

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
New York on December 13, 2000

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman  
Thomas J. Dunleavy, Dissenting  
James D. Bennett  
Leonard A. Weiss  
Neal N. Galvin

CASE 99-G-1469 - Petition of the Brooklyn Union Gas Company and  
KeySpan Gas East Corp. for a Multi-Year  
Restructuring Agreement.

CASE 99-G-1666 - Petition of the Brooklyn Union Gas Company for  
a Waiver of the Requirements of 5 NYCRR  
Sections 226.8 and 226.9, to Permit the Company  
to Use a Random Sampling Program as an  
Alternate In-Service Gas Meter Test Program.

ORDER ESTABLISHING INTERIM RATE PLAN

(Issued and Effective December 26, 2000)

BY THE COMMISSION:

The following order adopts terms jointly proposed by  
agreement among the active parties and set forth in an "Interim  
Gas Restructuring Settlement Agreement" (joint proposal). We  
thereby establish a rate and regulatory plan for The Brooklyn  
Union Gas Company d/b/a KeySpan Energy Delivery New York, and  
KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long  
Island (KeySpanNY and KeySpanLI; the companies) for the six  
months January through June, 2001.

As a result of this order, measures effective  
immediately will encourage the transition to a competitive retail  
market for gas service in the KeySpan service territories, and  
ameliorate the burden of high gas commodity costs during the

current heating season. Meanwhile, the interim plan adopted here also will give the parties time to continue negotiations toward a longer-term plan that may provide for more fundamental rate restructuring.

BACKGROUND AND PROCEDURAL HISTORY

KeySpanNY and KeySpanLI serve, respectively, about 1.2 million gas customers in New York City and 0.5 million on Long Island. The companies, acting jointly in these proceedings, have been operating under rate plans intended to expire November 30, 2000 (for KeySpanLI) or September 30, 2002 (for KeySpanNY). In Case 99-G-1469, the companies filed gas rate restructuring proposals in October 1999, pursuant to directives in our Gas Policy Statement.<sup>1</sup> The plans they submitted were designed generally to encourage competitive entry by independent gas marketers, facilitate the companies' recovery of strandable capacity costs, modify the conduct of affiliate transactions, preserve current rates, and increase potential revenues and earnings. Case 99-G-1666 meanwhile had been instituted to consider KeySpanNY's request for permission to use a sampling method as a partial substitute for its current in-service meter testing program.

Staff of the Department of Public Service (Staff) and other parties considered the companies' restructuring plans inadequate in various respects, and embarked on a negotiating process. Settlement discussions, on notice to potentially interested parties (in compliance with 16 NYCRR 3.9), began shortly after a December 3, 1999 prehearing conference in which all known gas marketers operating in New York were invited to participate. About 40 parties ultimately requested active party status and thus remained apprised of developments throughout the settlement process.

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<sup>1</sup> Cases 93-G-0932 and 97-G-1380, Policy Statement Concerning the Future of the Natural Gas Industry (issued November 3, 1998).

The discussions culminated in the joint proposal under review here, which was filed October 27, 2000 and was followed by two rounds of written statements in support or opposition. Through newspaper advertisements and other media, we solicited comments from the general public, but have received none. The active parties submitting and/or supporting the joint proposal are the companies, Staff, the State Consumer Protection Board (CPB), Small Customer Marketer Coalition (SCMC), National Energy Marketers Association, North American Energy, Inc. (NAE), and North Atlantic Utilities, Inc., each of which (except NAE) has filed at least an initial statement in support. The Office of the Attorney General (OAG) and Transportation Workers Union of America Local 101 (Local 101) each has filed a statement in opposition.<sup>2</sup>

TERMS SUBMITTED IN THE JOINT PROPOSAL

By adopting the parties' jointly proposed terms subject to certain understandings and conditions, we will establish a set of interim restructuring provisions. As noted, the plan implemented here is intended to continue for six months starting January 1, 2001. We share the parties' expectation that, within that time, negotiations will lead to further agreement on yet unresolved issues such as unbundling of delivery and merchant-related charges, measures to facilitate retail access for non-heating residential customers, and other possible elements of a multi-year rate plan. The terms we adopt here include a provision that, if settlement discussions do not proceed promptly, any party unilaterally may submit rate proposals for our consideration.

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<sup>2</sup> Initial statements were filed on or about November 3, 2000 or (in the case of Local 101) November 28, 2000. Reply statements were filed on or about November 10, 2000 by KeySpan, Staff, and SCMC.

Other significant proposed terms include the following:<sup>3</sup>

- Present base rates would remain unchanged.
- To anticipate abnormally high gas commodity costs in the unregulated market this winter, the companies would issue a one-time bill credit against the delivery charges paid by heating customers, assuming that the companies' per-dekatherm cost of gas in December exceeds \$5.43 for KeySpanNY and \$5.15 for KeySpanLI. For KeySpanNY's approximately 0.4 million heating customers, the parties propose a credit of \$25 per customer. For KeySpanLI's approximately 0.4 million heating customers, the parties' proposals range from \$25 to \$50 (as discussed below).
- To encourage independent marketers to compete with the KeySpan companies in making gas commodity sales directly to KeySpan customers, the companies would provide marketers an incentive payment equal to 8% of the delivery charges incurred by the marketer's firm customers each month.
- To reduce the number of meter tests, the companies would assign meters to groups and test only a representative sample from each group, as a pilot program subject to monitoring for continued accuracy.
- The proposed \$25/\$50 heating bill credits and 8% marketing incentive payments would be charged to a "transition balancing account" (TBA) maintained by each of the two companies. The TBAs would be funded by New York City property tax reductions, transaction cost savings relative to levels previously forecasted to be incurred in the companies' merger, amounts collected by KeySpanLI through a new late payment charge for customers in arrears, efficiencies gained through the new meter testing program, and customer credits that may result from resolution of a litigated contract dispute involving KeySpanNY.
- To help marketers and transportation customers manage their supplies, the parties would work to develop proposals for daily delivery balancing options as part of the companies' transportation service.

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<sup>3</sup> The points noted here are simply highlights of the joint proposal. For a complete statement of its terms, one must review the proposal itself (attached to this order).

- In instances where the companies collect revenues on behalf of marketers through a single combined bill for delivery and commodity charges, marketers would receive a current, pro rata share of the amounts actually collected, instead of having to await full payment by the customer before the marketer can receive payment from KeySpan.
- The parties would initiate a process to assess gas quality in certain parts of the companies' service territories.
- The parties would design and implement a survey to gauge independent marketers' satisfaction in their transactions with the KeySpan companies.
- TBA funds would support new computer programming needed to improve the companies' interaction with marketers.
- The formula we currently apply to allow recovery of strandable capacity costs would be modified, to maintain a more stable allocation of fixed costs between sales and transportation services as the KeySpan companies take steps to mitigate strandable costs. This would cure disincentives to retail access, by preventing cost misallocations which could erode the price advantage for customers relying on transportation service and independent suppliers rather than bundled sales service.
- As another step toward better alignment of transportation costs and prices (in addition to the strandable costs modification, above), the loss factor used in calculating transportation charges would be reduced to reflect more accurately the actual levels of lost and unaccounted-for gas associated with transportation service.
- The companies would expand their customer outreach and education programs regarding competitive gas service offerings, and the parties would develop measures to test the efficacy of the programs.
- Current programs to benefit low-income customers would be expanded, by (a) extending the potential eligibility period for the companies' "On Track" bill management arrangements to 18 months rather than 12 and (b) liberalizing the eligibility criteria for KeySpanLI's Reduced Residential Rate program.
- To improve low-income customers' opportunities to share in the benefits of retail access, the parties would initiate development of a purchase aggregation program.

- KeySpanNY would be allowed additional time to transfer certain assets to its affiliates; KeySpanNY and KeySpanLI would be allowed to merge their respective pension plans; and we would clarify the terms on which a non-regulated KeySpan subsidiary may rely on an affiliate to provide support services (such as billing).

#### UNRESOLVED ISSUES

The parties reached no unanimous consensus on certain matters, which therefore call for resolution or comment on our part. In addition, we have concerns about the proposal for a new late payment charge.

#### Credit Amount for KeySpanLI Customers

Staff and CPB maintain that, considering the companies' relative financial positions and the amounts expected to accrue in their respective TBAs, we reasonably could direct KeySpanLI and KeySpanNY to pay their heating customers (both sales and transportation) a one-time credit of \$50 and \$25 respectively this winter. The companies do not dispute that financial judgment (although they raise issues about depleting the TBAs, discussed in the next section below). Nevertheless, the companies ask that we limit the KeySpanLI credit to the same \$25 level as the KeySpanNY credit, to prevent a public perception of undue favoritism toward KeySpanLI customers. In the companies' view, to authorize a larger credit than \$25 merely because it is financially feasible would ignore relevant criteria of fairness.

Staff and CPB, in turn, respond that our ratemaking decisions should not be shaped by what Staff terms the companies' "public relations dilemma" arising from a disparity between the credits in the respective territories.<sup>4</sup>

We will set the KeySpanLI and KeySpanNY credits at \$50 and \$25 respectively. This result will comport with our current practice of applying all reasonably available customer funds to mitigate the bill impact of high energy commodity costs. We

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<sup>4</sup> Staff's Initial Statement, p. 10.

should not deviate from that course because of a mere supposition that KeySpanLI and KeySpanNY customers expect to be treated alike for ratemaking purposes. KeySpanLI and KeySpanNY rates in fact differ substantially in many respects, and we have been shown no evidence of a public perception to the contrary.

#### Replenishment of TBAs

Another aspect of the one-time credits is the companies' concern as to how they may be funded. The parties agree that, in the first instance, the credits should be charged to the TBAs. However, the companies add that the TBAs should then be replenished in some way, because they represent a resource to be used in future negotiations as an ingredient in new proposals for further progress toward rate and service restructuring. The companies call upon us to address this matter and thereby provide guidance for the negotiations. More specifically, they ask that we endorse the concept of augmenting the TBAs by withholding Gas Adjustment Clause (GAC) credits from customers. Staff opposes the request for guidance as unnecessary in general, and takes issue with the proposed use of GAC credits in particular.

We will not issue the requested guidance, as it would be premature. The status of the TBAs certainly may affect the course of negotiations and the results that will be presented for our review in the future. In the context of this case, however, the suggested linkage between immediate \$25/\$50 credits and future GAC withholding would diminish the customers' intended benefit from the credits, with no corresponding assurance that a future settlement proposal based on GAC withholding would fairly balance customers' and investors' interests. Further proceedings may reveal other, preferable sources of funding for restructuring initiatives. Moreover, to the extent that we refrain from endorsing discrete elements of a settlement proposal a priori, parties will have a better opportunity to explore the full range

of available options and thus arrive at the most mutually advantageous outcomes.

Late Payment Charge

As noted, the parties propose that KeySpanLI's TBA include revenues from a new late payment charge which that company would impose on gas customers. The monthly charge, at 1.5% of the payments overdue, would be instituted at the start of the interim rate period on January 1, 2001.

We find that the proposed timing of this provision would conflict with the policy underlying the \$25 and \$50 bill credits, namely that we use all available opportunities to mitigate the bill impact of high gas commodity costs during the heating season. Conversely, the revenues expected from the new charge this winter would not substantially augment KeySpanLI's TBA. Accordingly, to the extent that we are adopting the joint proposal's terms, we do so on condition that KeySpanLI shall not implement the late payment charge sooner than April 1, 2001.

Marketing Incentive Payments

Controversy has arisen over the proposal that KeySpan provide independent marketers an incentive payment equal to 8% of the delivery charges paid to KeySpan by each marketer's firm customers. The payment is intended to facilitate competitive entry by marketers, as they could use the rebate to finance marketing tools such as discounts and promotional campaigns.

OAG opposes the incentive payment on several grounds. Its main objection is that the payment would subsidize retail access customers at the expense of KeySpan customers generally, inasmuch as (a) there is no cost of service study to show that 8% correctly measures the utilities' costs avoided through independent marketer participation and (b) the 8% payment would be funded from the TBAs, which would comprise revenues contributed by all customer classes. In addition, OAG says the plan lends itself to "teaser" ploys by marketers, in the sense

that promotional discounts financed by the 8% payments might be discontinued upon expiration of the proposed rate plan in June 2001.

In response to the subsidy argument, Staff maintains that OAG's request for a cost of service study at the post-settlement stage is untimely, and that the 8% figure reasonably approximates that portion of the transportation rate which recovers costs more properly attributable to the merchant function than to transportation. KeySpan and SCMC say the 8% payment cannot be deemed a subsidy, regardless of cost of service considerations, because the payment would be received by marketers and not by any class of KeySpan customers directly. As for the prospect of a June phase-out, Staff responds that the 8% allowance would not be directly visible to customers when instituted and therefore would not take on the appearance of a permanent entitlement, while KeySpan says customers well understand that promotional offers are often temporary.

We will adopt the 8% payment formula, to provide at least some temporary recognition that costs of the merchant function are built in to present transportation rates and that certain retailing costs currently are borne by marketers. As the companies, Staff, and SCMC observe, this will immediately provide a necessary stimulus to retail competition on an interim basis by mitigating artificial disincentives to retail access, instead of allowing the status quo to continue another six months pending further negotiations. If parties seeking cost of service data pursue that information now, they should be able to develop an actual back-out rate which could be implemented in June 2001 at the end of the interim rate plan. Moreover, the 8% interim proposal here will leave present transportation rates unchanged, despite the likelihood that a cost study would justify reducing them to exclude merchant function costs, correct interclass subsidies (as OAG advocates), and promote competition. If the lack of a study means that transportation rates must remain

intact for now, it should not also stand in the way of a temporary correction such as the 8% incentive payment.

#### Meter Testing and Safety

Local 101 opposes the proposed pilot program to use sampling as a partial substitute for meter tests, arguing that the program would jeopardize public safety by reducing the number of opportunities to test for gas leaks at the metered premises. However, meter testing has been necessary not for safety reasons but to ensure billing accuracy. With respect to on-premises piping, the utilities' safety programs rely primarily on gas odorization combined with public education about the need to respond to leaks disclosed by their unique odor.

Obviously, our actions in this order in no way justify diminished vigilance, on our part or the utilities', regarding gas leaks or other safety issues. Nevertheless, we expect that the proposed reduction in the number of premise visits by KeySpan personnel will not affect public safety. Any leaks that might be disclosed by a meter dial test, without already having been detected by meter readers or the public as a result of odorization, would be too negligible to present a hazard. To confirm this assessment, we direct that KeySpan report how leaks on premises are discovered during the pilot program and provide a comparison between those data versus results for previous periods.

#### Merger of Benefit Plans

The final issue requiring comment concerns the proposal that we authorize KeySpanNY and KeySpanLI to merge their respective pension and other post-employment benefit plans. Staff asserts that §H.3 of the joint proposal, if adopted, would end the current prohibition against merging the plans, on condition that "the true-up for KeySpanLI, remain in effect" for

customers' protection.<sup>5</sup> The companies question this interpretation, maintaining that it must be an unintentional non sequitur because the rationale for prohibiting the merger has been that the KeySpanLI plans currently are subject to true-up (i.e., reconciliation of actual versus forecast expense) while the KeySpanNY plans are not. If the merger prohibition has become unnecessary, the companies reason, it must be because the joint proposal contemplates discontinuing the KeySpanLI reconciliation.

The problem is only semantic; the text of the joint proposal itself appears clearer than either party's characterizations of it. As §H.3 states, the proposal we are adopting is that (a) the prohibition against merging the KeySpanNY and KeySpanLI benefit plans will end now, subject to various stated conditions (other than reconciliation), and (b) reconciliation will continue with respect to the KeySpanLI plans unless we receive and approve a petition that it be discontinued.

#### DISCUSSION

We find that the joint proposal's supporters have satisfied their burden of showing that adoption of its terms to the extent described above would satisfy the requirement, under the Public Service Law (PSL), of safe and adequate service at just and reasonable rates. They also have shown that implementation of their proposals with the qualifications stated above would achieve a fair balancing of interests among the parties and the companies' customers, and would produce constructive results that may not have been achievable except through a negotiated agreement.

More specifically, these conclusions are justified by the public benefits inherent in adoption of the joint proposal's provisions listed above, which would serve a variety of

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<sup>5</sup> Staff's Initial Statement, pp. 18-19.

objectives consistent with the public interest and our regulatory objectives.<sup>6</sup> Potentially the most important benefit of today's decision is that it provides a base from which the parties can continue negotiations--which, up to this point, manifestly have been worthwhile--toward fulfilling the goals set forth in our Gas Policy Statement, possibly by means of a multi-year rate plan.

In the near term, meanwhile, our implementation of the proposals will produce immediate and tangible progress pursuant to the vision delineated in the Gas Policy Statement. As explained there, we seek to "facilitate development of a competitive market; eliminate barriers to competition; provide guidance to [local distribution companies] and marketers, especially with regard to expiring capacity contracts; and address customer inertia."<sup>7</sup>

Accordingly, in this case, retail customers' access to the competitive gas market will be directly facilitated by measures such as the 8% marketing incentive payment, marketers' ratable sharing of customer payments as KeySpan receives them, and the marketer satisfaction survey. The companies will be allowed to recover costs incurred for outreach and education programs and for computer programming, which are essential to the success of these competitive initiatives. The provisions setting the scope of future discussions cover areas likely to yield new choices and pro-competitive programs, such as daily balancing service, retail access incentives for non-heating customers, and low-income aggregation. Regarding upstream capacity contracts, the joint proposal's terms would expressly recognize that a degree of continued reliance on such contracts may be justifiable for system reliability reasons; but the parties also propose to

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<sup>6</sup> The proponents' position statements include comprehensive summaries of the joint proposal's benefits, which illustrate in more detail why adoption of its terms would serve the public interest.

<sup>7</sup> Gas Policy Statement (supra), pp. 3-4.

revise the strandable capacity cost recovery formula, under which the companies' strandable cost mitigation efforts currently tend to cause an overallocation of costs to transportation service and thus inhibit retail access.

Further, the joint proposal has given parties an opportunity to gauge the continued reasonableness of the companies' rate plans, particularly the KeySpanLI plan which was intended to be reevaluated by November 2000. And, through the one-time bill credits and the expansion of programs for low-income customers, we can provide customers some immediate relief from the burdens they will bear this winter as a result of high prices for energy traded in the unregulated market.

#### CONCLUSION

For the reasons stated, we find that our adoption of the joint proposal's provisions subject to the understandings and conditions noted above will serve the public interest and satisfy our statutory obligation to ensure safe and adequate service at just and reasonable rates pursuant to PSL §66.<sup>8</sup> We therefore will direct the companies to file tariff revisions consistent with this finding.

#### The Commission orders:

1. Subject to the foregoing discussion and the determinations, conditions, and understandings set forth therein, the terms of the Interim Gas Restructuring Settlement Agreement (joint proposal) filed in this proceeding October 27, 2000 are adopted in their entirety and are incorporated as part of this order.

2. The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and KeySpan Gas East Corporation d/b/a KeySpan

<sup>8</sup> It previously has been determined that such action will not have a significant effect on the environment and therefore may proceed without preparation of an Environmental Impact Statement. Cases 99-G-1469 and 99-G-1666, Notice of Determination of Significance (issued November 14, 2000).

Energy Delivery Long Island (the companies) shall submit a written statement of unconditional acceptance of this order, within seven days following its issuance date, signed and acknowledged by a duly authorized officer of each company. If an acceptance statement is not so filed, the adoption of the joint proposal's terms may be revoked. The acceptance statement should be filed with the Secretary of the Commission and served on the parties to these proceedings.

3. The companies are authorized to file on not less than one day's notice, to take effect on or after December 29, 2000 on a temporary basis, such further tariff changes as are necessary to effectuate the provisions adopted in this order. The companies shall serve copies of their filings upon all parties to these proceedings. Any comments on the compliance filings must be received at the Commission's offices within ten days of service of the companies' proposed amendments. The amendments specified in the compliance filing shall not become effective on a permanent basis until approved by the Commission and will be subject to refund if any showing is made that the revisions are not in compliance with this order. The requirement of §66(12)(b) of the Public Service Law that newspaper publication be completed prior to the effective date of the proposed amendments is waived, provided that the companies shall file with the Commission, not later than six weeks following the amendments' effective date, proof that a notice to the public of the changes proposed by the amendments and their effective date has been published once a week for four successive weeks in newspapers having general circulation in the areas affected by the amendments.

CASES 99-G-1469 and 99-G-1666

4. These proceedings are continued.

By the Commission,

(SIGNED)

JANET HAND DEIXLER  
Secretary

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

- CASE 99-G-1469 - Petition of The Brooklyn Union Gas Company and KeySpan Gas East Corp. for a multi-year restructuring agreement.
- CASE 99-G-1666 Petition of the Brooklyn Union Gas Company for a waiver of the requirements of 15 NYCRR Sections 226.8 and 226.9, to permit the company to use a random sampling program as an alternate in-service gas meter test program.

INTERIM GAS RESTRUCTURING  
SETTLEMENT AGREEMENT

Dated: October 27, 2000

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STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 99-G-1469 - Petition of The Brooklyn Union Gas Company and KeySpan Gas East Corp. for a multi-year restructuring agreement.

CASE 99-G-1666 Petition of the Brooklyn Union Gas Company for a waiver of the requirements of 15 NYCRR Sections 226.8 and 226.9, to permit the company to use a random sampling program as an alternate in-service gas meter test program.

**INTERIM GAS RESTRUCTURING  
SETTLEMENT AGREEMENT**

THIS INTERIM GAS RESTRUCTURING SETTLEMENT AGREEMENT (Settlement Agreement) is made the \_\_\_\_ day of October, 2000, by and among The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York (KeySpanNY), KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (KeySpanLI), the Staff of the Department of Public Service (Staff), and such other parties as have executed a signature page appended hereto (collectively referred to herein as the "Signatory Parties").

## I. BACKGROUND

On October 18, 1999, KeySpanNY and KeySpanLI filed with the New York State Public Service Commission (Commission) a Joint Restructuring Proposal (Proposal) intended to comply with the requirements of the Commission's Policy Statement Concerning the Future of the Natural Gas Industry in New York State and Order Terminating Capacity Assignment issued November 3, 1998. KeySpanNY and KeySpanLI did not file revised tariff leaves in conjunction with their Proposal.

In accordance with Commission rules, all parties to this proceeding were notified in writing of the pendency of settlement negotiations, prior to their commencement, and notice of the impending negotiations was duly filed with the Secretary of the Commission by letter dated December 15, 1999.

Negotiations commenced at an in-person settlement conference held by the parties on December 21, 1999. Additional settlement conferences were held through October 2000. Settlement is now feasible because, after thorough investigation and discussion, the Signatory Parties hereto more fully understand their respective positions and recognize that reasonable settlement of those positions is possible. The Signatory Parties hereto believe that this Settlement Agreement will further the objective of giving fair consideration to the interests of customers and shareholders alike in assuring the provision of safe and adequate service at just and reasonable rates.

## II. OVERVIEW OF THE AGREEMENT

This Settlement Agreement covers the period from its Implementation Date through June 30, 2001. The Settlement Agreement provides for one-time bill credits during the upcoming heating season to help ameliorate expected higher than normal gas prices. Among its provisions are marketer and utility incentives, a marketer satisfaction survey, and billing options to encourage the migration of retail customers to a competitive gas market pending a more complete resolution of gas restructuring issues in this continuing proceeding. It initiates discussions regarding the potential establishment of new programs of interest to marketers including daily balancing service, a cooking-only incentive program, and a low-income aggregation program. It allows KeySpanNY and KeySpanLI to recover implementation costs and expenses for outreach and education efforts incurred as a result of the transition to competition. It also expands existing low-income programs. The Signatory Parties are continuing to work together in an attempt to establish a multi-year plan that builds on this Settlement Agreement.

## III. DEFINITIONS

"Implementation Date" means the first calendar day of the month following the effective date of the Commission order approving the terms of this Settlement Agreement.

"Settlement Period" means the period commencing on the Implementation Date and ending on June 30, 2001.

"Migration" means the switching of a customer to a non-utility gas supplier.

"TBA" means the Transition Balancing Accounts to be established as described in this Settlement Agreement.

#### **IV. GENERAL PROVISIONS**

1. It is understood that each provision of this Settlement Agreement is in consideration and support of all the other provisions and each provision is expressly conditioned upon acceptance by the Commission of this Settlement Agreement in its entirety without change. If the Commission fails to adopt this Settlement Agreement according to its terms without change, then the parties to the Settlement Agreement shall be free to pursue their respective positions in this proceeding without prejudice.

2. The terms and conditions of this Settlement Agreement apply solely to, and are binding on each Signatory Party only in the context of, the purposes and results of this Settlement Agreement. None of the terms and provisions of this Settlement Agreement, nor any methodology or principle utilized herein, and none of the positions taken herein by any Signatory Party may be referred to, cited or relied upon by any other Signatory Party in any fashion as precedent or in any other proceedings before the Commission, or any other regulatory agency, or before any court of law for any purpose except in furtherance of the purposes and results of the Settlement Agreement.

3. The Signatory Parties agree to submit this

Settlement Agreement to the Commission along with a request that the Commission expeditiously adopt the terms of this Settlement Agreement as set forth herein.

4. The Signatory Parties recognize that certain provisions of this Settlement Agreement require that actions be taken in the future to effectuate fully this Settlement Agreement. Accordingly, the Signatory Parties agree to cooperate with each other in good faith in taking such actions.

5. The Signatory Parties agree that KeySpanNY and KeySpanLI will file tariffs in a manner consistent with the terms of this Settlement Agreement.

6. In the event of any disagreement over the interpretation of this Settlement Agreement or implementation of any of the provisions of this Settlement Agreement, which cannot be resolved informally among the Signatory Parties, such disagreement shall be resolved in the following manner: (a) the Signatory Parties may convene a conference and in good faith attempt to resolve any such disagreement; and (b) if any such disagreement cannot be resolved by the Signatory Parties, any Signatory Party may petition the Commission for resolution of the disputed matter.

7. This Settlement Agreement is being executed in counterpart originals, and shall be binding on each Signatory Party.

8. Nothing in this Settlement Agreement shall prohibit the Commission (upon its own motion or upon motion of a Signatory Party) from exercising its ongoing statutory authority to act on

the level of KeySpanNY's or KeySpanLI's gas rates in the event of unforeseen circumstances that, in the Commission's judgment, have such a substantial impact on the rate of return as to render the return on the common equity devoted to KeySpanNY's or KeySpanLI's gas operations unreasonable, unnecessary, or inadequate for the provision of safe and adequate service.

## **V. SPECIFIC PROVISIONS**

### **A. Reliability and Quality of Gas Service**

#### **1. Upstream Gas Costs**

The Signatory Parties agree that nothing in this Settlement Agreement alters the existing responsibility of KeySpanNY and KeySpanLI, during the Settlement Period, to follow a strategy of keeping upstream capacity contracts to a minimum as necessary to meet their sales and reliability obligations.

#### **2. Therm Billing Accuracy Assessment**

Within 60 days after the Implementation Date, a collaborative process to discuss the necessity and feasibility of a program to sample the heat content of gas delivered within the respective therm billing zones of KeySpanNY and KeySpanLI will be initiated. If the parties agree, a sampling program will be developed, to begin no later than January 1, 2002, which will enable the parties to assess whether the therm factors developed by KeySpanNY and KeySpanLI for billing both sales and transportation customers for gas supply service are reasonably accurate. If the Signatory Parties cannot reach agreement, any Signatory Party has the right to request the Commission to

require such a program to sample the heat content of gas.

**B. Gas Cost Moderation**

To help ameliorate the expected higher than normal gas prices this heating season, KeyspanNY will provide a one-time delivery service charge bill credit of \$25/customer to all sales and transportation heating customers in the SC-1B - Residential Heating Service, SC-2 - General Service Non-Residential, and SC-3 - Heating and/or Water Heating Service (Multi-Family Buildings) service classes. KeyspanLI will provide a one-time delivery service charge bill credit of not less than \$25/customer, or more than \$50/customer, the amount to be established at the discretion of the Commission, to all sales and transportation heating customers in the SC-1 - Residential Service, SC-2 - Non-Residential Service, and SC-3 - Multiple Dwelling Service service classes. The Signatory Parties could not reach an agreement as to the amount of the KeySpanLI bill credit (KeyspanLI does not agree that the bill credit should exceed \$25/customer), but have agreed to submit the matter to the Commission for resolution in its discretion based on written arguments of the Signatory Parties to be contained in statements in support of the Settlement Agreement. The Signatory Parties further agree to waive any right to evidentiary hearings on the matter. The bill credits will not be provided to non-heating customers, interruptible, or temperature-controlled customers. Such bill credits will not be provided to KeySpanNY customers if the KeySpanNY Average Cost of Gas, as reported to the New York State Department of Public Service in the GAC filing to be made in the

month of December, 2000 is less than \$5.43/dekatherm. Such bill credits will not be provided to KeySpanLI customers if the KeySpanLI Average Cost of Gas, as reported to the New York State Department of Public Service in the GAC filing to be made in the month of December, 2000 is less than \$5.15/dekatherm. The Signatory Parties agree that KeySpanNY and KeySpanLI will recover from their respective TBAs during the Settlement Period the full amount of such bill credits.

KeySpanNY and KeySpanLI will reflect the bill credits on the first customer bill issued between February 1, 2001 and March 31, 2001.

**C. Competition Programs**

**1. Marketer Incentive**

The Signatory Parties agree that, effective upon the Implementation Date and continuing throughout the Settlement Period, a Marketer Incentive will be provided by KeySpanNY and KeySpanLI to Marketers that supply gas commodity to the customers of KeySpanNY and KeySpanLI who have migrated to a non-utility gas supplier. The Marketer Incentive will be equal to 8% of the delivery service charges incurred by the Marketer's firm customers for the applicable month, calculated pursuant to the methodology set forth in Appendix A attached hereto and made a part of this Settlement Agreement. Following each calendar month during the Settlement Period, KeySpanNY and KeySpanLI will calculate the aggregate Marketer Incentive for each Marketer for the applicable month. A monthly report of the results, including raw results and computations, will be made available to Staff and

filed with the Commission (subject to confidentiality procedures) following the applicable calculation. Each participating Marketer will be provided with the results applicable to that Marketer. Any disagreements about KeySpanNY's and KeySpanLI's calculations that cannot be resolved by the Signatory Parties shall be referred to the Commission for resolution. The Marketer Incentive will be credited by KeySpanNY and KeySpanLI directly to the participating Marketers on a monthly basis. The Signatory Parties agree that KeySpanNY and KeySpanLI will recover on a monthly basis from their respective TBAs 100% of the Marketer Incentives incurred during the Settlement Period. As an incentive for KeySpanNY and KeySpanLI to encourage migration and to reduce utility costs, there shall be no offset to recover utility avoided costs associated with customer migration during the Settlement Period.

## **2. Multi-Year Negotiations**

Within 60 days after the Implementation Date, a collaborative process to develop a multi-year gas restructuring plan for KeySpanNY and KeySpanLI will be initiated. If the Signatory Parties cannot reach agreement, any Signatory Party has the right to request the Commission to implement such gas restructuring provisions as such Signatory Party shall desire.

## **3. Daily Balancing Service**

Within 60 days after the Implementation Date, a collaborative process to implement a transportation service featuring daily balancing service will be initiated. If the Signatory Parties cannot reach agreement, any Signatory Party has

the right to request the Commission to require a transportation service featuring daily balancing service.

#### **4. Cooking-only Program**

Within 60 days after the Implementation Date, a collaborative process will be initiated to consider the appropriateness of establishing a program to motivate "cooking-only" customers to migrate to a non-utility supplier and for marketers to actively pursue such customers. The program will consider the appropriateness of, at a minimum, financial incentives to customers that migrate and/or to marketers that take on new customers. If the Signatory Parties cannot reach agreement, any Signatory Party has the right to request the Commission to require such a program in conformance with the general parameters set forth in this paragraph.

#### **5. Marketer Satisfaction Survey**

During the Settlement Period, Staff will conduct a survey to measure marketer satisfaction in KeySpanNY's and KeySpanLI's service territories. The survey instrument to be used is set forth in Appendix B attached hereto and made a part of this Settlement Agreement. The survey and survey results shall be public, not proprietary, information. Staff will conduct the survey at least once during the Settlement Period to establish a baseline level.

A report of all survey results, including raw results and computations, will be made available to the Signatory Parties and filed with the Commission not later than two months after the survey is taken. Any disagreements about calculations that

cannot be resolved by the Signatory Parties shall be referred to the Commission for resolution.

**D. Billing Issues**

**1. Billing Options**

To accommodate the wishes of retail access customers to choose either combined or separate bills, the Signatory Parties agree that KeySpanNY and KeySpanLI will implement the following billing options effective on the Implementation Date or as soon after such date as modifications to KeySpanNY's and KeySpanLI's billing system necessary to provide the services can be completed. [Note: For all billing options, only KeySpanNY and KeySpanLI, as applicable, can perform service terminations, which must be subject to full New York State Public Service Law compliance.] Customers will exercise their choice by choosing a Marketer that provides the billing program they prefer. KeySpanNY and KeySpanLI will provide the following billing options, at the choice of the Marketer to decide which or how many of the options the Marketer wishes to utilize:

- (a). Separate Bill Option - The utility, and the Marketers choosing this option, would bill for their respective delivery and commodity charges separately.
- (b) One Bill Option (Utility-Provided) - Marketer charges would be included on the utility bill in conformance with *Case 99-M-0631, Order Providing for Customer Choice of Billing Entity, (Issued March 22, 2000) ("Billing Order")*. In general, customer payments will be allocated first to the utility portion of the combined bills. However, a Marketer shall have the additional option of receiving pro rata sharing of customer payments in partial payment situations (where payments are less than the current amount due) if the Marketer agrees contractually with the utility to abide by the same due dates, requirements of notice of termination and final notice, the availability of deferred payment agreements (DPAs) for delinquent customers (but not previously disconnected customers), and late charge limits

as if the Marketer's charges were utility charges [Note: for authority, see Billing Order at page 8, first full sentence].

- (c) One Bill Option (Marketer-Provided) - Utility charges would be included on the Marketer bill in conformance with the Billing Order. In general, customer payments will be allocated first to the utility portion of the combined bills. However, a Marketer shall have the additional option of receiving pro rata sharing of customer payments in partial payment situations (where payments are less than the current amount due) if the Marketer agrees contractually with the utility to abide by the same due dates, requirements of notice of termination and final notice, the availability of deferred payment agreements (DPAs) for delinquent customers (but not previously disconnected customers), and late charge limits as if the Marketer's charges were utility charges [Note: for authority, see Billing Order at page 8, first full sentence].

## **2. Bill Formats**

The Signatory Parties agree that for consolidated bills under the One Bill Option (Utility-Provided), KeySpanNY and KeySpanLI will implement the consolidated bill content provisions set forth in Attachment D of the Billing Order (as it may be modified by the Commission), effective on the Implementation Date or as soon after such date as modifications to KeySpanNY's and KeySpanLI's billing system necessary to provide the services can be completed. The Signatory Parties agree that for the Separate Bill Option and utility-only sales customer bills, KeySpanNY and KeySpanLI will present utility information with the same content and in the same format as for consolidated bills, said bill content being set forth in Attachment D of the Billing Order, effective on the Implementation Date or as soon after such date as modifications to KeySpanNY's and KeySpanLI's billing system necessary to provide the services can be completed.

**3. Billing Charges for Utility-Provided Bill**

The Signatory Parties agree that the basic One Bill Option (Utility Provided) billing service that KeySpanNY currently makes available to Marketers will continue as KeySpanNY's standard billing contract for Marketers unless and until superseded by Commission Order or a new Commission-approved tariff. That same contract will be made available to Marketers by KeySpanLI effective on the Implementation Date or as soon after such date as modifications to KeySpanLI's billing system necessary to provide the service can be completed. This standard billing contract contains the same terms and conditions that were contained in the billing contract between The Brooklyn Union Gas Company (KeySpanNY) and Total Gas & Electric, Inc. entered into March 7, 2000 as subsequently amended by removing the minimum charge contained in Article 4.a. of that contract. For levels of service different from the basic One Bill option, the Marketer and KeySpanNY or KeySpanLI, as applicable, may enter into a contract to cover other levels of service at a price mutually agreeable to the Marketer and KeySpanNY or KeySpanLI, as applicable.

**E. Cost Issues**

**1. Implementation Costs**

KeySpanNY and KeySpanLI will recover from their respective TBAs up to \$12,030,000 in aggregate of actual, incremental, verifiable, and reasonable costs to upgrade computer and other systems incurred through the end of Calendar Year 2001 to facilitate retail access and competition. The compliance

report filings will include categorized cost summaries to justify the spending organized along the following five new computer projects: Electronic Data Interface (including Electronic Bulletin Board), Virtual Customer Care, Single Bill Option, Enhanced Transportation, and Calculation & Rates. KeySpanNY and KeySpanLI will open special cost accounting mechanisms to accumulate the costs for each of the five projects, and KeySpanNY and KeySpanLI will provide projects budget sheets for each of the five projects. Recovery shall be limited to work within the "Scope of Work" set forth in Appendix C attached hereto and made a part of this Settlement Agreement. Recovery of additional incremental, verifiable, and reasonable expenditures to upgrade computer and other systems incurred during the Settlement Period for work outside of the Scope of Work set forth in Appendix C but to facilitate retail access and competition shall be considered by the Commission upon a showing that such additional expenditures were incurred as a result of an increase in the scope of work, necessary to facilitate retail access and competition, beyond that contemplated in the Scope of Work set forth in Appendix C.

**2. KeySpanLI Late Payment Charges**

The Signatory Parties agree that KeySpanLI may apply a late payment charge (LPC) on its customers' residential accounts in arrears. Said customers with residential gas arrears will be charged the maximum LPC of 1.5 percent per month on the past-due balance.

### **3. Meter Testing Pilot Program**

The Signatory Parties agree that the Commission should waive the requirements of 16 NYCRR Sections 226.8 and 226.9 as they apply to KeySpanNY and KeySpanLI for a period of two years beginning January 1, 2001, subject to the requirements that follow in this paragraph. KeySpanNY and KeySpanLI will implement pilot programs which will allow KeySpanNY and KeySpanLI to employ random sampling programs as alternate in-service meter test programs. KeySpanNY and KeySpanLI have categorized their meters into sample groups using grouping criteria included in ANSI B109.1. No changes to these groupings will be allowed except by the mutual consent of Staff and KeySpanNY and/or KeySpanLI respectively. Meters will be sampled from each meter group annually. It is Signatory Parties intent that the new programs will sample a sufficient number of meters to ensure that there is a 95% confidence level that a meter group is performing within check rate test limits. For the first year of the pilots, the random sampling and evaluation methodologies included in ANSI/ASQ Z1.9 will be utilized to estimate if each of the meter groups is testing within the performance criteria of +/- 2%. During the first year of the pilots, if the total percentage of meters (within a specific meter group) failing the check rate test standards is greater than the permissible values at an acceptable quality level, to be determined jointly by Staff, KeySpanNY and KeySpanLI prior to January 1, 2001, and revised annually if necessary, the meter group is failed. If a sample meter group fails the evaluation criteria, corrective action will be taken.

The corrective action will consist of either removing the entire meter group from service within eight years or implementing a selective meter removal program to improve the accuracy of the group. The corrective actions to be taken will be subject to the mutual consent of Staff and KeySpanNY and/or KeySpanLI respectively. The reasonableness of the first year AQL (e.g., the first year AQL levels should not allow for a deterioration in the accuracy of the meter population), the reasonableness of the use of ANSI/ASQI Z1.9 to evaluate sample results, and the reasonableness of the sampling methodology will be evaluated at the end of year one. Prior to January 1, 2001 KeySpanNY, KeySpanLI and Staff will develop preliminary operating guidelines for removing and testing meters under the pilot program. An evaluation report of the pilot, including raw results and computations, will be made available to the Signatory Parties and filed with the Commission not later than March 1, 2002. Any disagreements about meter groupings, acceptable quality levels, corrective actions, preliminary operating guidelines, and calculations that cannot be resolved by the Signatory Parties shall be referred to the Commission for resolution.

#### **4. Transition Balancing Accounts**

The Signatory Parties agree that the recovery of certain allowed costs further described elsewhere in this Settlement Agreement including therm measurement equipment purchase costs, marketer incentives, cooking-only program costs, costs to upgrade computer systems, and outreach and education program costs will be funded through the use of TBAs established

separately for KeySpanNY and KeySpanLI. Within sixty days following the Settlement Period, KeySpanNY and KeySpanLI will calculate the amount of funds going into the respective TBAs and the allowed costs to be recovered from the respective TBAs for the Settlement Period. A report of the results, including raw results and computations, will be made available to Staff and filed with the Commission for approval. The allowed costs can be funded out of the TBAs prior to making the filings, but the actual resolution of the costs will not be finalized until after the Commission rules on the compliance filings. Any disagreements about KeySpanNY's and KeySpanLI's calculations that cannot be resolved by the Signatory Parties shall be referred to the Commission for resolution.

The TBAs will be funded from the following sources:

(a) Actual property tax refunds realized by KeySpanNY regarding the assessed value of KeySpanNY's special franchise property, to KeySpanNY's TBA.

(b) Merger transaction cost refunds due to the customers of KeySpanNY and KeySpanLI of approximately \$55 million, 65.3% to KeySpanLI's TBA and 34.7% to KeySpanNY's TBA.

(c) Actual late payment charges realized by KeySpanLI from residential accounts in arrears during the Settlement Period, to KeySpanLI's TBA.

(d) Annual savings during the Settlement Period due to cost reductions associated with changes in the meter testing program of \$1,365,045 to KeySpanNY's TBA and \$530,851 to KeySpanLI's TBA, prorated to the start date of the meter testing

program, not subject to true-up.

(e) Any monies due to ratepayers during the Settlement Period that may arise out of a settlement or Commission action in Case 98-G-0179, Proceeding on Motion of the Commission as to the Rates, Rules, and Regulations of The Brooklyn Union Gas Company as They Pertain to the Negotiated Gas Sales and Transportation Contract Between The Brooklyn Union Gas Company and KIAC Partners, to KeySpanNY's TBA.

KeySpanNY and KeySpanLI will apply interest on a monthly basis to all deferral credit and debit balances until they are reflected in rates, either directly or through amortization. The interest rate to be applied to these booked amounts will be at the rate at which KeySpanNY and KeySpanLI respectively accrue an allowance for funds used during construction. At the end of the Settlement Period, the disposition of any balance remaining in the TBAs will be made in a manner to be determined by the Commission.

#### **5. Stranded Capacity Cost Recovery Formula**

The stranded capacity cost formula directed by the Commission's Order Concerning Assignment of Capacity, issued March 24, 1999 in Case 97-G-1785 - In the Matter of Allocation by Local Distribution Companies of Strandable Gas Capacity Costs Caused by Customers Migrating from Sales to Transportation Service will be modified as shown in Appendix D attached hereto and made a part of this Settlement Agreement. The purpose of the revisions to the formula is to avoid any potential distortion in the price differential between the fixed costs assigned to sales

and transportation services.

#### **6. Transportation Loss Factor**

As of the Implementation Date, the loss factor assigned to transportation service will be set at the average system loss factor for the three years ending August 31, 2000.

#### **F. Outreach & Education Regarding Gas Retail Access**

The Signatory Parties agree that commencing on the Implementation Date, and continuing throughout the Settlement Period, KeySpanNY and KeySpanLI will conduct a gas retail access outreach and education program ("O&E Program"). Actual costs for the program that are incremental, verifiable and reasonable, up to a maximum of \$1,120,000 (\$750,000 for KeySpanNY and \$370,000 for KeySpanLI) for approved activities as described below, will be recovered by KeySpanNY and KeySpanLI from their respective TBAs. The O&E Program will supplement and not supplant existing customer education activities conducted by KeySpanNY and KeySpanLI. The O&E program will be coordinated with KeySpanNY's and KeySpanLI's other outreach and education programs on energy choice.

The overall purpose of the O&E Program is to increase the awareness and understanding of residential customers (including "cooking-only" customers) and small commercial customers regarding the following concepts and messages:

- choice of natural gas supplier is available;
- KeySpanNY and KeySpanLI endorse competition;
- safety, reliability, and utility customer service are not affected if one switches;
- KeySpanNY and KeySpanLI will continue to provide

emergency services to customers regardless of commodity supplier;

- KeySpanNY and KeySpanLI will not discriminate against customers who buy their commodity from another supplier; and
- how to make competitive choices and switch gas suppliers.

### **1. Evaluation**

The evaluation component is to provide for the periodic measurement and tracking of levels of customer awareness and understanding of the concepts and messages described above, and to test the effectiveness of particular methods and strategies to increase awareness and understanding. It is also to be used to determine the level of, and reasons for, customer interest/disinterest in learning more about migration to a non-utility gas supplier. KeySpanNY and KeySpanLI shall facilitate and consider the input of the Signatory Parties into the evaluation process and the development of KeySpanNY's and KeySpanLI's methods and strategies to increase awareness and understanding.

During the Settlement Period, KeySpanNY and KeySpanLI will develop and conduct surveys, in consultation with Staff, to measure residential and commercial customer awareness, interest in and understanding of gas competitive opportunities in KeySpanNY's and KeySpanLI's service territories. The surveys will separately measure the following items:

- residential heating customer awareness;
- residential non-heating customer awareness;
- commercial customer awareness;
- residential heating customer interest;
- residential non-heating customer interest;
- commercial customer interest;

- residential heating customer understanding;
- residential non-heating customer understanding; and
- commercial customer understanding.

The surveys will be designed to achieve confidence levels of 95 percent with margins of error of plus or minus 3.5 percent or less. Customer understanding will be measured separately for the entire sample of customers and for a subset of the sample comprised of "interested" customers. The surveys and survey results shall be public, not proprietary, information. KeySpanNY and KeySpanLI will conduct the surveys at least once during the Settlement Period to establish a baseline level.

A report of all survey results, including raw results and computations, will be made available to the Signatory Parties and filed with the Commission not later than two months after the survey is taken. Any disagreements about calculations that cannot be resolved by the Signatory Parties shall be referred to the Commission for resolution.

## **2. Customer Awareness and Education**

The customer awareness and education component is to provide for outreach and education programs to empower customers to make educated energy purchasing decisions. Implementation of the customer awareness and education component will be flexible so that adjustments can be made as research is done, market changes occur, and experience indicates that changes are required. On an ongoing basis, KeySpanNY and KeySpanLI will facilitate and consider the input of the Signatory Parties into the development and adjustment of KeySpanNY's and KeySpanLI's methods and strategies to increase awareness and understanding.

KeySpanNY and KeySpanLI will annually advise Staff on its activities to increase public awareness and understanding including: its messages; samples of materials under production; and use of audiences' and customers' input in program content, method and design.

**G. Assistance for Low-Income Customers**

The Signatory Parties agree that the following programs for the assistance of low-income customers will be funded with existing revenues:

**1. On Track Programs**

The existing On Track programs of KeySpanNY and KeySpanLI provide affordable payment plans, arrears forgiveness, and financial and energy management counseling to qualifying payment-troubled, low-income customers. Currently, customers may participate in the program for 12 months only. The Signatory Parties agree that, commencing upon the Implementation Date, the period of a customer's eligibility to participate in the programs will be expanded to 18 months.

**2. KeySpanNY Reduced Residential Rate (RRR) Program**

The existing KeySpanNY Reduced Residential Rate (RRR) program provides a discount on the minimum charge for income-eligible heating and non-heating residential customers. Customers demonstrate their eligibility for the RRR program by their participation in other government-sponsored programs which have income-based eligibility criteria. Currently, participation in the RRR program is limited to customers who are participating in the Supplemental Security Income (SSI) and Temporary

Assistance (TA) programs. The Signatory Parties agree that, commencing upon the Implementation Date, eligibility for the RRR program will be expanded to also include customers that participate in Child Health Plus, Medicaid, Food stamps, Home Energy Assistance Program, Veteran's Disability Pension, and Veteran's Surviving Spouse Pension. It is expected that the number of customers eligible for the expanded program will increase from about 20,000 to about 54,000.

**3. KeySpanNY Low-Income Aggregation Program**

Within 60 days after the Implementation Date, a collaborative process to develop a residential and small customer aggregation program of benefit to low-income customers will be initiated. The aggregation program may include other customers in addition to RRR program participants. The goal of the program will be that customers will have the opportunity to obtain commodity service from Marketers if they choose to participate in an aggregation program. Customers who participate in the aggregation program will become transportation customers of the utility. If the Signatory Parties cannot reach agreement, any Signatory Party has the right to request the Commission to require a low-income aggregation program.

**H. Affiliate Issues**

**1. Transfer of Assets**

The Signatory Parties agree that on or within six months of the Implementation Date, KeySpanNY will be permitted to transfer utility assets associated with customer relations operations as required for the Corporate ServeCo to conduct its

business ("Corporate ServeCo" being as defined in the December 10, 1997 Settlement Agreement in Case 97-M-0567). All such asset transfers will be accomplished in a manner that does not at any time jeopardize the ability of KeySpanNY to provide safe, adequate and reliable service to its customers. The transfer price of such assets, as recorded on the books of KeySpanNY, will be the net book cost of such assets at the time of transfer. No later than sixty days prior to any such transfer, KeySpanNY will file with the Commission notice that such transfer is being made and identify specifically the assets transferred and the net book costs of such assets, including proposed journal entries. If the Commission raises no objection to such transfer within sixty days after the filing of such notice, such transfer will take place. Should the Commission raise any objections, the six month period referred to above shall be extended until such time as the objections are resolved.

## **2. Affiliate Transaction Clarification**

The Signatory Parties agree that the restrictions on affiliate transactions contained in the December 10, 1997 Settlement Agreement in Case 97-M-0567 allow a Non-Utility Subsidiary to receive Corporate Administrative Services including billing and payment processing, call center operations, and consumer outreach and education services from a Corporate ServeCo at a charge or allocation to the Non-Utility Subsidiary at the respective Corporate ServeCo's fully loaded cost of performing the service, provided that (a) it does not result in the Non-Utility Subsidiary gaining access to or receiving any Customer

Information or System Information; and (b) any Corporate ServeCo providing call center operations to both a Jurisdictional Subsidiary and Non-Utility Subsidiaries shall implement and enforce policies and procedures, including technological safeguards, to ensure that any Customer Information or System Information is not disclosed to a Non-Utility Subsidiary; and (c) at least thirty days prior to the performance of call center operations by a Corporate ServeCo for a Non-Utility Subsidiary, HoldCo will provide a report to the parties (in Case 97-M-0567) detailing specifically the measures that will be taken to ensure compliance with (b) above, including a certification by the Chief Information Officer of HoldCo (or equivalent if there is no the Chief Information Officer) that such technological safeguards are in place.

The Signatory Parties further agree that the restriction on affiliate transactions contained in the December 10, 1997 Settlement Agreement in Case 97-M-0567 that "HoldCo, the ServeCos and the Jurisdictional Subsidiaries may not accomplish indirectly what they may not accomplish directly under this Agreement, including indirect arrangements that would circumvent pricing at 110% of fully loaded costs where otherwise applicable" does not prevent a Non-Utility Subsidiary receiving billing and payment processing, call center operations, and consumer outreach and education services from a Corporate ServeCo from using such services to enable or facilitate its provision of billing and payment processing, call center operations, and consumer outreach and education services to a non-affiliate, provided that the Non-

Utility Subsidiary does not "resell" or otherwise create a privity of contract between the Corporate ServeCo and the non-affiliate. If the billing and payment processing, call center operations, and consumer outreach and education services provided by Corporate ServeCo to the Non-Utility Subsidiary originated at the Corporate ServeCo, the cost charged or allocated to the Non-Utility Subsidiary would be at the respective Corporate ServeCo's fully loaded cost of performing the services. If the billing and payment processing, call center operations, and consumer outreach and education services provided by Corporate ServeCo to the Non-Utility Subsidiary originated at a Jurisdictional Subsidiary, the cost charged or allocated to the Non-Utility Subsidiary would be priced at the greater of fair market value or 110% of the Jurisdiction Subsidiary's fully loaded cost of performing the services.

### **3. Pension and OPEB Restrictions**

The Signatory Parties agree that as of the Implementation Date, certain restrictions contained in the December 10, 1997 Settlement Agreement in Case 97-M-0567, Section IV.D.3, that prohibited common employee benefit plans so long as KeySpanLI was subject to a reconciliation of its actual and forecast pension and OPEB ("P&OPEB") expense, shall be modified. As of the Implementation Date, the following modifications will apply: (a) employees of HoldCo and its Subsidiaries may participate in common employee benefit plans; and (b) to the extent that the employee benefit plans of HoldCo and its Subsidiaries are not merged into a common plan, the assets of

their individual plans may be commingled into a master trust arrangement for investment purposes, provided that the plans would maintain their previous, distinct ownership interests and such interests, or the responsibility to manage such interests, are not transferred to HoldCo or any Subsidiary.

The costs of such plans will be allocated among HoldCo and such Subsidiaries in accordance with the Accounting Instruction. KeySpanLI will continue the reconciliation of its actual and forecast P&OPEB expense, but nothing herein shall prevent KeySpanLI from petitioning the Commission in the future to discontinue such reconciliation. Note: the terms "HoldCo", "Jurisdictional Subsidiary", "Subsidiary" and "Accounting Instruction" are as defined in the December 10, 1997 Settlement Agreement in Case 97-M-0567.

#### **VI. STATE ENVIRONMENTAL QUALITY REVIEW ACT COMPLIANCE**

The Signatory Parties agree that the Supplemental Environmental Assessment Form (Supplemental EAF) attached hereto as Appendix D and made a part of this Settlement Agreement accurately describes the potential environmental impacts, if any, that could result from implementation of the terms of this Settlement Agreement, and that the Commission's determination of significance regarding this Settlement Agreement should be the adoption of a negative declaration.

Agreed to as of this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

THE BROOKLYN UNION GAS COMPANY

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

Title: \_\_\_\_\_

KEYSPAN GAS EAST CORP.

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

Title: \_\_\_\_\_

Agreed to as of this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

STAFF OF THE  
DEPARTMENT OF PUBLIC SERVICE

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

Title: \_\_\_\_\_

Agreed to as of this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

Party: \_\_\_\_\_

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

Title: \_\_\_\_\_

**Marketer Incentive Methodology**

The monthly Marketer Incentive shall be calculated as follows:

1. Breakdown the marketer's pool each month into billed transportation volumes by Service Classification (SC).
2. Multiply the monthly billed transportation volumes by 8% of each SC's average annual transportation margin (see schedule attached) to arrive at the marketer incentive credit for each SC.
3. Add up the marketer's SC marketer incentive credits to arrive at the marketer's incentive for that month.

**KeySpan Energy Delivery of New York**  
**Schedule of Average Transportation Margins and Marketer Incentive**  
**By Service Classification**

Service Classification	Average Margin per Dth	Marketer Incentive per Dth
1A - Residential Non-heating	\$16.68	\$1.33
1B - Residential Heating	\$ 5.04	\$0.40
2 - Heating	\$3.60	\$0.29
2 - Non-Heating	\$4.96	\$0.40
3 - Multifamily Firm	\$2.35	\$0.19
4A - High Load Factor	\$1.64	\$0.13
4B - Space Conditioning	\$3.51	\$0.28
7 - Off-Peak Seasonal	\$2.22	\$0.18

Note: Marketer Incentive is 8% of Average Margin per DT

**KeySpan Energy Delivery of Long Island  
Schedule of Average Transportation Margins and Marketer Incentive  
By Service Classification**

Service Classification	Average Margin per Dth	Marketer Incentive per Dth
1A - Residential Non-heating	\$11.64	\$0.93
1B - Residential Heating	\$5.24	\$0.42
2 - Heating	\$4.47	\$0.36
2 - Non-Heating	\$4.36	\$0.35
3 - Multifamily Firm	\$2.22	\$0.18
15 - High Load Factor	\$1.30	\$0.10

Note: Marketer Incentive is 8% of Average Margin per DT

**MARKETER SATISFACTION SURVEY**

1. How satisfied are you with the **ability of KeySpan Energy Delivery's Retail Access Coordinator to provide information?**

Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
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2. How satisfied are you with the **ability of KeySpan Energy Delivery's Retail Access Coordinator to solve problems?**

Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
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3. How satisfied are you with the **responsiveness of KeySpan Energy Delivery's Retail Access Coordinator?**

Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
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4. How satisfied are you with the **accessibility of KeySpan Energy Delivery's Retail Access Coordinator?**

Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
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5. How satisfied are you with **KeySpan Energy Delivery's ability to reconcile accounts with your (the marketer's) customers?**

Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
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6. How satisfied are you with **KeySpan Energy Delivery's performance in providing you with the following RESIDENTIAL and SMALL COMMERCIAL customer information?**

	Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
A) Billing Information	1	2	3	4	5
B) Meter Readings	1	2	3	4	5
C) Customer Imbalance	1	2	3	4	5
D) Monthly Delivery of Data	1	2	3	4	5

7. How satisfied are you with **KeySpan Energy Delivery's** performance in following *communications areas*?

	Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
A) Meetings with ESCOs	1	2	3	4	5
B) Dispute Resolution	1	2	3	4	5
C) Access to Operations Staff	1	2	3	4	5
D) GTO Manual Application	1	2	3	4	5
E) Daily Gas Flow Communications	1	2	3	4	5
F) Daily Nomination Schedule	1	2	3	4	5
G) System Alerts/Operational Flows	1	2	3	4	5
H) Short Term Curtailment Orders	1	2	3	4	5

8. How satisfied are you with **KeySpan Energy Delivery's** performance in following *customer enrollment areas*?

	Not at All Satisfied	Not Very Satisfied	Somewhat Satisfied	Satisfied	Completely Satisfied
A) Provision of projected delivery Profile	1	2	3	4	5
B) Switches occur on the first of the Month	1	2	3	4	5
C) Customer notices 10 days before Switches	1	2	3	4	5
D) Final meter readings and billings	1	2	3	4	5

9. Approximately how many **Residential Natural Gas** Customers do you supply in KeySpan Energy Delivery's territory? \_\_\_\_\_

A) If greater than 0, what is the **Total Residential Annualized Load** in KeySpan Energy Delivery's territory? \_\_\_\_\_

10. Approximately how many **Commercial Natural Gas** Customers do you supply in KeySpan Energy Delivery's territory? \_\_\_\_\_



*Thank you for taking the time to participate in this survey.*

**SCOPE OF WORK**

1. Electronic Data Interchange (EDI)/Electronic Bulletin Board (EBB) - This project will enable the company to electronically transmit data pursuant to the Commission's EDI order (C. 98-M-0667). The project will also create an EBB which will permit the Company to transmit and display to marketers, among other things, marketer nominations, system notices, utility and marketer contacts, notification of system interruptions, and schedules for nominations based on GISB standards. The EBB will give marketers and the company the ability to confirm nominations and to permit a reconciliation of deliveries to nominations. The EBB is also expected to provide flexibility in the future re. gate allocations and daily, non-daily, and hourly nominations.
2. Uniform Business Practices/Enhanced Transportation - This project will permit the company to make the necessary computer system modifications to implement the Commission's Uniform Business Practices order (C. 98-M-1343). These modifications will improve transactions associated with, among other things, switching customers to a marketer, returning customers to the company, and switching customers between marketers. The project's intent is to reduce the number of, and time dedicated to, manual transactions; the project will also position the Company for the Commission's EDI order. Other key features of the project will assist the company to comply with legislative and regulatory mandates for unbundling of services. The enhancements will permit the company to handle expected volume increases in Transportation customers and should help attract more marketers to the service territory.
3. Single Bill Option - This project is designed to allow customers to receive a consolidated bill from either the utility or a marketer. The project will permit the customer to receive one bill, allow for on-line view capability of residential and commercial bills, provide for a new printer, and redesign the bills. The project is being done, in part, in response to the Commission's Billing Order (C. 99-M-0631)
4. Rates and Calculation - This project will provide flexibility in the new rate structures needed in the era of competition in order for LDCs to comply with "Utility Rate Ready" requests from marketers.
5. Virtual Customer Care - An Intranet-based application being created to provide, in a cost-effective way, (1) consolidated billing, payment and reporting, (2) associated customer care processes and functionality, and (3) interfaces (from Intranet to existing legacy systems) needed to effectuate the billing option offerings anticipated under deregulation.

September 14,2000

**Current Keyspan Energy Transition Surcharge Methodology:**

$$\text{\$cap} = (\text{tcap}/\text{ucap}) \times \text{\$ucap}$$

where:

tcap = amount of capacity associated with customers using their own capacity to bring gas to the citygate (dt)

ucap = total utility upstream pipeline capacity (dt)

ucap\\$ = utility upstream capacity costs (\\$)

**Revised Keyspan Energy Transition Surcharge Methodology:**

$$\text{\$cap} = [(\text{tcap} - \text{ucapD} - \text{fgrow}) / (\text{ucap} - \text{ucapD})] \times (\text{\$ucap} - \text{\$ucapD})$$

where:

tcap = amount of capacity associated with customers using their own capacity to bring gas to the citygate (dt)

ucapD = utility upstream pipeline capacity that has been decontracted (dt)

fgrow = firm customer throughput growth (dt)

ucap = total utility upstream pipeline capacity (dt)

ucap\\$ = utility upstream capacity costs (\\$)

ucapD\\$ = utility upstream capacity costs that have been decontracted (\\$)

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

**Case 99-G-1469 - Petition of The Brooklyn Union Gas Company and KeySpan Gas East Corp. for a multi-year restructuring agreement.**

**Case 99-G-1666 - Petition of The Brooklyn Union Gas Company for a waiver of the requirements of 15 NYCRR Sections 226.8 and 226.9, to permit the company to use a random sampling program as an alternative in-service gas meter test program.**

**SUPPLEMENTAL  
ENVIRONMENTAL ASSESSMENT FORM**

**Prepared By:**

**THE BROOKLYN UNION GAS COMPANY,  
KEYSPAN GAS EAST CORPORATION,  
STAFF of the DEPARTMENT OF PUBLIC SERVICE,  
and the other SIGNATORY PARTIES to the *Interim Gas  
Restructuring Settlement Agreement***

**Dated: Albany, New York  
October 27, 2000**

**I. Introduction**

This document provides the substantive information solicited by Appendix A of 6 NYCRR 617.21, part of the regulations promulgated by the New York State Department of Environmental Conservation pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the New York Environmental Conservation Law. An environmental assessment is an evaluation of the known or potential environmental consequences of a proposed action. Such an assessment also determines whether additional relevant information about such impacts is needed. Environmental assessments help involved and interested agencies identify their concerns about the action and provide guidance to the lead agency in making its determination of significance.

An Environmental Assessment Form ("EAF") provides an organized approach to identifying the information needed by the lead agency to make its determination of significance. A properly completed EAF describes a proposed action, its location, its purpose and its potential impacts on the environment. The EAF is the first step in the environmental impact review process and leads to either a positive declaration (requiring further analysis of the environmental impacts) or a negative declaration (requiring no further action) of potentially significant adverse environmental impact(s).

**II. Environmental Assessment Form Information (Part I of EAF)**

**A. Applicant / Sponsor:**

The Brooklyn Union Gas Company  
("KeySpanNY" or "Company")  
One MetroTech Center  
Brooklyn, New York 11201

KeySpan Gas East Corporation  
("KeySpanLI" or "Company")  
175 East Old Country Road  
Hicksville, New York 11801

**B. Name of Action:**

PSC Approval of the terms of the Interim Gas Restructuring  
Settlement Agreement in Case 99-G-1469

**C. Location of Action:**

KeySpanNY and KeySpanLI Gas Service Territories

**D. Description of Action:**

The Companies and other Signatory Parties are petitioning under the Public Service Law of the State of New York for approval of the terms of their Gas Rate and Restructuring Settlement Agreement. On November 3, 1998, the

**Commission issued its Policy Statement Concerning the Future of the Natural Gas Industry in New York State and Order Terminating Capacity Assignment in Cases 93-G-0932 and 97-G-1380 (Gas Policy Statement). In the Gas Policy Statement, the Commission articulated its vision of the future of the natural gas industry, which is to "facilitate development of a competitive market; eliminate barriers to competition; provide guidance to LDCs and marketers, especially with regard to expiring capacity contracts; and address customer inertia." Gas Policy Statement at 3-4.**

**In the Gas Policy Statement, the Commission also set forth the following goals toward reaching its vision:**

- 1) effective competition in the gas supply market for retail customers;**
- 2) downward pressure on customer gas prices;**
- 3) increased customer choice of gas supplies and service options;**
- 4) a provider of last resort;**
- 5) continuation of reliable service and maintenance of operations procedures that treat all participants fairly;**
- 6) sufficient and accurate information for customers to use in making informed decisions;**
- 7) the availability of information that permits adequate oversight of the market to ensure its fair operation; and**
- 8) coordination of federal and state policies affecting gas supply and distribution in New York State.**

**The Commission also established three basic elements of the process to fulfill the goals and reach the vision established in the Gas Policy Statement. The first of those elements consists of discussions with each LDC on an individualized plan that would effectuate the Commission's vision. In preparation for those discussions, the Commission ordered LDCs to distribute to interested parties a proposal addressing the following issues:**

- 1. A strategy to hold new capacity contracts to a minimum;**
- 2. A quantification of potential stranded costs and a plan to mitigate and manage them;**
- 3. A long term rate plan;**
- 4. A plan to further unbundle rates;**

5. A plan to enhance consumer education programs and facilitate customer participation in the commodity market; and
6. The possibility of a more aggressive role for LDCs in facilitating the move to a competitive market.

In addition to the distribution and negotiation of the LDCs individualized plans, the Commission also ordered the LDCs to file tariff leaves by February 1, 1999 that would eliminate mandatory capacity assignment, and the Commission ordered Staff to begin collaborative proceedings addressing system operation and reliability issues, as well as the elimination of mandatory capacity assignment. The Commission also required Staff to establish a proceeding to address market power issues.

The Commission further stated that "we have conducted an analysis under the State Environmental Quality Review Act ["SEQRA"] and have determined that there will be no significant environmental impact from adoption of this Policy Statement and, therefore, we have issued a Notice of Determination of Non-Significance." Notice of Determination of Non-Significance at P. 9. Notwithstanding this conclusion, the Commission required that each LDC shall submit draft environmental assessment forms with their individual proposals.

On October 18, 1999, the Companies submitted their individualized plan as contemplated by the Gas Policy Statement. Thereafter, the Signatory Parties entered into an Interim Gas Restructuring Settlement Agreement (the "Settlement") modifying the Companies' plans. Some of the key elements of the Settlement include:

1. Gas cost moderation bill credits to help ameliorate expected higher than normal gas prices this heating season.
2. Marketer migration incentives, a marketer satisfaction survey, and billing options to improve retail access to a competitive gas market.
3. Expansion of low-income programs.
4. Initiation of discussions on the development of new programs regarding daily balancing and cooking-only migration incentives.

The Settlement, as described above, involves changes in practices and economic arrangements affecting natural gas. Nothing inherent in the Settlement calls for physical construction activities which would directly affect the environment. As a result, approval of the terms of the Settlement is an "unlisted" action as defined in 6 NYCRR Section 617. While the regulations call for the use of a short form EAF in such instances, since this "action" does not involve physical construction, the Signatory Parties chose to utilize a narrative EAF as

opposed to the form EAF.

### **III. Evaluation of Environmental Impacts (Part 2 of EAF)**

Specific environmental impacts that might result from the Settlement are highly unlikely and difficult to predict. In no case would any aspect of the Settlement cause direct environmental effects, since the Settlement does not involve physical activities that might have impacts on the environment. Instead, the Settlement may contribute to the creation of circumstances that subsequently induce activities, which in turn may cause environmental effects. Nevertheless, the range of these potential effects has already been captured in the environmental review of the Gas Policy Statement.

In preparing this environmental assessment, the Signatory Parties have set out an evaluation of a range of conceivable secondary consequences of the Settlement. The Signatory Parties have done so in order to assist the PSC in its evaluation of this issue. The Signatory Parties have relied on qualitative judgments as to the potential changes resulting from the proposed actions and the magnitude and importance of the corresponding potential environmental impacts.

#### **A. Impact to Air**

The Signatory Parties were unable to identify any direct effects on air emissions resulting from the Settlement. However, since the Settlement could lead to an increased demand for natural gas consumption, the air quality impacts of same need to be examined. It is well known that the combustion of natural gas results in emissions of carbon dioxide, carbon monoxide and nitrogen oxides. Even so, burning natural gas results in significantly fewer emissions of these contaminants than burning other fuels such as oil or coal. Furthermore, coal is a significant source of sulfur dioxide emissions, while the use of natural gas does not produce this compound. In fact, the burning of fuel oil also produces sulfur dioxide as well as carbon dioxide and nitrogen oxides in greater quantities than are produced by natural gas. Of the three major fuel choices (coal, oil and gas), gas is clearly the cleanest combustion fuel from an environmental perspective.

In the Notice of Determination of Non-Significance for the Gas Policy Statement, the Commission summarized its conclusion concerning the environmental consequences of implementation of its "vision" described in the Policy Statement, including in particular the separation of the utilities' distribution function from the competitive market function. "This policy, if effectuated, should result in a decline in the cost of gas for smaller customers, which will in turn, somewhat increase demand." Notice of Determination of Non-Significance at P. 1. "Since most of the increased demand is likely to result from customers switching to gas from dirtier fuels, the net air quality impact of the increased sales will be neutral and possibly positive." Notice of Determination of Non-Significance at P.

1.

As a result, the implementation of the Settlement could further the demand for natural gas which in turn should further reductions in the emissions of sulfur dioxide, nitrogen oxides, particulates, and carbon dioxide. Thus, since clearly environmental benefits may result from an air emissions perspective, no further environmental review is necessary.

**B. Impact to Water**

The Signatory Parties were unable to identify any direct effects on water quality resulting from the Settlement. As discussed in the Impact to Air section above, the Settlement could result, in concert with other companies' plans, in an increased demand for natural gas. This increased demand in turn could result in the construction of new gas transmission and distribution facilities to serve the increased demand. With such new construction, there could be the need to conduct work in environmentally sensitive areas such as wetlands or streams. While this work could potentially impact the environment, it would be subject to all current federal and state environmental regulatory requirements as well as a SEQRA review prior to construction. As the Commission found, "since the individual distribution projects are subject to SEQRA review at the time of Commission action, these speculative impacts need not be considered at this time." Notice of Determination of Non-Significance at P. 1.

**C. Impact to Land**

The Signatory Parties were unable to identify any direct effects on land use resulting from the Settlement. However, as indicated above, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**D. Impact on Plants and Animals**

The Signatory Parties were unable to identify any direct effects on plants and animals resulting from the Settlement. However, as indicated above, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**E. Impact on Agricultural Land Resources**

The Signatory Parties were unable to identify any direct effects on agricultural land resources resulting from the Settlement. However, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by

regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**F. Impact on Aesthetic Resources**

The Signatory Parties were unable to identify any direct effects on aesthetic resources resulting from the Settlement. However, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**G. Impact on Historic and Archeological Resources**

The Signatory Parties were unable to identify any direct effects on historic and archeological resources resulting from the Settlement. However, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**H. Impact on Open Space and Recreation**

The Signatory Parties were unable to identify any direct effects on open space and recreation resulting from the Settlement. However, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**I. Impact on Transportation**

The Signatory Parties were unable to identify any direct effects on transportation resulting from the Settlement. However, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**J. Impact on Energy**

The Commission clearly contemplated the possibility that increased competition could promote increased energy usage. The Settlement includes some one-time bill credits to help ameliorate expected higher than normal gas prices this heating season. The overall effect of the expected higher prices tempered somewhat by the bill credits will likely result in no net increase in overall

gas usage. The Signatory Parties believe that these modest and offsetting changes will not have a significant adverse effect on the environment. Therefore, no further SEQRA review is required at this time.

**K. Noise and Odor Impact**

The Signatory Parties were unable to identify any direct effects on noise or odor resulting from the Settlement. However, new construction or expansion of transmission or distribution facilities could have potential environmental impacts. These impacts, however, would be mitigated by regulatory requirements and a SEQRA review at the time as denoted by the Commission in their Determination of Non-Significance.

**L. Impact on Public Health**

The Signatory Parties were unable to identify any direct effects on public health resulting from the Settlement since under the Settlement the Companies would continue to be responsible to maintain their facilities for the transmission and distribution of natural gas and for the delivery of gas to end use customers. Finally, since incremental demand for natural gas would result in a net reduction in air emissions, obviously there would be a resulting public health benefit from the Settlement if increased competition resulted in increased gas usage.

**M. Impact on Growth and Character of Community or Neighborhood**

The effect of the Settlement will be to help reduce gas commodity prices, which in turn will improve the economic well-being of communities in which gas is provided. Gas commodity price reductions will help improve local business growth and contribute to the retention and growth of employment. It may also serve as another means to attract economic growth to New York State.

In order to educate consumers regarding their choices of gas commodity supplies, as described in the Settlement, the Company will implement an Outreach and Education plan to educate consumers such that they can make informed decisions when taking advantage of the competitive marketplace.

**IV. Significance of Environmental Impacts**

**After a review of the changes called for under the Settlement, the Signatory Parties conclude that no further environmental review is necessary with respect to the Settlement. No significant environmental impact was identified which would result from the subject Settlement.**