

REDACTED

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities – Keene Division

DG 20-152
Winter 2020/2021 Cost of Gas

Staff Technical Session Data Requests - Set 1

Date Request Received: 10/7/20
Request No. Staff TS 1-3

Date of Response: 10/19/20
Respondent: Deborah Gilbertson

REQUEST:

Ref. LU-K response to Staff DR 1-6.

Please confirm that the original CNG supply contract was executed on October 24, 2016, with a contract term of December 1, 2016 to May 31, 2017. Please confirm the initial contract was amended on May 22, 2017 (first amendment) and that the first amendment increased the mobilization fee. Please identify the current contract term. Why did Liberty-Keene expect that it would be able to distribute CNG in the 2017-2018 period just before and after the first amendment was re-negotiated and re-executed? Did Liberty-Keene consider changing the contract period or simply purchasing CNG at market rates during the 2016-2019 period? Why, or why not?

Please explain the disputed CNG supply contract charge, which the Company identified as the “marketer basis” charge (i.e., what gave rise to the dispute regarding payment of this charge and when did that occur; how it was resolved, when, and why).

- (a) Please confirm that initially the “marketer basis” charge was [REDACTED] and Liberty-Keene has agreed to pay [REDACTED] per (? please identify unit?) What are the total incurred marketer basis charges for winter 2019-2020?
- (b) Please identify and include the pages of the CNG supply contract (October 2016, as amended, to the present) where the “marketer basis” charge is identified or referenced.
- (c) When Liberty-Keene selected this CNG supplier (XNG), did Liberty Keene consider the impact of the “marketer basis” charge on rates? If it had, would a response to the Company’s bidding process have identified a lower cost CNG supplier?

RESPONSE:

Confirmed. The original contract had a term of December 1, 2016–May 31, 2017. This contract was only for the Monadnock Marketplace.

A second contract was also executed. This one had a term of May 1, 2017–April 30, 2020. The second contract allowed for CNG expansion beyond and including the Monadnock Marketplace.

Docket No. DG 20-152 Request No. Staff TS 1-3 (Redacted)

The Original contract (term Dec 2016–May 2017) was terminated on May 22, 2017.

The second contract was amended on May 22, 2017 (first amendment), which increased the mobilization fee and modified the contract term to a new term, which was July 1, 2017–June 30, 2021. This is the current contract term.

Liberty did expect to deliver CNG during the 2017–2018 period based on certain rulings by the Commission. Please see the Company’s response Staff 1-4, which provides a timeline of events which occurred during the relevant time period.

There is no option to purchase CNG at “market rates.” CNG is delivered in trailers that are secured and vaporized on site through a decompression skid which is connected to the distribution system. Liberty does not own the skid.

The CNG disputed “marketer basis” charge was discovered in November 2019. The Company claimed it was a double charge for pricing, and therefore, such charge was already included in index pricing. The Vendor claimed it was not. The Company withheld payment of the charge until it was resolved. The settlement was reached in July 2020 whereby the Company agreed to pay the back charges at full cost, but the forward charge would be reduced for the remainder of the term. Both parties agreed the charge was valid, although it should have been made clear to the Company in more concrete terms (i.e., exact price).

- (a) Confirmed. The unit of measure above is in MMbtu. Units measured in therms would be [REDACTED], and [REDACTED], respectively. Total marketer basis charge for winter 2019–2020 was [REDACTED].
- (b) See Confidential Attachment Staff TS 1-3, page 1.
- (c) When Liberty selected the CNG marketer, the Company did not consider the marketer basis charge because it was not included in the RFP. If it had been included, XNG would still have been the lowest cost, albeit by a slimmer margin.

The shaded or redacted information above and in Confidential Attachment Staff TS 1-3 contains pricing and other contract terms that is “confidential, commercial, or financial information” that is protected from disclosure by RSA 91-A:5, IV, and presumed to be confidential in cost of gas proceedings pursuant to Puc 201.06(a)(11). Therefore, pursuant to that statute, Puc 203.08(d), and Puc 201.01.06(a)(11)(g) (protecting “responses to data requests related to a. through f. above”), the Company has a good faith basis to seek confidential treatment of this information and asserts confidentiality pursuant to those rules.

CNG SERVICE TERM SHEET

Buyer	Liberty Utilities (EnergyNorth Natural Gas) Corp.																												
Seller	Xpress Natural Gas LLC																												
Service Location	Keene, New Hampshire																												
Delivery Point	Meter installed immediately prior to Buyer's site based piped connection.																												
Contract Term	May 1, 2017 to April 30, 2020																												
Contract Extension	Term may be extended at Buyer request for 12 months on the same terms and conditions provided Buyer notifies Seller at least 180 days prior to end of the initial Term.																												
Provided Equipment	Seller shall provide a regulator skid, manifold, delivery trailers and attachments required to meet Buyer's projected demand (see Exhibit B, the "CNG Equipment").																												
Mobilization Fee	████████ payable to Seller 90 days prior to the Contract Term to support mobilization.																												
Contract Quantity	<p>Contract Quantity serves as the basis for expected nominations each month. Buyer and Seller agree that the Contract Quantity shall be as set forth below:</p> <table> <tr> <th>Month</th><th>MMBTU</th></tr> <tr><td>January</td><td>9,000</td></tr> <tr><td>February</td><td>7,500</td></tr> <tr><td>March</td><td>6,500</td></tr> <tr><td>April</td><td>4,000</td></tr> <tr><td>May</td><td>2,500</td></tr> <tr><td>June</td><td>2,000</td></tr> <tr><td>July</td><td>1,500</td></tr> <tr><td>August</td><td>1,500</td></tr> <tr><td>September</td><td>1,500</td></tr> <tr><td>October</td><td>3,000</td></tr> <tr><td>November</td><td>5,000</td></tr> <tr><td>December</td><td>7,000</td></tr> <tr><td>Total</td><td>51,000</td></tr> </table>	Month	MMBTU	January	9,000	February	7,500	March	6,500	April	4,000	May	2,500	June	2,000	July	1,500	August	1,500	September	1,500	October	3,000	November	5,000	December	7,000	Total	51,000
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December	7,000																												
Total	51,000																												
Nomination	Not less than 7 days prior to the beginning of each month the Buyer shall send to Seller a notice in writing indicating its expected daily usage for the subsequent month.																												
Purchase Price	Price per MMBtu for natural gas shall be the sum of: (i) Commodity Gas; plus (ii) marketer's basis charges applicable to purchase of the Commodity Gas; plus (iii) Service Adder, a variable delivery charge per MMBtu; plus (iv) Fixed Demand Charge; plus (iv) any other applicable fees and expenses set forth in Exhibit A.																												
Commodity Gas	Unless otherwise agreed, nominated volumes of natural gas will be priced at the ██████████ i. ██████████ ii. ██████████ iii. ██████████ iv. ██████████ v. ██████████ vi. ██████████ vii. ██████████ viii. ██████████ ix. ██████████ x. ██████████ xi. ██████████ xii. ██████████																												
Service Adder	██████ per MMBTU																												
Fixed Demand Charge	██████ annually to be paid in twelve (12) equal monthly installments of ████████																												
Title & Risk of Loss	Title and risk of loss shall pass from Seller to Buyer at the Delivery Point.																												

Special Provisions: Minimum Gas Storage Requirement	The Public Service Commission of the State of New Hampshire requires Buyer to maintain a minimum gas inventory during the period November to March. Seller agrees to provide three (3) CNG trailers on site during this period. Seller agrees to increase the number of trailers or to contract for firm capacity on behalf of the Buyer if required. Any costs related to such request are the responsibility of the Buyer.
General Terms & Conditions Governance	The Compressed Natural Gas Master Agreement attached hereto as Exhibit A.

ALL TERMS AND CONDITIONS INCLUDED IN THIS CONTRACT SHALL APPLY TO EACH SALE AND DELIVERY OF PRODUCT BY SELLER TO BUYER (1) UNDER THIS CONTRACT AND HEREAFTER (2) WHETHER OR NOT UNDER A WRITTEN CONTRACT.

EXHIBIT A – COMPRESSED NATURAL GAS MASTER AGREEMENT

This Compressed Natural Gas Master Agreement ("CMA") between **Xpress Natural Gas LLC**, a Delaware limited liability company (together with its subsidiaries and affiliates "Seller") located at 22 Marin Way, Stratham, NH 03885 and **Liberty Utilities Co.** (together with its subsidiaries and affiliates "Buyer") located at 15 Buttrick Road, Londonderry, NH 03053 (each a "Party" and collectively, the "Parties") is entered into and effective as of November 4, 2016 ("Effective Date").

A. Compressed Natural Gas Master Agreement

1. Delivery Requirement: Seller will provide Natural Gas to the Buyer in compressed form (~3,600 psi) and decompressed prior to the Delivery Point. Seller acknowledges that Buyer has firm needs for an uninterrupted supply of natural gas, and that any failure of Seller to supply any nominated volumes, in accordance with the applicable Contract Quantity, without interruption exposes Buyer to significant costs. It is therefore a material condition of Seller's performance under this Agreement to supply all nominated volumes without interruption.

2. Commodity Gas Purchasing: If the Buyer elects to enter a separate agreement to purchase Commodity Gas on a fixed volume commitment (a "Transaction Confirmation"), Buyer will pay the price stated in each Transaction Confirmation. This CMA, any amendments to this CMA and any associated commodity gas Transaction Confirmation ("Transaction") that may be entered into (together, a single integrated, "Agreement") are the entire understanding between Parties and supersedes all other communication and prior writings with respect thereto; no oral statements are effective.

3. Billing and Payment: Not more than 5 days after the conclusion of any month the Seller will invoice Buyer for all delivered gas pursuant to this Agreement. Payment shall be due and payable within 20 days after the date of such invoice. If the Actual Quantity cannot be verified by the time the invoice is issued, the invoice will be based on Seller's good faith estimate of the Actual Quantity derived using internal calculations of the net gas delivered and adjusted for the Actual Quantity by a credit or charge, as applicable, in the next invoice for which the Actual Quantity is available. Seller will adjust Buyer's account following (i) confirmation of the Actual Quantity or (ii) any adjustment to, or re-calculation of, Taxes. Buyer will pay interest on late payments at 1.5% per month or, if lower, the maximum rate permitted by law ("Interest Rate"). Buyer is also responsible for all costs and fees, including reasonable attorney's fees, incurred in collecting payment. "Actual Quantity" means the actual quantity of Commodity that is either delivered or metered, as applicable, to Buyer's account. If the Purchase Price incorporates an index and the index is not announced or published on any day for any reason or if the Seller reasonably determines that a material change in the formula for or the method of determining the Purchase Price has occurred, then the Parties will use a commercially reasonable replacement price that is calculated by the Seller. If Seller concludes that a change in any Law(s) increases Seller's costs, the Purchase Price may be adjusted by Seller to reflect such costs. "Law(s)" mean all tariffs, laws, orders, rules, taxes and regulations. Beginning on the 3rd anniversary of the Effective Date of the Agreement, the XNG Adder shall be subject to annual adjustment based on increases in the Producer Price Index, as published annually by the Bureau of Labor Statistics. The adjustment shall be communicated 30 days prior to the anniversary of this Agreement.

4. Taxes: Buyer is responsible for paying any Taxes associated with the Actual Quantity of Commodity sold under this Agreement that may become due at and after the Delivery Point. The Purchase Price does not include Taxes that are or may be the responsibility of the Buyer, unless such inclusion is required by Law. Buyer will reimburse Seller for any Taxes that Seller is required to collect and pay on Buyer's behalf and will indemnify, defend and hold Seller harmless from any liability against all Buyer's Taxes. Buyer will furnish Seller with

any necessary documentation showing its exemption from Taxes, if applicable, and Buyer will be liable for any Taxes assessed against Seller because of Buyer's failure to timely provide or properly complete any such documentation. "Taxes" means all applicable federal, state and local taxes, including any associated penalties and interest and any new taxes imposed in the future during the term of this Agreement. Liabilities imposed in this Section will survive the termination of this Agreement.

5. Disputes: If either Party in good faith disputes amounts owed under Sections 2, 3, 4, or 7 the disputing Party will contact the non-disputing Party promptly and pay the undisputed amount by the payment due date. The Parties will negotiate in good faith regarding such dispute for a period of not more than fifteen (15) Business Days. In the event the Parties are unable to resolve such dispute, the disputing Party will pay the balance of the original invoice and either Party may exercise any remedy available to it in law or equity pursuant to this Agreement. In the event of a dispute other than for an invoiced amount, the Parties will use their best efforts to resolve the dispute promptly. Actions taken by a Party exercising its contractual rights will not be construed as a dispute for purposes of this Section. "Business Day" means any day on which banks are open for commercial business in New York, New York.

6. Title and Risk of Loss: Title to, possession of and risk of loss to the Commodity will pass to Buyer at the Delivery Point.

7. Force Majeure: A Party claiming Force Majeure will be excused from its obligations under Section 1 as long as it provides prompt notice of the Force Majeure and uses due diligence to remove its cause and resume performance as promptly as reasonably possible. During a Force Majeure, Buyer will not be excused from its responsibility to pay for Commodity received. "Force Majeure" means a material, unavoidable occurrence beyond a Party's control, and does not include inability to pay, an increase or decrease in Taxes or the cost of Commodity, the economic hardships of a Party, or the full or partial closure of Buyer's facilities, unless such closure itself is due to Force Majeure.

8. Financial Responsibility: Seller's entry into this Agreement and each Transaction is conditioned on Buyer, its parent, any guarantor or any successor maintaining its creditworthiness during the Contract Term and any Contract Extension. When Seller has reasonable grounds for insecurity regarding Buyer's ability or willingness to perform all of its outstanding obligations under any agreement between the Parties, Seller may require Buyer to provide adequate assurance, which may include, in the Seller's discretion, security in the form of cash deposits, prepayments, letters of credit or other guaranty of payment or performance ("Credit Assurance").

9. Default: "Default" means: (i) failure of either Party to make payment by the applicable due date and the payment is not made within three (3) Business Days of a written demand; (ii) failure of Buyer to provide Credit Assurance within two (2) Business Days of Seller's demand; (iii) either Party, its parent or guarantor, becomes Bankrupt or fails to pay its debts generally as they become due; or (iv) failure of either Party to satisfy any representations and warranties applicable to it contained in Section 12A or 12B and the failure is not cured within fifteen (15) Business Days of a written demand, provided that no cure period or

demand for cure applies to a breach of Section 12A(c). "Bankrupt" means an entity (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (b) makes an assignment or any general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent, however evidenced, (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, (e) has a secured party take possession of all or any substantial portion of its assets or (f) is dissolved or has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger.

10. Remedies: In the event of a Default, the non-defaulting Party may: (i) withhold any payments or suspend performance; (ii) upon written notice, provided that no notice is required with respect to Section 9(iii) or a breach of Section 11A(c), accelerate any or all amounts owing between the Parties and terminate any or all Transactions and/or this Agreement; (iii) calculate a settlement amount by calculating all amounts due to Seller for Actual Quantity and the Close-out Value for each Transaction being terminated; and/or (iv) net or aggregate, as appropriate, all settlement amounts and all other amounts owing between the Parties and their affiliates under this Agreement and other energy-related agreements between them and their affiliates, whether or not then due and whether or not subject to any contingencies, plus costs incurred, into one single amount ("Net Settlement Amount"). Any Net Settlement Amount due from the defaulting Party to the non-defaulting Party will be paid within three (3) Business Days of written notice from the non-defaulting Party. Interest on any unpaid portion of the Net Settlement Amount will accrue daily at the Interest Rate. "Close-out Value" is the sum of (a) the amount due to the non-defaulting Party regarding the Contract Quantities (or, as applicable, estimated Contract Quantities) remaining to be delivered during the Contract Term or, if applicable, the current Contract Extension, calculated by multiplying the Service Adder for such untaken quantities; and (b) without duplication, any net losses or costs incurred by the non-defaulting Party for terminating the Transaction(s), including costs of obtaining, maintaining and/or liquidating commercially reasonable hedges and/or transaction costs. For purposes of determining Close-out Value, (i) Commodity Price will be determined by the non-defaulting Party in good faith as of a date and time as close as reasonably practical to the date and time of termination or liquidation of the applicable Transaction(s), and (ii) Commodity Price may be ascertained through reference to quotations provided by recognized energy brokers or dealers, market indices, bona-fide offers from third-parties, or by reference to commercially reasonable forward pricing valuations. The Parties agree that the Close-out Value constitutes a reasonable approximation of damages, and is not a penalty or punitive in any respect. Seller may, but need not, physically liquidate a Transaction or enter into a replacement transaction to determine Close-out Value or Net Settlement Amount. The defaulting Party is responsible for all costs and fees incurred for collection of Net Settlement Amount, including, reasonable attorney's fees and expert witness fees.

11. Representations and Warranties:

A. Each Party represents that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform to this Agreement; (b) the execution of this Agreement is within its powers, has been duly authorized and does not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any law applicable to it; and (c) it is not Bankrupt.

B. Buyer represents and warrants that: (a) it is not a residential customer; (b) it will immediately notify Seller of any change in its ownership; (c) execution of this Agreement initiates service for the Contract Term and any Contract Extension; (d) no communication, written or oral, received from the Seller will be deemed to be an assurance or guarantee as to any results expected from this Agreement; (e) if it is executing this Agreement in its capacity as an agent, such Party represents and warrants that it has the authority to bind the principal to all the provisions contained herein and agrees to provide documentation of such agency relationship, and (f) (i) it will provide, to Seller, information reasonably required to substantiate its usage requirements, including information regarding its business, locations, historical/projected usage, time of use, hours of operation, agreements, schedules, which in substantial part form the basis for the calculation of charges for the transactions hereunder; (ii) acceptance of this Agreement constitutes an authorization for release of such usage information; (iii) it will assist Seller in taking all actions necessary to effectuate Transactions, including, if requested, executing an authorization form permitting Seller to obtain its usage

information from third parties; and (iv) the usage information provided is true and accurate as of the date furnished and as of the effective date of the Agreement.

C. Each Party acknowledges that: (a) this Agreement is a forward contract and a master netting agreement as defined in the United States Bankruptcy Code ("Code"); (b) this Agreement shall not be construed as creating an association, trust, partnership, or joint venture in any way between the Parties, nor as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of Commodity; and (c) Seller is not a "utility" as defined in the Code.

12. Indemnification: Both parties shall release, indemnify, and hold the other, its affiliates, and their officers and employees harmless from any and all claims, losses, liabilities, and expenses (including reasonable attorney's fees and costs of defense) in any way arising out of or relating to (1) any act or omission by Indemnifying Party which results in personal injuries (including death) or property damage, This indemnification obligation shall survive the termination of this Agreement. NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THE AGREEMENT FOR CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES OR SPECIFIC PERFORMANCE, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT.

13. Insurance: Both parties agree at all times during the term of this Agreement to carry adequate insurance, but in no event less than five million dollars (\$5,000,000) general liability insurance, covering all such liability and contractual obligations, and upon request shall furnish the requesting party evidence satisfactory to it of such insurance.

14. Measurement: The quantity of Gas delivered to the Delivery Point shall be measured by means of a revenue grade meter consistent with industry practice. Buyer shall be invoiced for the actual number of dekatherms of Gas recorded by the meter at the Delivery Point. If the Buyer elects to install sub-metering downstream of the Seller's meter, and in the event of a discrepancy between Buyer and Seller meter results for the same period of time that leads to a billing question, either party may request the other to verify its meter. In the event a meter is found to be inaccurate by recording results in excess of 2% of actual volume, the owner of the inaccurate meter will pay for the calibration and invoicing will be adjusted to correct any inaccuracy. If the recalibrated meter is within 2% of actual volume, the party requesting the calibration pays for the calibration and invoicing for any previous period in question shall not be changed. If the period of such error is not known definitely or agreed upon, the Parties agree that Seller truck delivery logs for the period in question provide an audit record acceptable for invoicing. Buyer may witness all testing and gauging; provided however, if no representative for Buyer is present, Seller's measurement and/or determination of quantity shall be final.

15. Security: Each party shall provide to the other together with the annual nomination, its most recent set of audited financials. In the event that XNG has a reasonable concern with respect to the credit worthiness of the Buyer after review of the annual financial statements and prior period payment history, the Seller may submit such financial statements to an independent third party for evaluation of solvency. If the third party determines the Buyer insolvent, then on written notice to the Buyer XNG may request security (cash or letter of credit) for up to one month of expected deliveries.

16. Other:

(a) This Agreement is governed by the law of the State of New Hampshire without regard to any conflict of rules doctrine. The Parties submit to the non-exclusive jurisdiction of the courts of the State of New Hampshire and any United States District Court located in New Hampshire. (c) Each Party waives its right to a jury trial regarding any litigation arising from this Agreement. (d) No delay or failure by a Party to exercise any right or remedy to which it may become entitled under this Agreement will constitute a waiver of that right or remedy. (e) Seller warrants that (i) it has good title to Commodity delivered, (ii) it has the right to sell the Commodity, and (iii) the Commodity will be free from all royalties, liens, encumbrances, and claims. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED. (f) All notices and waivers will be made in writing and may be delivered by hand delivery, first class mail (postage prepaid), overnight courier service or by facsimile and will be effective upon receipt; provided, however, that any termination notice may only be sent by hand or by overnight courier service, and, if sent to Seller, a copy delivered to: Seth Berry, 22 Marin Way, Stratham, NH 03885. (g) If the Parties entered into Gas transactions prior to the execution of this Agreement ("Existing Transactions"), the Parties agree that these Existing Transactions shall be Transactions governed under the terms of

this Agreement. This Agreement supersedes and replaces any other agreement that may have applied to the Existing Transactions. (h) No amendment to this Agreement will be enforceable unless reduced to writing and executed by both Parties. (i) Either Party may assign this Agreement with consent from the other Party, which consent shall not be unreasonably withheld. In addition, Seller may pledge, encumber, or assign this Agreement or the accounts, revenues, or proceeds of this Agreement in connection with any financing or other financial arrangements without Buyer's consent; in which case Seller shall not be discharged from its obligations to Buyer under this Agreement. (j) This Agreement may be executed in separate counterparts by the Parties, including by facsimile, each of which when executed and delivered shall be an original, but all of which shall constitute one and the same instrument. (k) Any capitalized terms not defined in this CMA are defined in the Transaction Confirmation or shall have the meaning set forth in any applicable rules, tariffs or other governmental regulations, or if such term is not defined therein then it shall have the well-known and generally accepted technical or trade meanings customarily attributed to it in the natural gas or electricity generation industries, as applicable. (l) The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement. (m) Any executed copy of this Agreement and other related documents may be digitally copied, photocopied, or stored on computer tapes and disks ("Imaged Agreement"). The Imaged Agreement will be admissible in any judicial, arbitration, mediation or administrative proceedings between the Parties in accordance with the applicable rules of evidence; provided that neither Party will object to the admissibility of the Imaged Agreement on the basis that such were not originated or maintained in documentary form. (n) Where multiple parties are Party to this Agreement with Seller and are represented by the same agent, it is agreed that this Agreement will constitute a separate agreement with each such Party, as if each such Party had executed a separate Agreement, and that no such Party shall have any liability under this document for the obligations of any other Parties. (o) The Buyer will not disclose the terms of this Agreement, without prior written consent of the Seller, to any third party, other than the Party's employees, affiliates, agents, auditors and counsel who are bound by substantially similar confidentiality obligations, trading exchanges, governmental authorities, courts, adjudicatory proceedings, pricing indices, and credit ratings agencies; provided that a Party that receives a demand for disclosure pursuant to court order or other proceeding will first notify the other Party, to the extent practicable, before making the disclosure.

EXHIBIT B – CONSTRUCTION, COMMISSIONING and MAINTENANCE

As conditions to the delivery of CNG to the Buyer under this contract,

1. SITE PREPARATION & PERMITTING:

- a. Buyer will be responsible for design, engineering and construction work to construct an unloading site (the "Site") for the installation of Seller's equipment and delivery of CNG to the Buyer.
- b. Buyer shall be required to reasonably prepare the Site, including ensuring that the Site is cleared, level, secured by fencing, and provided with utilities including electric, data, and an interconnect with any controls systems Buyer requires the CNG delivery system to interface with, as well as an access point equipped with a piping flange interconnect capable of coupling with Seller's skid. All costs of preparing and maintaining the Site shall be borne by the Buyer.
- c. Seller shall provide reasonable engineering support and site layout recommendations to the Buyer. Seller shall review and approve the Site design prior to construction, consistent with minimum setbacks and other requirements per NFPA 52.
- d. Seller shall be responsible for all permits required for the installation and operation of the CNG equipment provided however that Buyer shall be responsible for all permits related to land use, air, and environmental.

2. CNG EQUIPMENT:

- a. Seller shall provide a package of skid-mounted equipment capable of delivering CNG to the Buyer Facility at a maximum rate of 40 SCFH. Such equipment shall be provided at the Buyer site to serve as a delivery trailer connection and unloading point for the Seller. The equipment shall be connected via piping to the flange as provided by the Buyer at the site as the point of delivery for natural gas.
- b. The CNG Equipment is expected to conform to the following general specifications:
 - i. Manifold connections allowing for up to 3 CNG delivery trailer with hose connections compatible with delivery trailers.
 - ii. Heater(s) sized to support proper intermediate temperatures as well as final delivery temperature of the gas stream. Heating must be sufficient to prevent cold temperatures and possible hydrate formation downstream of regulator.
 - iii. 2-stage primary pressure step-down regulation with over-pressure protection. Custody transfer metering to be provided on outlet of skid. Meter shall be a custody grade meter with capability to interface with control system.
 - iv. Safety systems to include gas and flame detection. Methane detection system to be included with process skid. Flame detector located along truck loading area. Flame detectors coverage area shall include the connection end of the transports and the process skid. Detectors will input alarms and faults into the control system.
 - v. Control system required to monitor key process conditions, switch trucks when empty, provide emergency shutdown, and remotely communicate system condition. System shall have a method to transmit data or screen control to remote site for customer monitoring.
- c. During the Delivery Period the Seller shall be responsible for all maintenance and support for the CNG Equipment.

3. INSTALLATION & COMMISSIONING:

- a. Seller shall review the completed Site prior to installation to evaluate and confirm that the Site was built to the approved design and specifications. Determination of whether the Site is suitable for installation shall be on mutual agreement. Upon acceptance of the Site, Seller shall install the CNG Equipment.
- b. Seller shall deliver and unload its equipment to the Service Location prior to the Start Date. Buyer will provide and allow for storage of that equipment as needed at no charge.
- c. Seller will be responsible for connecting its equipment to existing utilities. Once the CNG Equipment is connected, Seller and Buyer will initiate gas flow. Controls and safety systems will be tested during commissioning period prior to commencing operation.

4. SITE MAINTENANCE:

- a. For the duration of the Agreement, all site maintenance, including but not limited to snow removal, and all costs related to the upkeep of the site and its ingress and egress shall be borne by the Buyer. Failure to maintain the site in a manner sufficient to permit delivery shall be a Buyer act of default.

IN WITNESS WHEREOF, this CMA is entered into and effective as of the date written above.

BUYER:

By: F. Chico DaFonte

Name: F. Chico DaFonte

Title: Vice President, Energy Procurement

SELLER:

By: Matthew F. Smith

Name: Matthew F. Smith

Title: EVP, Sales and Marketing