportation service available to large volume customers. The rate for the service would be individually negotiated between the company and the customer and set forth in a contract that would be filed with the Commission.

The proposed rate is in conformance with a Commission statement of policy on bypass of local distribution companies by

Public Service Commisson
Case No.
Date 1-14-98
Ex. No. 33

large volume users. However, the volume requirements, as proposed by the company, would be similar to those applicable to Brooklyn Union's current interruptible transportation rates. Staff recommends that the proposed rate provision be allowed to become effective providing the company files further revisions establishing an annual minimum qualifying requirement of 2,000,000 Dth transportation volumes to preclude migration of existing customers to the new tariff rate.

Background

Brooklyn Union provides large volume interruptible sales service (S.C. No. 5) to customers with minimum daily requirements greater than 200 dth (Priority A) or 750 dth (Priority B). Customers taking sales service under S.C. No. 5 are eligible to take transportation service through Rate TS-5 in the company's transportation service, S.C. No. 11, at rates set each month by the company ranging between a floor price of $0.01 per therm and a ceiling of the last block of the firm transportation rate (TS-2).

On August 1, 1990, Brooklyn Union filed proposed revisions to its transportation service, S.C. No. 11, to establish a new rate, TS-IC - Interruptible Cogeneration Service Transportation, to be available to S.C. No. 5 sales customers. The proposed rate would be the subject of a special contract negotiated between the company and the customer and would be filed with the Commission. Since the concept of individually negotiated contracts between the gas distribution utilities and transportation customers was under investigation in a proceeding by the Commission, the effective date of the filing was postponed by various special permission orders to May 13, 1991.

On March 6, 1991, the Commission issued a "Statement of Policy Regarding Bypass of Local Distribution Companies by Large Volume Users" which, among other things, permits gas distribution utilities to file large-volume gas transportation tariffs with individually negotiated contracts in accordance with guidelines set forth in the policy statement.

On April 5, 1991, Brooklyn Union filed further revisions to its transportation rate provision. The company changed the terms of the service and added language to bring the proposed rate into conformance with the Commission's March 6, 1991 policy statement.

Proposed Filing

Brooklyn Union proposes to establish an interruptible transportation rate, TS-5n (Interruptible Service Transportation - Individually Negotiated), applicable to customers whose anticipated annual daily gas requirements during the period April 1 to November 30, inclusive, exceeds 750 Dth. The rate would be the subject of a special contract negotiated between the company and the customer and would be filed with the Commission. There are no set minimum or ceiling rates, but the rate must recover all incremental costs the company incurs in serving the customer and provide a reasonable contribution to system costs.

In addition, the customer would be subject to an annual minimum bill that will be the greater of: (a) an amount which will recover the annual levelized carrying charges calculated for the life of the contract related to the company's capital costs and operating expenses incurred attaching the customer and providing service or

(b) an amount based on 50 percent of annual contract volumes. The amount of this minimum charge must be guaranteed for the life of the contract by a letter of credit from a responsible financial institution or by other security. The rate provision also prescribes that negotiated contracts at similar overall terms would be available to all similarly situated customers.

The company proposes to modify its Form of Service Agreement for transportation service to state that the charges for TS-5n will be in a special contract between the company and the customer and will be appended to the executed Form of Service Agreement. Brooklyn Union also makes a minor clarifying revision, changing the word "consumer" to the more correct "customer" wherever the reference is to transportation service.

Discussion

The company states that individually negotiated rates are necessary for large volume users, such as cogeneration facilities, because of the unique economic characteristics of each facility. The Commission has previously recognized this concern and approved tariffs that allow individually negotiated transportation rates for cogeneration customers for National Fuel Gas Distribution Corp. and St. Lawrence Gas Company, Inc. Also, negotiated contracts have been accepted in lieu of existing tariffs for Niagara Mohawk Power Corporation and Long Island Lighting Company.

The revised tariff leaves, filed on April 5, 1991, bring the proposed tariff into close conformance with the Commission's policy statement. The schedules provide for a negotiated rate and a financial guarantee for the recovery of the minimum costs over the life of the contract. The tariff revisions eliminate the initial requirement that the customer be a cogenerator. The rate provisions specify that the rate must provide a reasonable contribution to system costs over and above the recovery of incremental costs. The minimum annual bill provision offers an added protection that the cost of facilities installed to serve the contracting customer will be recovered from the customer and not burden the system, even if no gas is transported. Also, the company included a tariff provision assuring the availability of similar terms to all similarly situated customers.

The revised tariff allows a customer to qualify if its normal daily requirement exceeds 750 Dth. This would permit existing S.C. No. 5 (Priority B) Interruptible customers to qualify regardless of economic conditions or absence of any bypass threat. Existing interruptible customers can receive transportation service under an economical rate, the current transportation rate, and therefore should not be offered a lower negotiated rate. The policy statement did not prescribe any size of loads which might qualify for negotiated rates, but given that the policy resulted from a review of cogeneration transportation (which commonly involves annual volumes of 4,000,000 Dth or more), a negotiated-rate tariff should have an entry level greater than the existing Brooklyn Union Priority B volume of 270,000 Dth (750 Dth/day at 100% load factor).

The negotiated rate, since it is intended to recognize the economies and conditions associated with service to very large, high load factor customers, should be aimed at customers that require a rate lower than the current transportation rate to attract new or expanded gas loads (the most likely potential customers are cogenerators). A minimum qualifying annual volume of 2,000,000 Dth would better serve to meet the needs of the targeted market. If an existing customer increases its consumption, and thus qualifies for a negotiated rate, any revenue loss on the existing consumption should be considered as part of the cost of the contract and factored into the negotiated price.

Brooklyn Union will file the individually negotiated contracts along with the back-up material supporting each contract, as contemplated by the policy statement. The contracts would not require Commission approval but would be subject to review and challenge by staff or any other party. It is important that this information be filed with the Commission as soon as possible after the signing of a contract to allow interested parties adequate time for review before the effective date of the contract. It is recommended that the contract and supporting data be filed a minimum of sixty days prior to the effective date.

Request for Short Notice and Waiver of Publication

Brooklyn Union requests a waiver of the requirement of newspaper publication of the amendments filed April 5, 1991 since the substance is the same as previously published.

Conclusion and Recommendation

It is staff's opinion that there is a need for an individually negotiated rate for large transportation customers in Brooklyn Union's service territory. The negotiated rates will cover the incremental costs plus contribute toward the common system costs. The recovery of the incremental costs will be guaranteed, thus causing no risk to the other customers. Also, the filed tariff is similar to those previously approved for two other gas companies in the state. The company's filing may be approved subject to the following conditions: (a) the minimum qualifying volume requirement be changed from 750 Dth per day to 2,000,000 Dth per year and (b) the negotiated contracts be filed with the Commission at least sixty days prior to the effective date of the contract.

<u>It is recommended that:</u>

(1) the amendments listed in the Appendix be allowed to become effective, provided that the company files further tariff revisions establishing 2,000,000 Dth as a minimum requirement to qualify for the new rate;

(2) publication be required of the amendments filed August 1, 1990, listed in the Appendix;

(3) special permission be granted waiving the requirement of Section 66(12) of the Public Service Law as to newspaper publication of the changes proposed by the amendments filed April 5, 1991, listed in the Appendix, and the further revisions discussed in Clause 1 above;

(4) an order be adopted in Case 90-G-0981 waiving Order Clause 3 of the order issued December 11, 1990 in that proceeding to allow Sixteenth Revised Leaf No. 41 to Schedule P.S.C. No. 11 - Gas to become effective; and

(5) a letter be sent directing the company to:

(a) file, on not less than one day's notice, to become effective May 15, 1991, further amendments to include tariff revisions discussed in Clause 1 above; and

(b) file all applicable contracts and supporting data with the Commission at least sixty days prior to the effective date of the contracts.

Respectfully submitted,

Lois R. Parisella

LOIS R. PARISELLA
Associate Utility Rates Analyst
Tariff Analysis Section

JOHN W. LURSKI
Associate Valuation Engineer
Gas Division

Reviewed by:

Alice Miller

ALICE A. MILLER
Chief, Tariff Analysis Section

Ronald H. Streeter

RONALD H. STREETER
Chief, Rates & Valuation Section
Gas Division

APPROVED:

John P. Zekoll

JOHN P. ZEKOLL
Director, Gas Division

SUBJECT: Filing by THE BROOKLYN UNION COMPANY

Amendments to Schedule P.S.C. No. 11 - Gas

Second Revised Leaf No. 41A
Fourth Revised Leaves Nos. 40 and 47
Sixth Revised Leaf No. 42
Thirteenth Revised Leaf No. 41

Issued: August 1, 1990 Effective: October 26, 1990*
Received and Filed: August 1, 1990
*Effective date postponed to May 15, 1991 by
S.P.O.'s 90-G-0658SP1, 90-G-0658SP2, 90-G-0658SP3,
90-G-0658SP4, 90-G-0658SP5 and 90-G-0658SP6

Third Revised Leaf No. 41A
Fifth Revised Leaves Nos. 40 and 47
Seventh Revised Leaf No. 42
Sixteenth Revised Leaf No. 41

Issued: April 5, 1991 Effective: May 5, 1991*
Received and Filed: April 5, 1991
*Effective date postponed to May 15, 1991 by
S.P.O. 90-G-0658SP6

SPECIAL PERMISSION APPLICATION: S.P.O. 90-G-0658SP7

S.A.P.A. 90-G-0658SA1 - State Register - August 22, 1990

Newspaper Publication:
August 1, 1990 filing: August 17, 24, 31, September 7, 1990
April 5, 1991 filing: Waived

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Case 97 - G - 0588
Exhibit 32 (RWK-1)

Brooklyn Union/NYCEG Illustrative Unit Rates

Annual Commodity Determinants @62% per BNYCP 3,462,390 dt (1)

Cost Elements to be Recovered	High Case $	High Case per Dt	High Case % of Total Rate	Low Case $	Low Case per Dt	Low Case % of Total Rate
Special Franchise and Real Property Taxes	$156,021	$0.045	3%	$111,053	$0.032	2%
Operation and Maintenance Costs	$54,000	$0.016	1%	$36,000	$0.010	1%
N.Y. Facility Charges	$89,464	$0.026	2%	$89,464	$0.026	2%
LNG Pressure Drop - Carrying Costs	$68,400	$0.020	1%	$68,400	$0.020	1%
Capital Carrying Costs	$411,155	$0.119	7%	$258,155	$0.075	5%
Margin Loss	$1,573,476	$0.454	28%	$894,053	$0.258	19%
Subtotal	$2,352,516	$0.679	42%	$1,457,125	$0.421	31%
BNYCP Margins Transport Net Margin @ $.224/dt	$775,575	$0.224	14%	$775,575	$0.224	16%
BNYCP Value of Peaking Service Peaking Service @$.223/dt	$772,113	$0.223	14%	$772,113	$0.223	16%
Premium for Firm Service @ $.49/dt	$1,696,571	$0.490	30%	$1,696,571	$0.490	36%
Total	$5,596,775	$1.616	100%	$4,701,384	$1.358	100%

(1) This minimum annual quantity is arrived at by multiplying the maximum daily quantity of 15,300 dt by 365 days and then multiplying by 62%. All unit cost above were derived using this value.

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EXHIBIT 2
TO PEAKING SERVICE AND DELIVERY AGREEMENT BETWEEN BROOKLYN UNION GAS COMPANY AND BROOKLYN NAVY YARD COGENERATION PARTNERS, L.P.

RECEIPT POINT	RECEIPT POINT MDQ (DTH)	RECEIPT POINT DELIVERY PRESSURE
1. The point of interconnection between Iroquois Gas Transmission System and the New York Facilities System at or near South Commack, New York.[1]	25,253[2]	Minimum: 425 psig Maximum: 1,440 psig
2. The Point of Connection of Transcontinental Gas Pipe Line Corporation and the New York Facilities System Located approximately 500 feet Offshore from the City of Long Beach, New York.[1,3]	30,303[2]	Not less than two hundred seventy-five (275) pounds per square inch gauge or such other pressures as may be agreed upon in the day to day operations of Transco and Brooklyn Union.
3. Such other Point(s) of interconnection between the New York Facilities System and an interstate pipeline as are agreed to and accepted by Brooklyn Union from time to time.[1]	As Agreed Upon	As Agreed Upon

1 Aggregate receipts on any Day at all receipt points shall not exceed 55,556 Dth without the prior consent of Brooklyn Union.

2 Receipt Point MDQs include provision for quantities retained as line loss and fuel (1%).

3 Deliveries at this receipt point shall be made within the firm entitlements of Long Island Lighting Company, unless otherwise agreed from time to time.

Dated: October 1, 1996

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EXHIBIT 30 JM-15

Brooklyn Union Gas ONE METROTECH CENTER BROOKLYN, NEW YORK 11201-3850 (718)403-2976 TELEX 70-5330

October 21, 1992

Mr. Robert C. Paladino
Executive Vice President
York Research Corporation
280 Park Avenue
Suite 2700 West
New York, New York 10017

Dear Bob:

Based on our recent conversations (October 8 and 9,) and the August 27, 1992 letter of intent between B-41 Associates, L.P., and the Long Island Lighting Company (LILCO), which Brooklyn Union received on October 9, it appears that a large part of the information contained in your April 3 and May 12, 1992 responses to Brooklyn Union's processing information request pertaining to the Brooklyn Navy Yard project is now either obsolete or incorrect. Therefore, in order to formally process your request for transportation service and your offer to provide Brooklyn Union peaking service, we are asking that you update your April responses to reflect the current project status. To assist you in this update, copies of the information requests are enclosed. Please pay particular attention to the following items:

1. Name of entities that will own and construct the plant (including the names of the owner's parent Companies as well as written confirmation of each owner's commitment to and percentage interest in the Navy Yard project).

2. The quantity and terms of peaking service offered to Brooklyn Union and third parties (state each separately).

3. Upstream gas supply and transportation arrangements.

4. The nature of service (firm vs. interruptible) and the quantity of transportation service requested.

5. The New York Facilities receipt point(s) at which gas will be tendered. Please note that if a LILCO "swap" is envisioned, Brooklyn Union would prefer that the gas for the project be tendered to Brooklyn Union

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transportation at a combination of Tetco 058 and Transco points (excluding Long Beach).

In addition, as noted in our May 20, 1992 letter to you, prior to finalizing any agreements relating to the Navy Yard, Brooklyn Union requires:

1. Current confirmation from an acceptable non-affiliated financial adviser attesting to the project's financeability as presently proposed.

2. Acceptable long-term gas supply arrangements sufficient to assure Brooklyn Union of reliable and secure peak supplies.

3. Complete alternate fuel and steam host/power purchase arrangements.

4. Current audited financial statements of all project owners.

Although Brooklyn Union requires this information to complete our evaluation of your request, please note that, as always, I am available to discuss the feasibility and estimated rate levels associated with various service options.

Sincerely,

Ron

RGL/daw
cc w/enclosure:

EJS
OMM
WJK
JC
AC

A:PALADINO.LET

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**BROOKLYN UNION RESPONSE TO
INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, L.P. DIRECTED TO DIRECT TESTIMONY OF JOEL COOPER**

2. State whether or not Brooklyn Union (a) justified at the time and (b) is now justifying, the BNYCP arrangements as a response to a by-pass threat?

Answer:

2. Exhibit JC-3 is provided to illustrate elements of the context in which the BNYCP and KIAC service arrangements were developed because these transactions have now been placed in issue by NYCEG. Brooklyn Union did not disclose internal views concerning order of magnitude bypass costs to either party or to PSC personnel. Brooklyn Union's filings regarding the BNYCP service arrangements speak for themselves and were previously furnished to NYCEG.

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BROOKLYN UNION RESPONSE TO SUPPLEMENTAL INTERROGATORIES AND INFORMATION REQUESTS OF NYC ENERGY GROUP, LP. DIRECTED TO BROOKLYN UNION'S DIRECT TESTIMONY

3 . List the total amount of gas Brooklyn Union has delivered to KIAC, for use in its facility, in each (a) month and (b) calendar year that KIAC has been in operation. Has KIAC, in each year it has been in operation. (a) purchased at least its minimum billing quantity and (b) used at least its minimum billing quantity in its facility (as opposed to reselling it)?

Answer:

See attached Schedule A for a summary of SC-5 purchases and transportation volumes delivered to KIAC.

SCHEDULE A
QUESTION 3.

BROOKLYN UNION GAS COMPANY

STOMER TRANSPORTATION IMBALANCE STATEMENT

Service Classification 11 (DT)

08/01/97

R: KIAC

SOURCE	VOLUME RECEIVED BY B.U.G.	FUEL CHARGE (3.60%)	NET VOLUME FOR END USER	VOLUME DELIVERED TO CUSTOMER	MONTHLY IMBALANCE DUE CUSTOMER	CUMULATIVE IMBALANCE DUE CUSTOMER	
						5,748	IMBALANCE CARRYOVER
HESS-TRANSCO	317,465	11,429	306,036	302,237	3,799	9,545	
NJN-TETCO	275,260	9,909	265,351	264,941	410	9,955	
NJN-TETCO	203,818	7,337	196,481	209,232	(12,751)	(2,796)	Volume Billed @ Tariff Rate
NJN-TETCO	283,702	10,213	273,489	264,534	8,955	8,955	
NJN-TETCO	212,434	7,648	204,786	206,974	(2,188)	6,767	
NJN-TETCO, TRANSCO	346,702	12,481	334,221	317,373	16,848	23,615	Volume to be cashed out
NJN-TETCO	368,760	13,275	355,485	354,214	1,271	1,271	
NJN-TETCO	313,414	11,283	302,131	302,116	15	1,286	
[illegible]TCO, [illegible]SCO	345,260	12,429	332,831	329,761	3,070	4,356	
NJN-TETCO, TRANSCO	344,702	12,409	332,293	332,789	(496)	3,860	

THIS IS NOT AN INVOICE

(W. DEPASS)

(B. WILLIAMS)

PREPARED BY: Kevin Marino

BROOKLYN UNION GAS COMPANY

STOMER TRANSPORTATION IMBALANCE STATEMENT
Service Classification 11 (DT)

10/01/96

ER: [redacted] KIAC

SOURCE	VOLUME RECEIVED BY B.U.G.	FUEL CHARGE (3.60%)	NET VOLUME FOR END USER	VOLUME DELIVERED TO CUSTOMER	MONTHLY IMBALANCE DUE CUSTOMER	CUMULATIVE IMBALANCE DUE CUSTOMER
						7,727 IMBALANCE CARRYOVER
HESS-TRANSCO	126,842	4,566	122,276	139,539	(17,263)	(9,536) Volume Billed @ Tariff Rate
HESS, KOCH, ASSOCIATED-TETCO, TRANSCO	339,200	12,211	326,989	321,587	5,402	5,402
HESS,NJN,-TETCO,TRANSCO	354,093	12,747	341,346	349,823	(8,477)	(3,075) Volume Billed @ Tariff Rate
HESS,NJN,-TETCO,TRANSCO	356,440	12,832	343,608	335,946	7,662	7,662
HESS,NJN,ULCO,-(PAYBACK), TETCO, TRANSCO	286,869	10,327	276,542	273,656	2,886	10,548
[redacted]N,- TE[redacted]NSCO, [redacted]OIS	293,362	10,561	282,801	289,535	(6,734)	3,814
HESS,NJN,-TETCO, TRANSCO	304,700	10,969	293,731	289,604	4,127	7,941
HESS-TETCO, TRANSCO, STONY-GAS BALANCING	321,405	11,571	309,834	317,775	(7,941)	0
HESS-TETCO, [redacted]ANSCO	254,365	9,157	245,208	237,308	7,900	7,900
[redacted]SS-TETCO, TRANSCO	358,064	12,890	345,174	331,551	13,623	21,523
HESS-TETCO, TRANSCO	346,774	12,484	334,290	353,242	(18,952)	2,571
HESS-TRANSCO	401,450	14,452	386,998	383,823	3,175	5,746

THIS IS NOT AN INVOICE

DEPASS)
WILLIAMS)

PREPARED BY:

KIAC													
1994	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
Transport	0	0	0	0	0	0	0	0	0	0	0	0	0
Sales	0	0	0	0	0	0	0	0	0	0	0	79349	79349
	0	0	0	0	0	0	0	0	0	0	0	79349	79349
1995	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
Transport	0	153018	308199	286800	275823	281755	329861	327316	293527	130003	321587	346748	3054637
Sales	238987	275669	0	0	0	0	0	0	0	0	0	3075	517731
	238987	428687	308199	286800	275823	281755	329861	327316	293527	130003	321587	349823	3572368
1996	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
Transport	335946	273656	289535	289604	317775	237308	331551	353242	383823	302237	264941	206436	3586054
Sales	0	0	0	0	0	0	0	0	0	0	0	2796	2796

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Exhibit 27, JM-12

RECEIVED OCT 14 1997

Cullen and Dykman
177 Montague Street
Brooklyn, New York, 11201 - 3611

Joseph P. Stevens. Esq.

Telephone: (718) 780-0052
Facsimile : (718) 935-1304

October 13, 1997
BY FEDERAL EXPRESS

John W. Dax, Esq.
Cohen. Dax & Koenig, P.C.
90 State Street - Suite 1030
Albany, New York 12207

Re: PSC Case #97-G-0388

Dear Mr. Dax:

Enclosed. in accordance with Judge Garlin's directions during the telephone conference last week are additional documents that are potentially relevant to NYCEG interrogatories and document requests numbered 2b.. 3c., 3d, and 9. By this response. Brooklyn Union does not concede that any of the enclosures are relevant to the issues in this case or admissible in evidence.

Please be advised that enclosures do not include: (1) documents comprising work in progress on Brooklyn Union's direct evidentiary case; (2) internal, non-public Brooklyn Union analyses employed solely to assist Brooklyn Union personnel during negotiation of the KIAC or BNYCP contracts (except to the extent Brooklyn Union intends to rely on such material in its direct case); and (3) unredacted BNYCP gas supply contracts, which contracts were furnished to Brooklyn Union in confidence. and filed with the Commission pursuant to its trade secret procedures. Its is our understanding, based on Judge Garlin's orders and the discussion during the telephone conference last week with Judge Garlin. that Brooklyn Union is not obligated to produce such material unless and until its is relied upon or otherwise relevant to Brooklyn Union's evidentiary presentation in this case.

Given the quantity of documents enclosed. we have not furnished copies to Judge Garlin and Staff Counsel Rigberg. Brooklyn Union will make appropriate arrangements to facilitate access to or review of the enclosures upon request of Judge Garlin or the Commission Staff.

Yours truly,

Joseph P. Stevens

Of Counsel for
The Brooklyn Union Gas Company

Encl.
cc: (w/out encl.) Hon. Robert R. Garlin
Saul Rigberg. Esq.

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Responses Of
The Brooklyn Union Gas Company
To First Set Of Interrogatories
And Document Requests Of
New York City Energy Group, L.P.

New York City Energy Group, L.P. v.
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2. In paragraph 12 of its Answer, Brooklyn Union states that each entity that executed an individually negotiated contract with it (KIAC Partners ["KIAC"] and Brooklyn Navy Yard Cogeneration Partners L.P. ["BNYCP"]) was "required...to provide the same or similar information to that requested from NYCEG." With respect to this statement:

   a. state exactly what information was provided by KIAC and BNYCP prior to the commencement of negotiations; and

   b. provide all documents showing the information provided by KIAC and/or BNYCP and the information requested by Brooklyn Union.

Answer: a. Attached is a chart which sets forth the information requested by Brooklyn Union from KIAC, BNYCP and NYCEG and a description of the information provided in response by KIAC, BNYCP and NYCEG.

b. Brooklyn Union objects to this question to the extent that it calls for the production of non-public information that was provided to the Company on a confidential basis. Both KIAC and BNYCP provided much of the requested information on a confidential basis. Attached are recent letters in which KIAC and BNYCP advised Brooklyn Union that they wish Brooklyn Union to continue to preserve the confidentiality of the information provided during the course of negotiations. Copies of documents in which Brooklyn Union requested information from KIAC and BNYCP, as well as public information provided to Brooklyn Union, are attached.

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Ex. No. 26

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Attachment To Response to NYCEG Interrogatory No. 2.a.

KIAC and BNYCP were each asked to complete a questionnaire similar to that provided to NYCEG. The information submitted by KIAC, BNYCP and NYCEG is listed below:

QUESTION	KIAC	BNYCP	NYCEG
Thermal energy capacity and customer(s).	Itemized customers and output	Itemized customers and output	General response-did not itemize
Provide copies of contract arrangements for sales of electric and thermal output.	Submitted	Submitted	not provided
Projected Load Factor.	Submitted	Submitted	not provided
Anticipated load profile of plant.	Submitted	Submitted	not provided
Provide heat rate based on higher heating value.	Submitted	Submitted	not provided
How is the plant configured?	Submitted	Submitted	not provided
Provide the name and phone number of contact person at utility or other entities purchasing electricity and/or thermal out put of the plant.	Submitted	Submitted	Non-responsive - all contact referred to NYCEG
Will the plant receive capacity payments for the sale of electricity?	Submitted	Submitted	not provided
Project Construction Schedule.	Submitted	Submitted	Non-responsive - only gave Commercial Op. date

QUESTION	KIAC	BNYCP	NYCEG
Financing arrangements - describe & state status of financing arrangements for project.	Submitted	Submitted	Non-responsive - "underway"
Provide a copy of applicant's most current balance sheet and financial reports.	Submitted	Submitted	not provided
Provide a copy of applicant's most current audited balance sheet and financial reports.	Submitted	Submitted	not provided
Transportation Service - Maximum daily and hourly quantity required.	Submitted	Submitted	not provided
Date commencement of service is requested.	Submitted	Submitted	Non-responsive - "what pressures are available"
Pipeline receipt point(s) of New York Facilities System.	Submitted	Submitted	Unknown
Delivery point(s) to or for customer's account from Brooklyn Union	Submitted	Submitted	To be determined
Upstream MDQs and upstream supplier and pipeline transporters. (List and state status of sales and pipeline arrangements.)	MDQs, pipeline names and status submitted	MDQs, pipeline names and status submitted	Non-responsive- "underway"
Describe all alternatives to the Brooklyn Union sales and/or transportation services requested that are under consideration by Applicant.	Alternatives described	Alternatives described	Non-responsive - "All alternatives under consideration"

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Case 97-G-0388
November 13, 1997

EXHIBIT 25 JM-1 (R)

NYCEG PROPOSAL AND COMPARISON OF TERMS[1]

TERM	KIAC Partners	BNYCP	NYCEG Proposal
MDQ	23,000	60,000	15, 300
MAQ	8,395,000	21,900,000	5,585,000
Minimum Use	2,920,000 (34.8%)	13,600,000 (62.2%)	3,462,700 (62%)
Expected Use	5,840,000	21,300,000	4,189,000 (75%)
Demand Rate	- 0 -	.355[2] (1996)	.274 (1996)
Escalation	GDP deflator	.68 of GDP deflator	same as BNYCP
Commodity Rate	$.135 (1997)	$.10 (1996)	.10 (1996)
Guaranteed Revenue	$394,200	$1,615,600 (Excl. O&M & Taxes)	$396,576
Guaranteed Revenue per dth @ minimum use	$.135	$.119	$.115
Effective Rate per dth @ expected use	$.135	$.112	$.112
Character	Interruptible per Tariff Rules[3]	365 Day Firm[4]	365 Day Firm
Loss Factor	Per Tariff (Currently 3.6%)	1%	1%
Facilities Construction	Customer Responsibility	Cost Paid by Customer	Customer Responsibility
Incremental O&M & Taxes	None	Paid by Customer	Paid by Customer (if any)

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TERM	KIAC Partners	BNYCP	NYCEG Proposal
Incremental Property & Franchise Taxes	Included in rate	Paid by Customer	Included in Rate
Imbalance Penalty	Monthly cash out of excess gas over 5% @ 90% market; over 10% @ 80%	Daily penalty for over or underage of $.54 per dth; monthly cashout of underages at market + premium + $.25 per dth. For overages cashout paid at 50% - 80% of market.	Same as KIAC
Term	25 Years	15 years with 5 year option to renew	Same as BNYCP

NOTES

1. Information used in this chart is taken from copies of the contracts provided to NYC Energy Group, supplemented in a few areas by information acquired in discovery. To the extent actual practices as between Brooklyn Union and either KIAC or BNYCP varies from the contract terms, this information will not accurately reflect the actual transportation arrangement.

2. The nominal monthly demand charge of $3.02 per dth of MDQ must be reduced by the demand charge paid by Brooklyn Union for peaking service to obtain the effective demand charge paid by BNYCP.

3. The KIAC service appears to be interruptible in name only. While KIAC has no contract right to more than interruptible service, in fact, the service it receives is 365 day firm. This is evidenced by the fact that KIAC has never been interrupted even during the winter of 1995-96.

4. BNYCP provides a peaking service to Brooklyn Union for up to 30 days each year. However, because Brooklyn Union must make BNYCP whole for oil used when Brooklyn Union takes peaking gas, the service is effectively 365 day firm.

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Responses Of
The Brooklyn Union Gas Company
To Second Set Of Interrogatories
And Document Requests Of
New York City Energy Group, L.P.

New York City Energy Group, L.P. v.
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18. Please state the date that Brooklyn Union first made written term sheet offers to KIAC and BNYCP for an individually negotiated contract and provide a copy of each of those term sheets.

Answer: Brooklyn Union objects to this question insofar as it requests the Company to provide copies of term sheets which are proprietary and confidential. Brooklyn Union also objects to this question insofar as it requests the Company to provide information concerning the terms and conditions on service provided to BNYCP. Brooklyn Union is required by its agreement with BNYCP to maintain the confidentiality of the commercially sensitive terms of that agreement. With respect to KIAC, the requested information is not available. Brooklyn Union did extend a conditional offer of terms to BNYCP in February of 1992. However, these terms were subsequently substantially modified and revised based on the information provided by BNYCP.

Brooklyn Union Gas ONE METROTECH CENTER BROOKLYN, NEW YORK 11201-3850 (718)403-2976 TELEX 70-5330

February 13, 1992

Jon R. Mostel, Esq.
LeBoeuf, Lamb, Leiby and MacRae
520 Madison Avenue
New York, N.Y. 10022

Dear Jon:

As discussed at our meeting of January 30, 1992 attached is a term sheet for a transportation/peaking service arrangement for York Research Corporation's (York) proposed cogeneration project at the Brooklyn Navy Yard. Brooklyn Union's engineers are currently in the process of estimating the cost of connecting York's load to the system. We expect these studies to be completed by about the beginning of March. Brooklyn Union is willing to move forward and finalize a formal transportation/peaking service arrangement for 25 Mdt/day. Please note, however, that at some point York will need to demonstrate to the Company that it has completed the transportation and supply arrangements necessary to finalize this transaction.

Sincerely yours,

Ron

A:MOSTEL.LET

YORK TRANSPORTATION/PEAKING SERVICE TERM SHEET

TERM: COINCIDE WITH YORK'S SUPPLIER CONTRACT AND ITS CONTRACT WITH LIBERTY AND UPSTREAM PIPELINES. THESE CONTRACTS MUST BE SATISFACTORY TO BROOKLYN UNION.

MINIMUM ANNUAL TRANSPORTATION QUANTITY: 9 Bcf.

MAXIMUM DAILY TRANSPORTATION QUANTITY:

50,000Dth/DAY. BEST EFFORTS TO 75,000Dth/DAY BEING CONSIDERED.

PRICE TERMS:

- YORK PAYS FOR ALL INCREMENTAL FACILITIES NECESSARY TO PROVIDE SERVICE INCLUDING ANY NECESSARY WORK TO REMOVE BOTTLENECKS ON THE NEW YORK FACILITIES SYSTEM. ALSO ALL EXPENSES ASSOCIATED WITH OWNING AND OPERATING INCREMENTAL FACILITIES (I.E. FRANCHISE TAXES, O&M).
- YORK PAYS FOR ANY FUTURE WORK NECESSARY FOR BROOKLYN UNION TO CONTINUE SERVICE TO ITS FIRM CUSTOMERS IF ATTRIBUTABLE TO YORK'S PROJECT.
- YORK PAYS $0.10/dth FOR TRANSPORTATION VOLUMES (PURE CONTRIBUTION TO SYSTEM COSTS).
- BUG PAYS $2.7 MILLION ANNUALLY (@.30/dth X 365 DAYS X 25,000Dth/DAY) FOR RIGHT TO INTERRUPT 25,000Dth/DAY UP TO 40 DAYS (DESIGN WINTER COVERAGE; NORMAL INTERRUPTIONS WOULD BE LESS).
- BUG PAYS YORK ALTERNATE FUEL COST BELOW 15°F.
  BUG PAYS 95% OF .3% SULFUR NO. 6 OIL ABOVE 15°F.

LOSS FACTOR:

BUG WILL CONSIDER DEVELOPMENT OF SPECIAL NEW YORK FACILITIES LOSS CHARGE.

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EXHIBIT 23, JM-9

Cohen, Dax. Koenig & Wiles, P. C.

Attorneys

90 State Street. Suite 1030
Albany, New York 12207

Telephone: (518) 432-1002
Facsimile: (518) 432-1028

Jeffrey C. Cohen
John W. Dax
Joshua Noah Koenig
Ben Wiles

Richard B. Miller
Julie A. Weinstein

July 17, 1996

Ms. Nancy Cianflone
Director - Rates & Regulations
Brooklyn Union Gas
One Metro Center
Brooklyn, NY 11201-3650

Re: New York City Energy Group, L.P.

Dear Ms. Cianflone:

We are assisting New York City Energy Group in their efforts to put in place an agreement with Brooklyn Union Gas for the transportation of natural gas to the cogeneration facility planned for the Brooklyn Navy Yard. Messrs. Montrose and Hall have previously communicated with you about the facility and its gas transportation needs.

The purpose of this letter is to request a gas transportation agreement and, to that end, to identify the important parameters of the transportation service we seek, to offer a range of rates for service and to identify the areas in which we can be flexible in reaching a mutually acceptable final agreement. I have reviewed your tariff leaves for Service Classification 18 and have attempted to supply information in conformance with the requirements set forth in those leaves.

Important aspects of the service we need include:

Maximum daily delivery quantity	-	7,273 Dth
Term	-	30 years
Receipt point	-	City Gate
Delivery point	-	Brooklyn Navy Yard

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Ms. Nancy Cianflone
July 17, 1996
Page 2

A detailed breakdown of the hourly and daily peaks and the monthly quantities is provided on the attachments to this letter. These attachments replace similar information previously provided to you. Please note that usage will increase after the first three years during which Consolidated Edison has certain electric dispatch rights.

Areas in which we can be flexible and ranges within which we can negotiate are as follows:

Interruptibility - 5-20 days (to be negotiated)

Pressure - (to be negotiated)

Peaking gas availability - (to be negotiated)

Rate - 10-15¢ per Dth - (to be negotiated)

Escalation - (to be negotiated)

A rate in the range identified above will cover incremental costs, provide a reasonable contribution to fixed costs and conform to rates offered to similar facilities. In addition, we will need to draft terms that will exempt the facility from paying any new surcharges, to the extent the law allows, and will preserve the agreement from future regulatory interference.

I look forward to your response.

Very truly yours,

John W. Dax

JWD/mlt
cc: J. Montrose

enclosures: Attachments I and II

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Responses Of
The Brooklyn Union Gas Company
To Interrogatories And Document Requests Of
New York City Energy Group, L.P.

New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company
Case 97-G-0388

37. With respect to the development of the rate in the KIAC contract, identify, describe and provide the requested details for the following items:

(a) the analysis undertaken by Brooklyn Union of the rate needed to meet the by-pass threat posed by KIAC's proposed use of the Liberty Pipeline;

(b) if Brooklyn Union did not calculate or project the rate needed to meet the Liberty by-pass threat, explain why not;

(c) if the rate Brooklyn Union calculated or projected as need to meet the Liberty by-pass threat was higher than the rate agreed to, explain why Brooklyn Union agreed to a lower rate;

(d) the consideration given by Brooklyn Union to including a clause in the KIAC contract that would impose a higher rate on KIAC in the event that sometime in the future the Liberty Pipeline by-pass alternative was no longer a viable by-pass threat, and the reason for rejecting such a clause;

(e) if no consideration was given to such a clause explain why not;

(f) the portions of the KIAC rate that cover:
- (i) incremental costs;
- (ii) margin (i.e., contribution to system costs);
- (iii) reimbursement for lost margin from prior gas sales or transportation services provided to the Kennedy Airport and any other thermal or electricity customer of KIAC.

Answer: The justifications and analyses that Brooklyn Union submitted in support of the rates and terms of the KIAC contract were provided in Brooklyn Union's

March 12, 1992 filing of that contract pursuant to the Commission's Statement of Policy Regarding Bypass. A copy of that filing is attached. Whether Brooklyn Union (or, for that matter, KIAC) could have obtained different rates or terms (including terms regarding bypass) had contract negotiations continued past March 12, 1992 is at this point wholly speculative and irrelevant to any issue in NYCEG's complaint case. Then-current gas load in JFK Airport that was susceptible to loss to the KIAC project amounted to approximately 400 Mdth annually, with related annual margins of approximately $400,000 based on applicable rates then prevailing. Because this load was fully interruptible, involved no firm or temperature-controlled customers, and was itself subject to by-pass, the margins were not considered to be a significant factor by Brooklyn Union in determining whether the KIAC contract terms and rates were justified. Nonetheless, the revenues anticipated from the KIAC contract were sufficient to fully recover this relatively unstable margin loss.

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EXHIBIT 21, JM-7

**First Supplementary Responses Of
The Brooklyn Union Gas Company
To Interrogatories And Document Requests Of
New York City Energy Group, L.P.**

**New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company
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31. With respect to the analysis included in Mr. Sondey's December 6, 1995 letter to Steven Blow covering the precedent agreement and form of peaking service and delivery agreement with BNYCP, provide a detailed description of how the following were calculated: (a) "potential margin loss on current Brooklyn Union firm gas accounts now expected to be served by BNYCP (p. 11); and (b) the "increase in allocated annual New York Facilities rents anticipated as a result of the BNYCP service " (p.6). Describe all inputs used and the basis for all assumptions made to arrive at the estimated values.

Answer: Brooklyn Union's expectation of margin loss associated with the BNYCP project was based on: (1) the assumption that, but for the specially negotiated transaction and rates below prevailing tariff levels, BNYCP would not be in a position to service steam load on an economic basis; (2) recent annual normalized consumption of current firm gas customers Brooklyn Union believed could be served with steam by BNYCP; and (3) current gas sales rates, less variable costs, applicable to service to those customers. The $370,000 annual margin loss figure that appeared in Brooklyn Union's filing letter was the result of negotiations with BNYCP regarding the appropriate amount of margin loss to be recognized via an upward adjustment to the initial negotiated transportation rates to reflect additional firm load identified as probable steam load for BNYCP inside the Navy Yard. The contract provision for potential later BNYCP reimbursement to Brooklyn Union of up to $400,000 of additional margin loss was the product of negotiations, and was designed to provide appropriate recognition of the

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First Supplementary Responses Of
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<u>The Brooklyn Union Gas Company</u>
Case 97-G-0388

future potential for BNYCP to attach additional current gas customers for steam service outside the Navy Yard. Both negotiated amounts were accepted by Brooklyn Union based on its judgment that the results reached were adequate to compensate for margin loss that would be the direct result of the specially negotiated rates developed for the BNYCP transaction, and would thereby avoid a situation whereby core customers might be harmed by the transaction.

New York Facilities rent was estimated based on New York Facilities charges at the time the contract arrangements with BNYCP were filed. An increased allocation of approximately 25,000Dth/day was required for Brooklyn Union to accommodate the BNYCP service.

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EXHIBIT 20, JM-6

**First Supplementary Responses Of
The Brooklyn Union Gas Company
To Interrogatories And Document Requests Of
New York City Energy Group, L.P.**

**New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company
Case 97-G-0388**

37. With respect to the development of the rate in the KIAC contract, identify, describe and provide the requested details for the following items:

~~(a) the analysis undertaken by Brooklyn Union of the rate needed to meet the by-pass threat posed by KIAC's proposed use of the Liberty Pipeline;~~

~~(b) if Brooklyn Union did not calculate or project the rate needed to meet the Liberty by-pass threat, explain why not;~~

~~(c) if the rate Brooklyn Union calculated or projected as need to meet the Liberty by-pass threat was higher than the rate agreed to, explain why Brooklyn Union agreed to a lower rate;~~

~~(d) the consideration given by Brooklyn Union to including a clause in the KIAC contract that would impose a higher rate on KIAC in the event that sometime in the future the Liberty Pipeline by-pass alternative was no longer a viable by-pass threat, and the reason for rejecting such a clause;~~

~~(e) if no consideration was given to such a clause explain why not;~~

(f) the portions of the KIAC rate that cover:

(i) incremental costs;

(ii) margin (i.e., contribution to system costs);

(iii) reimbursement for lost margin from prior gas sales or transportation services provided to the Kennedy Airport and any other thermal or electricity customer of KIAC.

Answer: Brooklyn Union incurred no incremental costs to serve the KIAC project. The balance of the information sought is provided in the initial response to this question and pages 4-8 of the Filing Letter that was attached.

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EXHIBIT 19, JM-5

The Brooklyn Union Gas Company

ONE METROTECH CENTER

BROOKLYN, NEW YORK 11201-3851

EDWARD J. SONDEY
SENIOR VICE PRESIDENT

March 12, 1992

FEDERAL EXPRESS

Hon. William F. Barnes
Deputy Secretary
Public Service Commission
State of New York
Three Empire State Plaza
Albany, New York 12223

Re: Brooklyn Union/KIAC Partners Transportation Contract -- Filing and Request for Confidential Trade Secret Protection

Dear Deputy Secretary Barnes:

Enclosed for filing with the Commission are two copies (one certified) of Contract No. 564 between The Brooklyn Union Gas Company ("Brooklyn Union") and KIAC Partners ("KIAC") for negotiated interruptible transportation service under Rate TS-5n of Brooklyn Union's Service Classification No. 11. The Commission's March 6, 1991 Statement of Policy Regarding Bypass of Local Distribution Companies by Large Volume Users and the May 10, 1991 Commission Order approving Brooklyn Union's TS-5n filing (Interruptible Service Transportation - Individually Negotiated) both require that individually negotiated transportation contracts be filed with the Commission.[1] Both orders also require that supporting information justifying the rates and terms of the negotiated contract be filed with the contract. This information is set forth below, along with Brooklyn Union's request for confidential trade secret protection of portions of this letter and the contract submitted herewith.

I. Request for Trade Secret Status

In accordance with §6-1.3 of the Commission's Rules of Procedure and the Commission's August 12, 1991 Clarification of its Statement of Policy Regarding Bypass, Brooklyn Union hereby requests trade secret protection for certain portions of this

1 The May 10, 1991 order and Staff Memorandum require that individually negotiated contracts be filed not less than sixty days prior to the effective date of the contract.

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letter and the enclosed contract[2] on the following grounds:

1. The material and contract provisions for which trade secret status is sought relate to terms that were negotiated in a competitive setting. Brooklyn Union is exposed to competition from both regulated and unregulated potential suppliers of fuel and delivery services to KIAC and similar markets. Similarly, KIAC operates in a highly competitive (and largely unregulated) arena in securing fuel supplies and marketing electricity.

2. For this project in particular, the large volume requirement for gas supplies, and the related potential for bypass (given the close proximity of the project to proposed pipeline facilities), operate to intensify these competitive exposures.

3. Brooklyn Union has been and continues to be engaged in negotiations with other existing and potential large volume customers (both on- and off-system) for similar arrangements. Disclosure of the material for which trade secret protection is sought would seriously and adversely affect Brooklyn Union's ability to compete effectively in such markets to the detriment of the consumers Brooklyn Union serves.

4. Consistent with the foregoing, the parties themselves have agreed to maintain the confidentiality of the contract provisions for which trade secret protection is requested, except to the extent disclosure is required by law or to secure financing of the cogeneration project.

5. The parties to the contract have consented to limited disclosure of this material to appropriate Commission Staff personnel, in order that Staff and the Commission may conduct the contract review contemplated by the March 6, 1991 Statement of Policy Regarding Bypass.

II. Project Description and Ownership

KIAC is an general partnership in which CEA KIA Inc. (an indirect subsidiary of Public Service Enterprise Group, Inc.) and Airport Cogen Corp. (an indirect subsidiary of Brooklyn Union) own

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2 The portions of this filing letter and the enclosed contract for which trade secret protection is sought are identified by brackets ([]). The remainder of this filing letter and of the contract have been submitted to Secretary Kelliher for filing in the Commission's public files.

equal interests.

KIAC will enter into an agreement with the Port Authority of New York and New Jersey to construct, own or lease, and operate a large scale cogeneration project at the John F. Kennedy International Airport (JFK Airport) in Queens County. The cogeneration plant will supply electricity to the JFK Airport, with incidental sales to other customers. The total peak generating capacity of the plant will be approximately 100 MW. The plant also will supply thermal energy for space conditioning in the JFK Airport's central terminal area. The first phase of construction, involving replacement and upgrading of the JFK Airport's thermal distribution system, is scheduled to commence in the spring of 1992. The plant is expected to be in full commercial operation in 1994.

III. Fuel Supply and Transportation Arrangements

The annual gas requirements of the project are estimated to be 5,840 Mdt. To provide gas to the plant, KIAC has advised that it will arrange for long term firm gas supplies and transportation of these supplies from production areas to New York via the Liberty pipeline project, on which KIAC has nominated firm transportation service.[3] Prior to the construction of the Liberty project, KIAC will contract for interruptible pipeline transportation to bring these supplies to existing pipeline delivery points on the New York Facilities System (NYFS). Under the enclosed contract, Brooklyn Union will transport gas from these NYFS pipeline delivery points to a point on the NYFS near its existing JFK Airport Gate Station for delivery to KIAC. [KIAC will construct and own or lease an approximately 13,000 foot interconnection main and associated measurement facilities from the cogeneration plant to that point near the JFK Airport Gate Station.] A map showing the initial Brooklyn Union delivery point to KIAC and the proposed location of the interconnection main and the Liberty facilities is attached as Appendix A. When interstate pipeline transportation of KIAC supply

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3 Brooklyn Union expects to secure firm transportation capacity on the Liberty project for its system supplies and to improve the reliability of pipeline deliveries by Transcontinental Gas Pipe Line Corp. and Texas Eastern Transmission Corp. to the New York Facilities System and its flexibility to receive supplies from these pipelines. Applications for regulatory authorizations for the Liberty project are expected to be filed with the Federal Energy Regulatory Commission in the near future.

is curtailed or interrupted, KIAC has agreed to purchase gas supplies from Brooklyn Union under its S.C. 5 Priority B sales rate. KIAC will install appropriate facilities to burn alternate fuel when neither transportation nor S.C. 5B sales service is available.

IV. <u>Details of Negotiated Transportation Arrangements</u>

The basic terms of the transportation agreement are as follows:

1. Service will be interruptible.

2. [KIAC will bear the cost of constructing all metering and transmission facilities necessary to receive deliveries of transport gas from Brooklyn Union, with all such construction, as well as operation and maintenance, to be done to Brooklyn Union's specifications.]

3. [Brooklyn Union will not be responsible for the costs associated with construction and maintenance of the metering and transmission facilities owned or leased by KIAC.]

4. [Brooklyn Union is not obligated to incur the costs for such additional facilities as may be necessary to continue service to the plant, including such future improvements or reinforcements to existing facilities as may be required.]

5. KIAC will pay Brooklyn Union a base rate of [$0.12/dth for all gas transported. The base rate will be adjusted each year by the percentage change in the Gross National Product Price Index.] KIAC also will pay take-or-pay surcharges, gross receipts taxes, and overrun charges at the rates generally applicable to comparable S.C. 11 TS-5 customers.

6. KIAC also will provide gas to compensate for system use and losses at the same percentage factor charged to large volume interruptible customers served under Brooklyn Union's S.C. 11 TS 5 rate schedule.

7. KIAC will be responsible for minimizing imbalances between deliveries of transport gas and the cogeneration plant's transport gas consumption. [Deliveries of transport gas in excess of 5% of the plant's monthly

usage shall be retained by Brooklyn Union and "cashed-out" at specified percentages[4] of the Transco Rate Schedule FT Zone 6 "Buy" price.]

8. In consideration of Brooklyn Union's agreement to the transportation contract terms, KIAC has agreed not to bypass Brooklyn Union now or when the Liberty pipeline is constructed. [KIAC also has agreed to negotiate with Brooklyn Union to provide a peaking service by which KIAC will make firm supplies transported for it on Liberty available to Brooklyn Union during peak periods.]

9. Consistent with the terms of Brooklyn Union's S.C. 11 TS-5n tariff, KIAC has agreed to be responsible for an annual minimum bill of 50% of KIAC's estimated annual fuel usage.

10. KIAC has agreed to deposit [$10,000.00] with Brooklyn Union to cover the costs of processing the transportation agreement in the event the service is not commenced.

V. Justification of Rates and Terms

The transportation contract is designed to provide considerable contributions to Brooklyn Union's system costs while minimizing the incremental costs incurred by Brooklyn Union to provide service. It also requires that: (a) KIAC forego any opportunity it has or may have to bypass Brooklyn Union when the proposed Liberty pipeline project commences operation, and (b) [KIAC negotiate in good faith to provide peaking service to Brooklyn Union by making KIAC firm transportation volumes available to Brooklyn Union for system use during peak periods.] The details of these ratepayer benefits are provided below.

A. Contract Features Minimizing Costs Incurred by Brooklyn Union

1. [Brooklyn Union will make no incremental investments in metering and transmission facilities to provide service, and is not obligated to bear any costs associated with additional facilities, including reinforcements or improvements to existing facilities that might be

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4 When transportation gas is not available or transportation service is curtailed or interrupted, KIAC will purchase S.C. 5 Priority B sales service.

required in the future to maintain service under this contract.]

2. [Brooklyn Union will incur none of the costs associated with maintaining the incremental facilities dedicated to serve KIAC, including costs associated with repairing such facilities and any taxes that might be levied on such facilities.]

3. [Stringent gas supply scheduling and balancing provisions have been included that are designed to protect Brooklyn Union ratepayers against incurrence of any material costs associated with balancing transportation quantities received and delivered to the KIAC plant. These provisions are stricter than those generally applied to large volume transportation customers under Brooklyn Union's non-negotiated rates.]

4. KIAC will compensate for system use and losses at the same average system-wide rates charged other interruptible transportation customers. It should be noted that KIAC transportation volumes will be received at and redelivered directly from New York Facilities System mains.

B. <u>Estimates of Contributions to System Costs</u>

1. Assuming KIAC has pipeline transportation available for the period May through October and that Brooklyn Union will be in a position to provide interruptible transportation service during that period, Brooklyn Union estimates that ratepayers will receive annual revenue credits for its transportation service via the Gas Adjustment Clause (GAC) of at least [$403,000.] These assumptions are consistent with recent experience.

2. At current margin levels of approximately $1.00/dth, for the months of November through April ratepayers could receive additional annual revenue credits estimated at [$2.4 million] through the GAC attributable to KIAC S.C. 5B purchases. These credits will vary from time to time based on changes in margin levels and the number of days of sales to KIAC in a given year.

[As explained in the previous section, there are virtually no incremental costs to Brooklyn Union associated with achieving the foregoing estimated annual benefits of $2.8 million.]

VI. Elimination of Bypass

Brooklyn Union has negotiated this contract pursuant to its Commission - approved S.C. No. 11 TS-5n tariff. At the time of Commission approval, the pertinent Staff Memorandum indicated that the TS-5n filing was "in close conformance" with the Commission's May 10, 1991 Statement of Policy on Bypass, and that there was a need for "a rate lower than the current transportation rate to attract new or expanded gas loads (the most likely potential customers are cogenerators)."[5] In its August 12, 1991 Clarification of Statement of Policy on Bypass, the Commission indicated that the pricing flexibility available through individually negotiated rates should be offered "only where bypass of the LDC is a real possibility." In the circumstances of the KIAC project, not only KIAC, but also the ultimate consumer, the Port Authority, have several "alternative opportunities" to address the energy needs of JFK Airport.[6] In addition to these options for "economic" or "technology" bypass, the threat that KIAC and/or the Port Authority may bypass Brooklyn Union is a real possibility because the Liberty pipeline will be located within JFK Airport property and will come within economic reach of the proposed cogeneration plant.[7]

The initial individually negotiated transportation contract has provided Brooklyn Union the opportunity to secure KIAC's commitments that it will (a) not seek to bypass Brooklyn Union in

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5 April 24, 1991 Staff Memorandum in Case 90-G-0658, mimeo at pp. 4, 5-6.

6 These include: purchases of electric power under coventional utility arrangements, or under discount or subsidized rates, other forms of on-site electric generation or thermal energy production and use of fuels other than natural gas. Indeed, Brooklyn Union has no assurance that it will be able to retain the existing load served at JFK Airport.

7 Liberty will be an open access transporter under the Federal Energy Regulatory Commission's regulations governing interstate pipelines. It is Brooklyn Union's understanding that KIAC has nominated firm transportation capacity on the Liberty project in the course of Liberty's pre-filing "open season" capacity offering. The Liberty system, as proposed, would be installed through the JFK Airport property within approximately 4,000 feet of the proposed cogeneration plant location.

connection with the Liberty project and (b) [negotiate in good faith to provide an economic source of peaking supply for Brooklyn Union by making firm gas transported on Liberty available to Brooklyn Union during peak periods.] In the absence of this agreement, Brooklyn Union and its ratepayers are exposed to the loss of increased market opportunities at JFK Airport, the loss of any contribution to fixed costs once Liberty is constructed, [and the loss of an attractive and economic source of peaking supply to assist in meeting future peak period requirements.]

Brooklyn Union submits that the foregoing circumstances bring the contract submitted herewith well within the spirit and intent of both the Commission's Statement of Policy on Bypass and the Company's TS-5n rate option.

VII. Request for Expedited Review of Transportation Contract

Under the terms of the transportation contract, Brooklyn Union committed to promptly file the contract for the Staff and/or Commission review contemplated by the March 6, 1991 Statement of Policy on Bypass and the Staff Memorandum approved by the Commission in connection with its approval of Brooklyn Union TS-5n filing.[8] The negotiated term of the contract is structured to commence sixty days from the date of this filing, consistent with the period provided for such review.

Brooklyn Union is advised that (a) financing for the KIAC cogeneration project is under negotiation and must be concluded not later than May 15, 1992 in order to permit timely commencement of the first phase of construction this spring, and (b) a demonstration that arrangements have been concluded for the acquisition and delivery of the initial fuel supplies for the project is and will be required by project lenders in connection with such financing. See letter attached as Appendix B hereto. Accordingly, Brooklyn Union respectfully requests that the Staff and/or Commission review of this filing letter and the enclosed contract be commenced promptly and completed within the sixty-day period contemplated by the aforementioned Staff memorandum.

CONCLUSION

For the foregoing reasons, Brooklyn Union requests that confidential trade secret status be accorded the identified

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[8] Case 90-G-0658, Staff Memorandum dated April 24, 1991, mimeo at pp. 6, 8.

portions of this filing letter and the enclosed contract, and that the Staff and/or Commission review of the enclosed contract be completed not later than sixty days from the submission of this filing.

Kindly acknowledge receipt of this filing on the enclosed copy of this letter and return same in the enclosed reply envelope.

Respectfully submitted,

The Brooklyn Union Gas Company

By: Edward J. Kerley

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**Responses Of
The Brooklyn Union Gas Company
To First Set Of Interrogatories
And Document Requests Of
New York City Energy Group, L.P.**

**New York City Energy Group, L.P. v.
The Brooklyn Union Gas Company
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10. a. State how many times the KIAC facility has been interrupted;

b. provide a list of customers who were interrupted during the winter of 1995-96 and the dates of interruption for each such customer; and

c. provide all documents relating to gas supply or transportation interruptions that took place during the winter of 1995-96 and to whether or not KIAC should have been interrupted.

Answer: a. None.

b. Brooklyn Union objects to this question insofar as it requests information concerning the identity of individual customers. Such information is confidential and commercially sensitive. Moreover, such information is unlikely to lead to the production or development of material or relevant evidence. Attached is a schedule setting forth interruptions of sales customers during the 1995-1996 winter. Interruptible transportation customers that delivered gas to the Company were not interrupted by Brooklyn Union during this period.

c. Brooklyn Union objects to this question to the extent that it requests the Company to provide all documents that relate to gas supply or transportation interruptions because the question is overly broad, vague and therefore unduly burdensome. See the response to question 10.b. for information concerning interruptions during the 1995-1996 winter. In the absence of a physical constraint, interruptible transportation customers will not be interrupted if they deliver gas to Brooklyn Union. KIAC-owned supply was delivered to Brooklyn Union at points on its system where capacity was available to permit local transportation of the gas supply. Therefore, there were no circumstances under which KIAC should have been interrupted.

NYCEG Interrogatories
Dated April 1, 1997
Question No. 10 - Attachment

Interruptions - 1995-1996 Winter Period

Service Classification No. 5

Ordered Off	Allowed Back On
Sunday 12/10/95, 8AM	Tuesday 2/27/96, 8AM
Sunday 3/3/96, 2PM	Wednesday 3/20/96, 8AM
Sunday 4/7/96, 8AM	Tuesday 4/9/96, 10AM

Service Classification No. 6

Ordered Off	Allowed Back On
Thursday 1/4/96, 9AM	Tuesday 1/9/96, 12 Noon
Thursday 2/1/96, 4AM	Friday 2/2/96, 10AM
Saturday 2/3/96, 2AM	Tuesday 2/6/96, 3PM
Monday 2/12/96, 6PM	Wednesday 2/14/96, 7AM

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Responses Of
The Brooklyn Union Gas Company
To Interrogatories
And Document Requests Of
New York City Energy Group, L.P.

<u>New York City Energy Group, L.P. v.</u>
<u>The Brooklyn Union Gas Company</u>
Case 97-G-0388

33. The Brooklyn Navy Yard Cogeneration Project ("BNYCP") contract provides that BNYCP will provide gas to the Company on a firm basis during peak periods.

a. State the date on which BNYCP commenced providing peaking service to the Company.

b. State the total amount of gas in dekatherms (Dth) that the Company has purchased from BNYCP under the contract.

c. State the total amount paid by the Company for peaking gas, separately identifying the amounts paid for (1) the fixed monthly charge and (2) actual gas consumed.

Answer:

a. BNYCP's obligation to provide Brooklyn Union peaking service commenced on the effective date of BNYCP's service agreement with Brooklyn Union.

b. To date, Brooklyn Union has purchased 71,880 Dth from BNYCP.

c. Brooklyn Union objects to this question because it requests information concerning the commercially sensitive terms and conditions of Brooklyn Union's agreement with BNYCP. Brooklyn Union's agreement with BNYCP requires Brooklyn Union to preserve the confidentiality of the commercially sensitive terms of that agreement. Brooklyn Union also objects to this question because it is neither relevant to any issue in this proceeding nor likely to lead to the production of relevant or material evidence.

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Brooklyn
Union

Edward J. Sondey
Senior Vice President

December 6, 1995

FEDERAL EXPRESS

Steven R. Blow, Esq.
Records Access Officer
Public Service Commission
State of New York
Three Empire State Plaza
Albany, New York 12223

Re: Brooklyn Union/BNYCP Peaking Service and Delivery Agreement -- Filing and Requests for Waivers, Authorization and Confidential Trade Secret Protection

Dear Mr. Blow:

Enclosed for filing with the Commission pursuant to Public Service Law ("PSL") sections 66(12-b), 66-e and 110(4) are two copies (one certified) of (i) Contract No. 695, a precedent agreement and attached form of peaking service and delivery agreement ("PSDA") and (ii) a Facilities Construction and Reimbursement Agreement ("FCRA"), between The Brooklyn Union Gas Company ("Brooklyn Union") and Brooklyn Navy Yard Cogeneration Partners, L.P. ("BNYCP").[1] The contemplated PSDA is a negotiated

[1] Also enclosed is a form of State Administrative Procedure Act Notice of Proposed Rulemaking related to this filing. Communications concerning this filing should be addressed to:

Edward J. Sondey
Senior Vice President
The Brooklyn Union Gas Company
One MetroTech Center
Brooklyn, New York 11201

Public Service Commisson
Case No.
Date 1-1498
Ex. No. 16

arrangement for unique long term peaking gas and delivery services not rendered pursuant to, and not contemplated by, Brooklyn Union's tariff. Accordingly, special Commission authorization is requested in order to effectuate the PSDA as a non-tariff service.

Supporting information justifying the rates and terms of the PSDA is set forth below, along with Brooklyn Union's requests for: (a) such Commission authorizations and waivers as may be required to implement the PSDA in accordance with its negotiated terms; (b) waivers of such of the Commission's Regulations as might otherwise require that the gas services and delivery arrangement be implemented and performed pursuant to a filed tariff; and (c) confidential trade secret protection of portions of this letter and the agreements submitted herewith. A November 30, 1995 letter from BNYCP in support of Brooklyn Union's requests is attached to this filing letter.

I. Requests for Findings, Authorizations, Waivers and Related Matters

The Brooklyn Union/BNYCP agreements comprise a unique, large-

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(718) 403-2000

and

Joseph P. Stevens, Esq.
Cullen and Dykman
177 Montague Street
Brooklyn, New York 11201-3611
(718) 855-9000

volume, multi-faceted services arrangement negotiated at arms-length with the developer of a major cogeneration project. In the absence of a waiver, the Commission's Regulations (Part 270.4) implementing PSL Section 66(12) would appear to require that the services contemplated by the PSDA be rendered pursuant to a filed tariff. In light of the unique and complex nature of the proposed services, and the fact that such arrangements are neither required nor intended to be offered generally to potential customers, a waiver of such Commission Regulations is fully justified and appropriate.

Section 66(12-b)(b) of the PSL provides that the Commission may authorize utilities to contract with "industrial and commercial customers to . . . deliver . . . gas purchased directly by such customers", upon findings "that such arrangements are in the overall best interest of the rate payers" and "that the rates and fees for the services provided adequately compensate the [utility] for use of its facilities."

For the reasons set forth below, the proposed PSDA, along with the FCRA, fully satisfy these statutory requirements. Accordingly, Brooklyn Union requests that the Commission make such findings and grant such approvals, including any authorizations required by PSL Sections 66(12-b), 66-e and 110(4), and such waivers of the Commission's Regulations,[2] as may be required to permit

[2] Brooklyn Union intends to effectuate the rate adjustments and reimbursement charges contemplated by the PSDA without further notice, filings or regulatory applications or waivers, except as sought herein or as may be required by the PSDA. Accordingly, to the extent any authorizations or waivers by the Commission are necessary to administer these agreements in

implementation and performance of the PSDA in accordance with the negotiated terms.

II. Request for Trade Secret Status

In accordance with §6-1.3 of the Commission's Regulations, Brooklyn Union hereby requests trade secret protection for certain portions of this letter and the enclosed agreements[3] on the following grounds:

1. The provisions for which trade secret status is sought relate to transaction-specific terms that were the subject of difficult and protracted negotiations in a competitive setting or reflect confidential analyses and information developed by Brooklyn Union and not disclosed to third parties. Brooklyn Union is exposed to competition from both regulated and unregulated potential suppliers of fuel and/or services to BNYCP and other large-volume markets, as well as competing buyers of long term peaking services. Similarly, BNYCP operates in a highly competitive (and, to a substantial extent, unregulated) arena in securing fuel supplies and marketing electricity, thermal energy, and gas peaking capacity.

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such manner, Brooklyn Union requests that the authorizations and waivers be granted at this time.

[3] The portions of this filing letter and the enclosures for which trade secret protection is sought are identified by brackets ([]). The remainder of this filing letter and of the enclosed agreements have been submitted to the Secretary's Office for filing in the Commission's public files.

2. Brooklyn Union has been and continues to be engaged in negotiations with other existing and potential large volume consumers (both on- and off-system) and suppliers for short and long term gas services, sales and supply arrangements. Disclosure of the material for which trade secret protection is sought would seriously and adversely affect Brooklyn Union's ability to compete effectively in such markets to the detriment of the consumers Brooklyn Union serves.

3. Consistent with the foregoing, the parties themselves have agreed to maintain the confidentiality of the provisions for which trade secret protection is requested, except to the extent disclosure is required by law or may be accomplished under a confidentiality agreement.

4. BNYCP and Brooklyn Union have consented to limited disclosure of this material to appropriate Commission Staff personnel in order that Staff and the Commission may conduct the requisite contract review and the Commission grant the Company's requests for such authorizations and waivers of the Commission's Regulations as may be required to permit the PSDA to be implemented in accordance with its negotiated terms.

III. <u>Project Description and Ownership</u>

BNYCP is a Delaware limited partnership owned fifty percent (50%) each by Mission Energy New York, Inc., a California corporation, and B-41 Associates, L.P., a Delaware limited partnership, of which B-41 Management Corp. is general partner. Mission Energy New York, Inc. is indirectly owned by SCEcorp, an investor-owned California corporation. The project owners are affiliated with entities that have extensive experience in the construction and operation of similar projects.

BNYCP is constructing and will own and operate a 286 MW, combined cycle cogeneration facility at the Brooklyn Navy Yard, involving a total investment of over $400 million. The facility will be housed within the existing Building 41 Powerhouse of the Navy Yard in an industrial section of Brooklyn, New York. BNYCP leases the building from the Brooklyn Navy Yard Development Corporation, which, in turn, manages the Navy Yard property under a long term lease from the City of New York.

BNYCP is refurbishing the former power plant, which involves the demolition and removal of existing Building 41 equipment not included in the design of the cogeneration facility. The building is being structurally modified to conform to the new equipment arrangement, which consists of two Siemens V84.2 dual-fuel gas turbines and two 40 MW controlled-extraction steam turbines. Each gas turbine will exhaust into a Heat Recovery Steam Generator that will supply steam and heat to the facility's customers. Each gas turbine is rated at 103 MW, while the steam turbine capacity is rated at 80 MW, for a total power supply nominally rated at 286 MW. These units will be powered primarily by natural gas transported to the site by Brooklyn Union.

As the supply of natural gas to the facility may be interrupted [for up to 19 full load equivalent days per year,] a back-up fuel (low-sulfur distillate oil) will be provided. Oil inventory will be stored in an above-ground tank (approximately 350,000 gallons) near Dry Dock No. 2 in the Navy Yard. During certain winter months, a barge capable of holding in excess of 4 million gallons of oil will be docked at Dry Dock No. 2 to provide an additional supply inventory as needed.

The project will receive natural gas via a new Interconnection Main constructed by Brooklyn Union. The project expects to supply electrical and/or thermal energy to Consolidated Edison Company of New York, Inc., the Brooklyn Navy Yard Development Corporation (for resale) and New York City's Red Hook Water Pollution Control Plant.

The location of the BNYCP facility is attractive and beneficial not only in terms of bringing substantial capital investment and development to a depressed industrial area but also in terms of its assurance of a reliable and inexpensive supply of power for New York City. The project offers an efficient and economic form of incremental power supply located in the heart of New York City. The plant's benefits include a reliable and inexpensive source of power for New York, additional city and state tax revenue, and jobs for over 500 people during construction and a staff of approximately 30 people once the project is operational.

BNYCP's facility is now well along in construction and is expected to be able to produce electrical energy in December 1995. Initial arrangements for the long term debt financing of the project also are anticipated during December 1995.

IV. Contractual Arrangements

To provide gas to the plant, BNYCP is obligated to enter into acceptable upstream transportation and supply arrangements for long term firm gas supplies. Under the enclosed PSDA, Brooklyn Union will provide firm delivery service for gas transported to the New York Facilities System for the account of the project, by Iroquois Gas Transmission System, L.P. ("Iroquois") and Transcontinental Gas Pipe Line Corporation ("Transco") and BNYCP will make a portion of these firm long term gas supplies available to Brooklyn Union at the receipt points set forth in the PSDA on a firm basis during peak periods. The BNYCP Project includes appropriate facilities to burn alternate fuel when delivery services are not available or Brooklyn Union has elected to retain peaking gas supplies.

V. Details of Negotiated Services

The basic terms of the PSDA are as follows:

Term. The PSDA has a primary term of fifteen (15) years from the earlier of January 1, 1997 or the Commencement Date set forth in the agreement. BNYCP may extend the PSDA for an additional five (5) years on written notice to Brooklyn Union. Thereafter, the PSDA may be extended on mutually agreeable terms and conditions. If the Commencement Date under the PSDA has not occurred by November 1, 1996, Brooklyn Union may either terminate the PSDA on thirty (30) days written notice and/or be assigned BNYCP's rights under its upstream transportation and gas supply contracts. If a buy-out of the BNYCP project occurs and the project does not operate, Brooklyn Union will receive $1.9 million.

Quantity. Unless Brooklyn Union is exercising its right to use peaking gas, Brooklyn Union has agreed to transport on a firm basis a maximum daily quantity ("MDQ") of up to 55,000 Dth. In addition, Brooklyn Union will use reasonable efforts to transport, on an interruptible basis, up to 7,500 Dth of gas in excess of the MDQ. For peaking gas, Brooklyn Union will have the right to use a maximum of 479,807 Dth during any period from November 1 through April 30 in up to thirty (30) daily allotments, no one of which may exceed 25,253 Dth/day -- the equivalent of 19 full load days. A disruption in the operation of the cogeneration plant or the Interconnection Main will not relieve BNYCP of its obligation to supply peaking gas.

Receipt and Delivery Points. The receipt and delivery points under the PSDA are as follows:

1. <u>Delivery Point</u>

At the interconnection between Brooklyn Union and BNYCP's facilities, at or near the terminus of the Interconnection Main.

2. <u>Receipt Points</u>

The primary receipt points are at interconnections between the New York Facilities System and the Transco and Iroquois pipelines.

Compensation. For firm transportation service, BNYCP will pay a base monthly fixed demand charge of $3.02 per Dth of the MDQ and a base commodity charge of $.10 per Dth of gas delivered by Brooklyn Union to BNYCP during the month, both adjusted annually beginning January 1, 1997 by the GNP Escalator defined in the PSDA. BNYCP will pay an annual minimum commodity charge based on an annual quantity of 12,500,000 Dth, subject to certain adjustments. For interruptible transportation service, BNYCP will pay $.40 for each Dth of gas transported by Brooklyn Union for service before April 1, 1996 and $.1986 per Dth adjusted annually by the GNP Escalator for service on and after April 1, 1996. BNYCP will also separately reimburse Brooklyn Union for incremental operating and maintenance expenses and special franchise and real property taxes. BNYCP will secure payment of $750,000 through either a deposit or letter of credit. For peaking service, Brooklyn Union will pay a fixed monthly charge of $159,917, adjusted annually by a Transport Adjustment defined in the PSDA beginning January 1, 1997, and a commodity charge representing the Dth equivalent of either (1) the

New York Harbor posted price of 0.04% sulfur No. 2 distillate oil on days Brooklyn Union interrupts its temperature controlled customers, or (2) 95% of the average New York harbor Barge consumer price for 0.3% sulfur No. 6 oil on days when Brooklyn Union does not interrupt its temperature controlled customers.

Imbalances. The PSDA requires daily and monthly balancing with cash-out provisions tied to the Cash Out Index Price defined in the PSDA.

Interconnection Main and Other Reimbursements. Brooklyn Union is responsible for construction of, and will own and operate, the Interconnection Main pursuant to the separate FCRA, under which BNYCP reimburses Brooklyn Union for construction costs and any associated tax liabilities. Construction of the Interconnection Main and all ancillary facilities is complete, and Brooklyn Union has advised BNYCP that such facilities are now capable of delivering gas to the BNYCP Project.

Fuel Manager. BNYCP has designated Long Island Lighting Company ("LILCO") as its exclusive agent with full power to act on BNYCP's behalf with respect to all nominations, scheduling of gas and daily and monthly operational communications and instructions under the PSDA, including all instructions and nominations relating to Brooklyn Union's use of peaking gas. Brooklyn Union, BNYCP and LILCO will enter into a separate Operating Agreement (a form of which is appended to the PSDA) at the time of execution of the PSDA to facilitate these fuel management operations.

VI. Justification of Rates and Terms

The PSDA provides multiple benefits to Brooklyn Union and its ratepayers in a framework that fully compensates Brooklyn Union for incremental costs incurred to serve BNYCP, and provides for substantial net contributions to Brooklyn Union's overall system costs. Absent these negotiated arrangements, these contributions could well be unavailable to Brooklyn Union and its customers. The PSDA also provides economical peaking services to Brooklyn Union to meet anticipated peak period requirements and enhance Brooklyn Union's flexibility in scheduling and utilizing available peaking supplies.

A. Contribution to System Costs

BNYCP has agreed to pay Brooklyn Union initial base monthly fixed demand charges of $166,100 per month ($3.02 times the MDQ of 55,000 Dth) plus an initial base commodity rate of $0.10/Dth delivered for Brooklyn Union to transport gas on a firm basis for BNYCP's account. At the initial rates, based on annual usage at the 55,000 Dth/day contract level, annual revenues equate to $4,000,700. BNYCP has agreed to pay an annual commodity minimum bill based on 12,500,000 Dth, which would assure minimum contract revenues of $3,243,200 per year at initial rates. The initial demand and commodity charges will be adjusted annually based on changes in the GNP Escalator defined in the PSDA.

The negotiated transportation rates will provide revenues that exceed, by a significant multiple, potential margin loss on current Brooklyn Union firm gas accounts now expected to be served by BNYCP (estimated, at current rates, not to exceed $370,000), and the modest increase in allocated annual New York Facilities rents anticipated as a result of the BNYCP service (estimated at $140,000). In addition, the contract rates are subject to further adjustment in the event BNYCP later provides steam service to any other current firm Brooklyn Union customers. In such event, transportation rates will be increased to offset, dollar for dollar up to a maximum of $400,000, any further margin loss that is a result of BNYCP serving steam to other firm gas customers. These contract features are designed to recognize that, but for the negotiated transportation arrangements, BNYCP would not be in a position to serve steam to customers currently served by Brooklyn Union, and assure that Brooklyn Union and its customers will derive net revenue benefits from service to BNYCP over the contract term.

Under the FCRA and provisions of the PSDA, BNYCP has agreed to reimburse all known and foreseeable incremental facility costs associated with Brooklyn Union's service to the BNYCP plant. BNYCP also has agreed to directly reimburse incremental O&M and state and local tax expense incurred by Brooklyn Union. In sum, the revenues and reimbursements derived from these transportation arrangements will substantially exceed the incremental costs incurred to provide service to BNYCP, and provide material contributions to Brooklyn Union's overall system costs.

B. Beneficial Features of Peaking Service

Over the next 10 years, Brooklyn Union estimates that it will require approximately 126 MDth per day of additional peak day supply and capacity to meet projected future load growth and system reliability criteria.[4] Its current plans are to meet these

[4] This estimate assumes that: (a) Brooklyn Union will be able to renew or replace all firm peak day supply and capacity arrangements that expire or are terminated during this period; (b) that the full peak availability of Brooklyn Union's LNG capacity is maintained throughout the period; and (c) any release or assignment of peak day pipeline delivery capacity to transportation customers or marketers is matched by an

requirements with a mix of firm year round, storage and peaking services. Under the BNYCP peaking arrangement, BNYCP is obligated to provide up to 479,807 Dth of peaking gas in up to 30 daily allotments per winter season, no one of which may exceed 25,253 Dth. Brooklyn Union may schedule the peaking gas, and BNYCP is obligated to tender the gas at the specified city-gate Receipt Points, on as little as eight hours notice prior to the day for which peaking gas is required. For this peaking service, Brooklyn Union will pay the fixed and commodity charges detailed in section V above.

i. <u>Comparative Evaluation of Potential Alternatives</u>

Potential alternatives to meet Brooklyn Union's anticipated peak period and system reliability requirements do not offer a level of flexibility commensurate with the BNYCP project's peaking gas service. Moreover, as shown on the tables appended hereto, the peaking arrangements available under the BNYCP arrangement compare favorably on an economic basis to the estimated costs of representative "alternative" projects potentially available to Brooklyn Union.

ii. <u>Other Benefits of PSDA</u>

In addition to the attractive elements of the BNYCP peaking service described above, the BNYCP peaking service provides

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equivalent reduction in peak day market demand and complete relief from any obligation on the part of Brooklyn Union to provide "back-up" capacity or gas supply. Peak day demand on Brooklyn Union's system has been increasing, and is expected to increase, by about 20 Mdth per day per year on average.

other beneficial features not found with "traditional" peaking arrangements. First, Brooklyn Union does not have to arrange and administer upstream storage and transportation to receive the delivery of the peaking gas supply. Instead, BNYCP is responsible for maintaining the underlying firm transportation and supply contracts to assure that the peaking gas supply is available to the Company's city-gate Receipt Points. Thus, access to the supply is direct and "in-territory".

Second, unlike "traditional" peaking supplies, the Company may call upon its rights to peaking service flexibility in partial allotments; and the service is not subject to monthly or season "ratchet" reductions until the entire seasonal quantity is exhausted. Under the BNYCP peaking service, Brooklyn Union is free to schedule only what it needs, within certain limits, and reserve its rights to the remainder for later use (up to the stated MDQ and the maximum annual peaking gas quantity).

Opportunities for such attractive and flexible in-territory peaking arrangements are few and far between, and the timing of their availability is a function of project development decisions and schedules not within the control of the Company. As the Commission is aware, Brooklyn Union's endeavors in the past to contract for comparable services have not been entirely successful due to factors beyond its control.

VII. RATE TREATMENT

As a consequence of consultations with the Commission Staff prior to this filing, Brooklyn Union wishes to confirm its undertaking to treat the net revenues[5] derived from transportation service to BNYCP as "non-traditional transaction" revenue pursuant to Section III.D.4. of the multi-year Stipulation and Agreement[6] governing Brooklyn Union's rates. Accordingly, it is expected that 80% of such net revenues "will be flowed through to firm rate payers through the GAC" in accordance with the Stipulation.

Similarly, the costs incurred by Brooklyn Union for peaking service under the PSDA will be treated as gas costs recoverable through the GAC, or such other gas cost recovery mechanism as is effective from time to time during the term of the PSDA.

It is Brooklyn Union's understanding that the foregoing rate treatements require no special Commission authorization, waiver, or approval at this time.

CONCLUSION AND REQUEST FOR PROMPT ACTION

For the foregoing reasons, Brooklyn Union respectfully requests that the Commission grant waivers of such of its Regulations as might otherwise require the arrangements with BNYCP

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5 Net revenues will be computed by taking the difference between the incremental revenues realized under the PSDA and the incremental costs incurred by Brooklyn Union to provide transportation service to BNYCP.

6 Case 93-G-0941, May 20, 1994 Amended and Restated Stipulation and Agreement at p. 18.

to be provided pursuant to a filed tariff and/or might require further or other filings, applications, or notices as prerequisites to implementation of the PSDA in accordance with its negotiated terms. It is further requested that confidential trade secret status be accorded the identified portions of this filing letter and the enclosures. Section 66 (12-b(b)) of the Public Service Law appears to require, and we therefore urge the Commission to find, that the PSDA is in "the overall best interest" of Brooklyn Unic customers and that the rates and reimbursements specif "adequately compensate" Brooklyn Union for the use of its facilities. Finally, it is requested that any other Commission determinations or authorizations necessary to the performance and administration of the PSDA in accordance with its negotiated terms be made or issued at this time.

The PSDA is a major and unique long term transaction for Brooklyn Union. At a quantity of 55,000 Dth per day, BNYCP will be Brooklyn Union's largest customer. Pursuant to the PSDA, Brooklyn Union proposes to provide transportation service to BNYCP for a fifteen year primary term, with the option to extend for a five year period. The PSDA provides for combined peaking and transportation service at negotiated rates on unique and attractive negotiated terms and conditions of service. The BNYCP project will provide electric and steam service to Consolidated Edison of New York, Inc. for its customers and to others, thereby becoming a major energy source in the New York City area, and a contributor to the economy of the State and City of New York. The facility will require over $400 million of capital investment; in this regard, it is expected that the permanent financing arrangements will require assurances that the PSDA has received all necessary regulatory waivers, clearances and authorizations. Regulatory certainty is critical to the financing of this major project on reasonable terms and its continuing viability. Hence, it is of vital importance that the Commission *promptly* review and take definitive action upon this filing.

Kindly acknowledge receipt of this filing on the enclosed copy of this letter and return same in the enclosed return envelope.

Respectfully submitted,

The Brooklyn Union Gas Company
By: Edward J. Sondey/sc

cc: Honorable John C. Crary
Secretary

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Case 97-G-0388
October 26, 1997

EXHIBIT 15 JM-1

NYCEG PROPOSAL AND COMPARISON OF TERMS[1]

TERM	KIAC Partners	BNYCP	NYCEG Proposal
MDQ	23,000	60,000	15, 300
MAQ	8,395,000	21,900,000	5,585,000
Minimum Use	2,920,000 (34.8%)	13,600,000 (62.2%)	1,943,580 (34.8%)
Expected Use	5,840,000	21,300,000	4,189,000 (75%)
Demand Rate	- 0 -	.355[2] (1996)	.274 (1996)
Escalation	GDP deflator	.68 of GDP deflator	same as BNYCP
Commodity Rate	$.135 (1997)	$.10 (1996)	.10 (1996)
Guaranteed Revenue	$394,200	$1,615,600 (Excl. O&M & Taxes)	$244,626
Guaranteed Revenue per dth @ minimum use	$.135	$.119	$.126
Effective Rate per dth @ expected use	$.135	$.112	$.112
Character	Interruptible per Tariff Rules[3]	365 Day Firm[4]	365 Day Firm
Loss Factor	Per Tariff (Currently 3.6%)	1%	1%
Facilities Construction	Customer Responsibility	Cost Paid by Customer	Customer Responsibility
Incremental O&M	Included in rate	Paid by Customer	Included in Rate

Public Service Commission
Case No.
Date 1-14-98
Ex. No. 15

15

TERM	KIAC Partners	BNYCP	NYCEG Proposal
Incremental Property & Franchise Taxes	Included in rate	Paid by Customer	Included in Rate
Imbalance Penalty	Monthly cash out of excess gas over 5% @ 90% market; over 10% @ 80%	Daily penalty for over or underage of $.54 per dth; monthly cashout of underages at market + premium + $.25 per dth. For overages cashout paid at 50% - 80% of market.	Same as KIAC
Term	25 Years	15 years with 5 year option to renew	Same as BNYCP

NOTES

1. Information used in this chart is taken from copies of the contracts provided to NYC Energy Group, supplemented in a few areas by information acquired in discovery. To the extent actual practices as between Brooklyn Union and either KIAC or BNYCP varies from the contract terms, this information will not accurately reflect the actual transportation arrangement.

2. The nominal monthly demand charge of $3.02 per dth of MDQ must be reduced by the demand charge paid by Brooklyn Union for peaking service to obtain the effective demand charge paid by BNYCP.

3. The KIAC service appears to be interruptible in name only. While KIAC has no contract right to more than interruptible service, in fact, the service it receives is 365 day firm. This is evidenced by the fact that KIAC has never been interrupted even during the winter of 1995-96.

4. BNYCP provides a peaking service to Brooklyn Union for up to 30 days each year. However, because Brooklyn Union must make BNYCP whole for oil used when Brooklyn Union takes peaking gas, the service is effectively 365 day firm.

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PSC CASE NO. 97-G-0388
EXHIBIT 14 (RGL-11)

MONTROSE AFFIDAVIT

SUPREME COURT OF THE STATE OF NEW YORK
ALBANY COUNTY

IN THE MATTER OF THE Application of The Brooklyn Union Gas Company and Brooklyn Navy Yard Cogeneration Partners, L.P. Petitioners, For A Judgment Pursuant to Article 78 of the Civil Practice Law and Rules Compelling Compliance with the Law, - against - John C. Crary, in his official capacity as Secretary of the Public Service Commission of the State of New York and Public Service Commission of the State of New York City, Respondents.	Index No. 710-97

AFFIDAVIT OF JERRY MONTROSE

State of New York)
) ss.:
County of New York)

JERRY MONTROSE, being duly sworn, deposes and states:

1. I am the Chief Executive Officer of SEF Energy Ltd, the general partner of New York City Energy Group, L.P. ("NYCEG"), a Delaware limited partnership. I

costs are public information. As the attached article demonstrates, BNYCP's gas commodity purchase costs and interstate transportation costs have already been publicly disclosed. Exh. A. Accordingly, BNYCP's claim that it will suffer irreparable harm from the disclosure of a local gas transportation agreement, which I know to be a relatively small percentage of a project's overall gas purchase costs, is illusory.

17. Finally, I note that Petitioners have falsely claimed in their papers that NYCEG has a competitive advantage because its project information has been kept secret. NYCEG's electricity sales contract with Con Edison is on file with the PSC and any person may know the prices that will be paid pursuant to that contract. This contract is the most significant source of NYCEG's revenues and it is publicly available. I do not know what Ms. Cianflone is talking about when she states that NYCEG has received trade secret status for documents filed with state agencies. See Cianflone Aff., ¶ 11. The only NYCEG document on file with a state agency is the Con Edison contract, which NYCEG has already provided to Brooklyn Union.

Jerry Montrose

JERRY MONTROSE

Sworn to before me
this 6th day of February, 1997

Brenda Chiarello

Notary Public

BRENDA C. CHIARELLO
Commissioner of Deeds
City of New York-No. 4-4130
Certificate Filed in N.Y. County
Commission Expires Apr. 1, 1997

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PSC CASE NO. 97-G-0388
EXHIBIT 13 (RGL-10)

LIBERTY SERVICE COMMITMENTS

LIBERTY PIPELINE COMPANY

Exhibit I

Market Data

Table of Contents

The following documents are herewith included in Exhibit I:

Precedent Agreements between Liberty Pipeline Company and the Following shippers:

1. Long Island Lighting Company
2. Consolidated Edison Company of New York, Inc.
3. The Brooklyn Union Gas Company
4. Power Authority of the State of New York
5. KIAC Partners
6. Nissequoge Cogen Partners

Also included are market data statistics which have been provided by each of the aforementioned shippers.

PRECEDENT AGREEMENT

This Precedent Agreement is made this 28th day of August, 1992, by and between Long Island Lighting Company (hereinafter referred to as "Shipper") and Liberty Pipeline Company.

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from points of interconnection with Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation near South Amboy, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. Firm Service Obligation. Subject to the conditions herein, Liberty Pipeline Company hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of 149,166 Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibits A and B to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years

PRECEDENT AGREEMENT

This Precedent Agreement is made this 31st day of AUGUST, 1992, by and between Consolidated Edison Company of New York, Inc. (hereinafter referred to as "Shipper") and Liberty Pipeline Company.

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from points of interconnection with Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation near South Amboy, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. Firm Service Obligation. Subject to the conditions herein, Liberty Pipeline Company hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of 166,667 Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibits A and B to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years commencing on the date the facilities of Liberty Pipeline Company and the upstream

PRECEDENT AGREEMENT

This Precedent Agreement is made this 28th day of August, 1992, by and between The Brooklyn Union Gas Company (hereinafter referred to as "Shipper") and Liberty Pipeline Company.

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from points of interconnection with Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation near South Amboy, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. <u>Firm Service Obligation.</u> Subject to the conditions herein, Liberty Pipeline Company hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of 123,667 Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibits A and B to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years commencing on the date the facilities of Liberty Pipeline Company and the upstream

PRECEDENT AGREEMENT

This Precedent Agreement is made this 31st day of August, 1992, by and between Power Authority of the State of New York (hereinafter referred to as "Shipper") and Liberty Pipeline Company.

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from the points of interconnection with Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation near South Amboy, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. Firm Service Obligation. Subject to the conditions herein, Liberty Pipeline Company hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of 35,000 Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibits A and B to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years commencing on the date the facilities of Liberty Pipeline Company and the upstream

PRECEDENT AGREEMENT

This Precedent Agreement is made as of the 31st day of August, 1992, by and between KIAC Partners (hereinafter referred to as "Shipper") and Liberty Pipeline Company (either hereinafter referred to as "Party" or, collectively, the "Parties").

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from points of interconnection with Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation near South Amboy, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. Firm Service Obligation. Subject to the conditions herein, Liberty Pipeline Company hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of 16,000 Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibits A and B to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years commencing on the date the facilities of Liberty Pipeline Company and the upstream

PRECEDENT AGREEMENT

This Precedent Agreement is made as of the 31st day of August, 1992, by and between Nissequogue Cogen Partners (hereinafter referred to as "Shipper") and Liberty Pipeline Company (either hereinafter referred to as "Party" or, collectively, the "Parties").

RECITALS

WHEREAS, Liberty Pipeline Company is a general partnership formed for the purpose of constructing, owning and operating a natural gas pipeline which will extend from points of interconnection with Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation near South Amboy, New Jersey to its terminus near JFK International Airport, New York (the "Facilities");

WHEREAS, Liberty Pipeline Company has authorized Liberty Operating Company to act as its agent for purposes of entering into Precedent Agreements with shippers for transportation service through the Facilities; and

WHEREAS, Shipper has requested firm transportation service through the Facilities;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, Shipper and Liberty Pipeline Company agree as follows:

1. Firm Service Obligation. Subject to the conditions herein, Liberty Pipeline Company hereby agrees to provide to Shipper and Shipper hereby agrees to accept firm natural gas transportation service for the transportation of a maximum daily quantity of 9,500 Dth of gas per day, plus the quantity required for Gas For Transporter's Use, if any. The firm transportation service shall be from the point(s) of receipt to the point(s) of delivery identified on Exhibits A and B to the Service Agreement attached hereto as Appendix A, for an initial period of twenty (20) years commencing on the date

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PSC Case No. 97-G-0388
Exhibit 12 (RGL-9)

The Brooklyn Union Gas Company
Updated Valuation of BNYCP Peaking Service

Part A
Annual Escalation Calculation for Annual "Transport Adjustment"

	Dec 95	Dec 96
Transco 100% Load Factor Rate/Dth	$0.3921	$0.3495
"Transport Adjustment" Factor		89.1%
Fixed Monthly Charge 1996		$159,917.00
Fixed Monthly Charge 1997		$142,523.06

Part B
Variable Commodity Cost of Peaking Service
Winter 1996/97

Date	Spot Gas	BNYCP Variable Cost	Discount Below Spot Gas	Oil Equivalent
Dec. 02, 1996	$4.670	$4.4791	$0.1909	95% No. 6 Oil
Dec. 17, 1996	$4.790	$4.5914	$0.1986	95% No. 6 Oil
Dec. 18, 1996	$4.810	$4.5517	$0.2583	95% No. 6 Oil
Dec. 20, 1996	$5.200	$4.5517	$0.6483	95% No. 6 Oil
Dec. 31, 1996	$4.600	$4.4791	$0.1209	95% No. 6 Oil
Jan. 10, 1997	$4.510	$4.4725	$0.0375	95% No. 6 Oil
Jan. 15, 1997	$4.540	$4.4725	$0.0675	95% No. 6 Oil
Jan. 18, 1997	$5.950	$5.3280	$0.6220	No. 2 Oil*

Notes:

- Spot Gas Prices are from ***Gas Daily***, Transco Zone 6 midpoint price.
- 0.3% Sulpher, No. 6 Oil price is from the ***Journal of Commerce***, NY Barge Consumer average of the daily high and low quoted price.
- No. 2 Oil is from ***Platts Oilgram***, the Low Sulfur No. 2 Oil diesel MetroNY Average of the daily high and low quoted price.
- *Temperature controlled customers interrupted.

II

Illustrative Demand and Commodity Rates

I. Rate 4A Firm Transportation

Monthly Billing:	
1Dth or less	$125.89
Next 99 Dth	$1.82
Tailblock rate	$1.72

II. Rate 6 Firm Transportation

Monthly Billing:	
1Dth or less	$292.32
Tailblock rate	$1.23

III. BNYCP Contract Terms and Rate Structure

MDQ	15,300	
Annual Commodity Determinants @ 62% per BNYCP	3,462,390	
Items to be Recovered in Rates		
[illegible]t Rate Elements (NYCEG High Case)		$2,352,516
Contributions to Fixed Costs (BNYCP @ $.447)		$1,547,688
Premium for Firm Service (@ $.49)		$1,696,571
Total to be Recovered in Rates		$5,596,775
BNYCP Rate Structure		
Demand Recovery @ 50%		$2,798,388
Commodity Recovery @ 50%		$2,798,388
Demand Rate		$15.242
Commodity Rate		$0.808