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June 23, 2006

06-53-NG

By Facsimile and U.S. Mail

(202) 586-6050

Ms. Larine Moore

Docket Room Manager, Natural Gas Regulation

Office for Oil and Gas Global Security

Docket Room 3E-042, FE-34

Fossil Energy, U.S. Department of Energy (FE-34)

PO Box 44375

Washington, D.C. 20026-4375

Re: Application of Consolidated Edison Company of New York, Inc.
for Long-Term Authorization to Import and Export Natural Gas
from and to Canada, FE Docket No. 06-53-NG

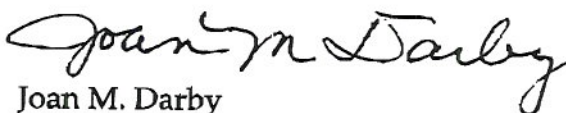
RECEIVED
FE DOCKET ROOM
2006 JUN 27 A 8:56
OFFICE OF
U.S. DEPARTMENT OF ENERGY

Dear Ms. Moore:

Please find enclosed for filing an original and three copies of the Application of Consolidated Edison Company of New York, Inc. ("Con Edison") for Long-Term Authorization to Import and Export Natural Gas from and to Canada. Also enclosed is a check in the amount of \$50.00, made payable to the U.S. Department of Treasury, for the filing fee.

A copy of Con Edison's application is also being transmitted to you as of the date of this letter by facsimile. Thank you for your assistance.

Sincerely,



Joan M. Darby

Enclosures

UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

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2006 JUN 27 A 8:57

OFFICE OF FOSSIL ENERGY
U.S. DEPARTMENT OF ENERGY

IN THE MATTER OF)

CONSOLIDATED EDISON COMPANY)
OF NEW YORK, INC.)

FE Docket No. 06- 53 - NG

APPLICATION OF CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
FOR LONG-TERM AUTHORIZATION TO IMPORT AND EXPORT
NATURAL GAS FROM AND TO CANADA

Pursuant to Section 3 of the Natural Gas Act ("NGA"), 15 U.S.C. § 717b, the regulations of the Department of Energy ("DOE"), 10 C.F.R. § 590.201, *et seq.*, and DOE Delegation Order Nos. 0204-111 and 0204-127, Consolidated Edison Company of New York, Inc. ("Con Edison") hereby applies to DOE's Office of Fossil Energy ("OFE") for long-term authority to import and export¹ from and to Canada natural gas purchased under the terms of the Back to Back Agreement (ANE/Nexen Contract) between Con Edison and Alberta Northeast Gas Limited ("ANE") dated March 13, 2006 ("Back to Back Agreement"), which incorporates terms of the Long Haul Term Gas Supply Contract between ANE and Nexen Marketing ("Nexen") also dated March 13, 2006

¹ Con Edison is also requesting authority to export natural gas to Canada to make it possible for Con Edison to sell to customers in Canada, on any given day, the volumes that it now plans to import under the authorization it is requesting herein.

("Long Haul Agreement"). In support of its application, Con Edison states the following:

I.

The exact legal name of Con Edison is Consolidated Edison Company of New York, Inc. Con Edison, a local natural gas distribution company, is a New York corporation with its principal place of business in New York, New York. Its parent company is Consolidated Edison, Inc., a New York corporation, which has its principal place of business in New York, New York. As stated in the attached opinion of counsel (Exhibit A), the proposed natural gas importation and exportation are within the corporate powers of Con Edison.

Communications regarding the application should be directed to:

Paul Olmsted
Consolidated Edison Company of New York, Inc.
4 Irving Place, Room 1315-S
New York, New York 10003
(212) 460-4898
FAX: (212) 539-8254
olmstedp@coned.com

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Joan M. Darby
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Marc Richter, Esq.
Associate General Counsel
Consolidated Edison Company of New York, Inc.
4 Irving Place, Room 1815-S
New York, New York 10003
(212) 460-4615
Fax: (212) 677-5850
richterm@coned.com

II.

The authorization sought herein will permit Con Edison to import and export from and to Canada up to 40,000 MMBtu of natural gas per day for a period commencing on November 1, 2006 (or such later date of first delivery under the authorization) and extending through October 31, 2009; the total volume for which Con Edison seeks authorization over the three-year term is 44 Bcf of natural gas. Con Edison intends to utilize the gas imported under this authorization for system supply to serve its customers in New York.

All of the gas imported under the requested authorization will be purchased from ANE under the terms of the Back to Back Agreement between Con Edison and ANE and, as incorporated therein, the terms of the Long Haul Agreement between ANE and Nexen.² ANE is a Canadian corporation that acts as a conduit for the purchase of gas from Canadian suppliers and its resale to local distribution companies in the Northeast United States, including Con Edison. Consistent with the structure of ANE's operations that flows through to these local distribution companies the benefits

² Con Edison attaches to the original and copies of this application a redacted version of each of the Long Haul Agreement and the Back to Back Agreement as Exhibit B and Exhibit C, respectively. Con Edison has provided one copy of each of those agreements to OFE in complete, unredacted form, which copies Con Edison requests OFE to return after its review is completed.

and obligations of being a direct purchaser of Canadian gas, the Back to Back Agreement flows through to Con Edison all of ANE's rights and obligations under the Long Haul Agreement.³ Thus, the terms of the proposed imports are set by the Long Haul Agreement as well as the Back to Back Agreement; these terms are described in Section III below.

No new pipeline facilities subject to federal regulation will be required for the importation or exportation, and no potential environmental impact is anticipated. Con Edison will make all U.S. transportation arrangements for the gas imported and exported under the requested authority. The gas will be transported in the United States on existing facilities of Tennessee Gas Pipeline Company ("Tennessee"). ANE will not own or operate any natural gas facilities. All gas delivered to ANE by Nexen under the Long Haul Agreement will be resold, immediately upon its receipt, by ANE to Con Edison under the Back to Back Agreement. Such gas will be received by Tennessee from TransCanada PipeLines Limited ("TransCanada") for the account of Con Edison.

Con Edison will comply with all reporting requirements deemed necessary by OFE, including filing quarterly reports.

III.

The principal terms of the Long Haul Agreement, incorporated in the Back to Back Agreement, are as follows:

³ The OFE authorized a similar import arrangement by Con Edison, among other Northeastern local distribution companies, through ANE in *Brooklyn Union Gas Company, et al.*, 1 FE ¶70,285 (1991).

Contract Term. The Long Haul Agreement became effective, subject to the receipt of regulatory approvals, on March 13, 2006 and the contract term continues through October 31, 2009, unless earlier terminated under the terms of the Long Haul Agreement. The contract term of the Back to Back Agreement is co-extensive.

Commencement of Deliveries. The period of delivery commences on November 1, 2006 and continues through October 31, 2009.

Delivery Point. The point of delivery will be a point on the international boundary between Canada and the United States at or near the point of interconnection between the facilities of TransCanada and the facilities of Tennessee at or near Niagara Falls, Ontario.

Contract Quantity. Con Edison is entitled to receive up to the Daily Contract Quantity ("DCQ") of 40,000 MMBtu per day. The contract provisions permit Con Edison flexibility with respect to both monthly and daily nominations up to the DCQ.

Price. The price under the Long Haul Agreement is comprised of a commodity charge, as well as the demand and commodity charges for gas transportation in Canada. The commodity charge generally is the monthly commodity charge that is based on a specified monthly index price, except (i) with respect to any portion of the DCQ for which ANE and Nexen have agreed to an alternate price, the commodity charge is the fixed or a basis differential price that is the agreed upon alternate commodity price and (ii) with respect to any portion of the DCQ that ANE nominates on a daily basis during the delivery month, the commodity charge is the daily commodity price that is based on a specified daily index price. Under the Back to

Back Agreement, Con Edison is also responsible to pay all costs and expenses incurred by ANE in connection with the Long Haul Agreement.

IV.

Section 3 of the Natural Gas Act provides that an import or export of natural gas must be authorized unless there is a finding that it "will not be consistent with the public interest." 15 U.S.C. § 717b(a) (1993). As amended by Section 201 of the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2866 (1992), 15 U.S.C. § 717b(c) (1993), the importation and exportation of natural gas from and to "a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas [is] deemed to be consistent with the public interest" and authorization for such must be granted without modification or delay. 15 U.S.C. § 717b(c). The authorization sought by Con Edison is to import and export natural gas from and to Canada, a nation with which a free trade agreement is in effect. It therefore meets the Section 3(c) criterion and should be approved as consistent with the public interest.

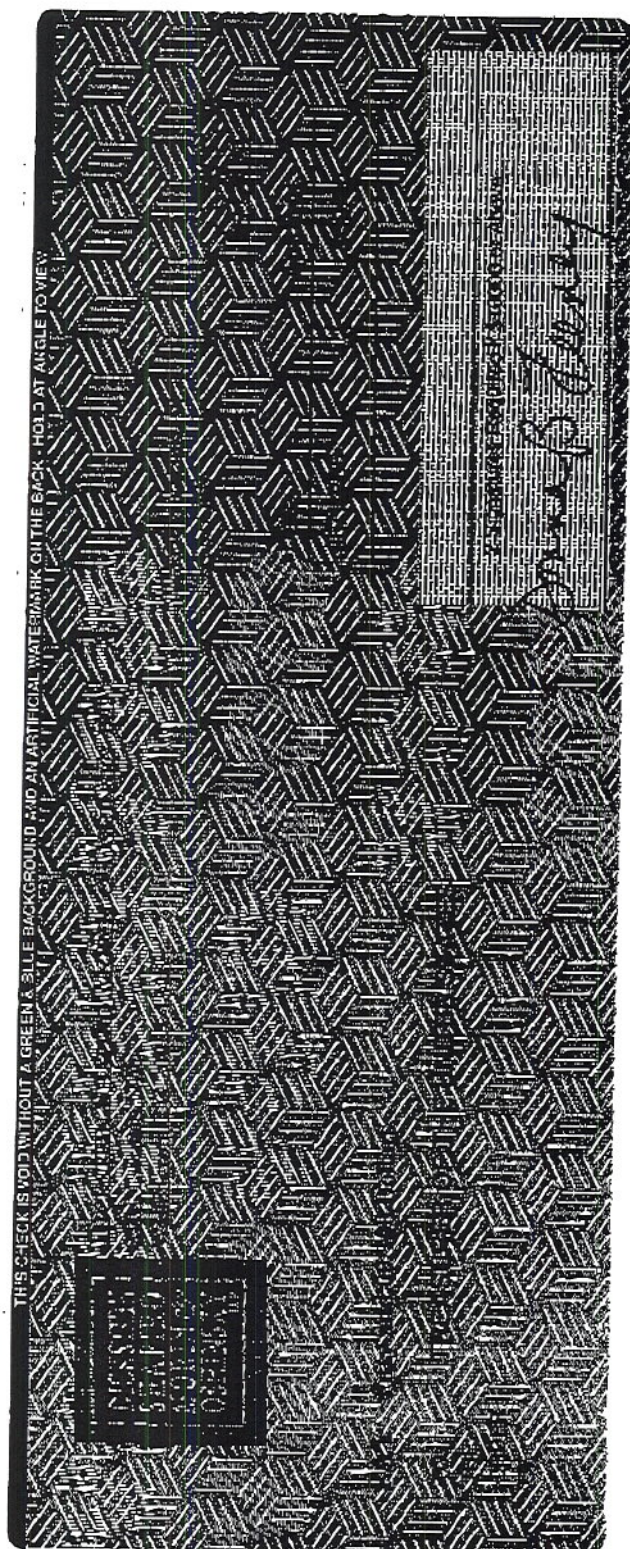
WHEREFORE, Con Edison respectfully requests authorization, effective as of November 1, 2006, to import and export from and to Canada up to 40,000 MMBtu of natural gas per day for a period beginning on November 1, 2006 (or such later date of first delivery under the authorization) and extending through October 31, 2009 or 44 Bcf of natural gas over the three-year term.

Dated: June 22, 2006

Respectfully submitted,

By: Beth L. Webb
Beth L. Webb
Joan M. Darby
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, N.W.
Washington, DC 20037
(202) 785-9700

Attorneys for Consolidated Edison Company of
New York, Inc.



Form 805-GB

⑈315865⑈ ⑆054001220⑆ 2000026568223⑈



Peter A. Irwin
Vice President
Legal Services

Exhibit A

June 16, 2006

Mr. Paul Olmsted
Director – Energy Management
Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York, New York 10003

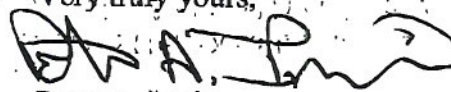
Dear Mr. Olmsted:

I am the Vice President of Legal Services of Consolidated Edison Company of New York ("Con Edison"), and I am a member of the Bar of the State of New York. You have informed me that Con Edison proposes to apply to the U.S. Department of Energy, Office of Fossil Energy for authorization pursuant to Section 3 of the Natural Gas Act to import and export volumes of natural gas from and to Canada. Based on a review of such documents and discussions with such personnel of Con Edison as I considered necessary and appropriate, and for purposes of Exhibit A to Con Edison's attached Import and Export Application as prescribed by 10 C.F.R. § 590.202(c), I am of the opinion that:

- (i) Con Edison is a corporation duly organized, validly existing, and in good standing under the laws of the State of New York;
- (ii) Con Edison is in compliance in all material respects with applicable rules and regulations of state regulatory authorities in the state in which it operates; and
- (iii) The proposed importation and exportation of natural gas by Con Edison from and to Canada is within the corporate powers of Con Edison.

This letter is being furnished to you solely in connection with the above referenced Application and is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,



Peter A. Irwin

EXECUTION COPY

Exhibit B**LONG HAUL TERM GAS SUPPLY AGREEMENT**

THIS AGREEMENT is made effective this 13th day of March, 2006 **BETWEEN:**

Nexen Marketing, an Alberta Partnership, with principal offices in Calgary, Alberta (hereinafter referred to as "SELLER")

and

Alberta Northeast Gas Limited, a Canadian Corporation, with principal offices in Beverly, Massachusetts (hereinafter referred to as "BUYER").

SELLER and BUYER are sometimes hereinafter referred to separately as "Party" and jointly as "Parties".

WHEREAS, SELLER has or will have contracted for certain long haul natural gas transportation capacity to the Delivery Point on NGTL and TransCanada.

WHEREAS, BUYER seeks to purchase certain Firm natural gas supplies.

WHEREAS, SELLER desires to sell certain Firm natural gas supplies.

WHEREAS, BUYER will immediately resell the natural gas supplies purchased hereunder to Consolidated Edison Company of New York, Inc. ("Con Edison") pursuant to the Back to Back Agreement between BUYER and Con Edison and the Consent Agreement between SELLER, BUYER and Con Edison.

WHEREAS, the Parties desire to set forth the terms and conditions applicable to the sale by SELLER and the purchase by BUYER of certain quantities of natural gas.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein SELLER and BUYER mutually agree as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Agreement the following capitalized words and phrases have the following meanings:

"10³m³" means the quantity of Gas occupying one thousand cubic metres at a temperature of 15 degrees Celsius and at a pressure of 101.325 kilopascals absolute.

"Agreement" means this Long Haul Term Gas Supply Agreement.

"Alternate Commodity Price" means

"Average Daily Commodity Price" means

"Back to Back Agreement" means that certain agreement titled "Back to Back Agreement (ANE/Nexen Contract)" of even date herewith by and between BUYER and Con Edison.

"Business Day" means any Day, other than a Saturday, Sunday, or a United States or Canadian Federal holiday.

"CCT" means Central Clock Time, which shall be the prevailing time (standard or daylight savings) in the United States Central Time Zone.

"Confirmation" means a completed document substantially in the form of Exhibit "B" confirming Alternate, Monthly and Daily Nominations (other than deemed Nominations) under Section 5.

"Consent Agreement" means that certain agreement titled "Assignment and Consent Agreement (ANE/Con Edison/Nexen)" of even date herewith by and among BUYER, Con Edison and SELLER.

"Contract Price" means

"Conversion Factors" means for Gas stated in 10³m³ to be converted to GJ, NGTL's posted heating value at the Empress border for the Delivery Month and for Gas stated in GJ to be converted to MMBtu, 1.055056 GJ/MMBtu.

"Daily Commodity Price" means

"Daily Contract Quantity" or **"DCQ"** means a quantity of Gas per Day equal to 40,000 MMBtu.

"Day" means a period of twenty-four consecutive hours, beginning at 9:00 a.m. CCT on any calendar day.

"Deemed Yearly Fuel Allowance" means the fuel percentage rate for TransCanada agreed to by the Parties prior to November 1st of each year for a one year period commencing each November 1st, which agreement shall reflect a weighted blending of anticipated fuel percentage rates for TransCanada for each of the winter and summer seasons.

"Deficiency Default" has the meaning set forth in Sections 4.3 and 4.4.

"Deficiency Quantity" has the meaning set forth in Sections 4.3 and 4.4.

"Delivery Month" means the Month in which Gas is or is to be delivered.

"Delivery Point" means a point on the international boundary between Canada and the United States of America at or near the point of interconnection between the facilities of TransCanada and the facilities of Tennessee at or near Niagara Falls, Ontario.

"Demand Charge" means.

"Dollars" (and the symbol "\$") means dollars, which shall be designated as U.S. dollars ("US\$") or Canadian Dollars ("CAD\$").

"Effective Date" means the date of this Agreement as hereinabove written.

"Exchange Rate" means the published Bank of Canada noon day rate of exchange for CAD\$/US\$ for the first Business Day of the month following the Delivery Month. The Exchange Rate shall be utilized for all conversions between US\$ and CAD\$.

"Firm" means the Parties' obligations are unconditional except in the event of a *Force Majeure* or where excused by the other Party's failure to perform its obligations hereunder.

"Force Majeure" has the meaning set out in Section 11.

"Gas" means methane and other gaseous hydrocarbons that is consistent with the quality, temperature and pressure standards and specifications of TransCanada and Tennessee, as amended from time to time and approved by jurisdictional regulatory authorities.

"GJ" means 1 gigajoule; 1 gigajoule is equal to one million joules; a joule has the meaning specified in the SI system of units.

"Governmental Body" means a federal, state or provincial governmental agency, regulatory body, or legislature with the authority to approve, change, modify or reject any or all of the terms of this Agreement, the Back to Back Agreement, or the Consent Agreement or with the authority to take any other action which affects performance under this Agreement, the Back to Back Agreement, or the Consent Agreement or to grant or deny permits or licenses necessary therefor.

"Interest" means interest which shall accrue on any amounts owing under this Agreement calculated daily and not compounded for the period of time from the date the payment is due until it is paid, at a rate equal to the Prime Rate as reported in the Money Rates column of the Wall Street Journal on the last Business Day of the preceding month, plus one percent, divided by 365.

"Market Disruption Event" means, with respect to a price index, any of the following events: (i) the failure of the price source to announce or publish information necessary for determining the Alternate Commodity Price, the Monthly Commodity Price, the Daily Commodity Price, or the Average Daily Commodity Price; (ii) the failure of trading to commence or the discontinuation or material suspension of trading in the relevant commodity on the exchange or market acting as the price source; (iii) the

discontinuance or unavailability of the price source; or (iv) the closing of any exchange acting as the price source.

"MMBtu" means one million British thermal units; a British thermal unit has the same meaning as the International Btu ("Btu(IT)").

"Month" means a period of time beginning at 9:00 a.m. CCT on the first Day of any calendar month and ending at 9:00 a.m. CCT on the first Day of the next calendar month.

"Monthly Commodity Price" means

"Monthly Fuel Over or Under Collection" means the positive or negative difference obtained when the Deemed Yearly Fuel Allowance is subtracted from the fuel percentage rate effective on TransCanada for the Delivery Month.

"NGTL" means Nova Gas Transmission Limited, a subsidiary of TransCanada, or any successor thereto.

"Period of Delivery" means the period commencing at 9:00 a.m. CCT on November 1, 2006 and ending at 9:00 a.m. CCT on November 1, 2009.

"Reference Price" means, in the case of a Seller Deficiency Default, the price stated in US\$/MMBtu at which BUYER obtains gas in substitution for the Seller Deficiency Quantity at the Delivery Point and, in the case of a Buyer Deficiency Default, the price stated in US\$/MMBtu at which SELLER sells the Buyer Deficiency Quantity at the Delivery Point; and in either case, the Conversion Factors and Exchange Rate shall be utilized for any required conversions.

"Replacement Price Differential" means, in the event of a Seller Deficiency Default, the positive difference, if any, obtained by subtracting the Contract Price from the Reference Price, and, in the event of a Buyer Deficiency Default, the positive difference, if any, obtained by subtracting such Reference Price from the Contract Price.

"Scheduled Contract Quantity" means the sum of the Alternate Nomination, Monthly Nomination, and Daily Nomination as determined under Section 5.

"Taxes" means all *ad valorem*, property, occupation, severance, consumption, production, gathering, pipeline, utility, gross production, gross receipts, sales, use, excise and other taxes, governmental charges, licenses, permits and assessments, other than taxes based on excess profits, net income or net worth.

"Tennessee" means Tennessee Gas Pipeline Company.

"TransCanada" means TransCanada PipeLines Limited, or any successor thereto.

"TransCanada Capacity" means 40,000 MMBtu per Day of long haul Firm natural gas transportation capacity on the mainline pipeline facilities of TransCanada from Empress, Alberta to Niagara Falls, Ontario for which SELLER has or will have contracted on a year-to-year renewable basis.

"Transportation Commodity Charges" means:

1.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, whether written or oral, existing at the date hereof between the Parties concerning such subject matter. No amendment, modification or change to this Agreement shall be enforceable unless executed in writing by both Parties.

1.3 BUYER and Con Edison. It is acknowledged and agreed that BUYER will immediately resell the natural gas supplies to be purchased by BUYER from SELLER hereunder to Con Edison.

2. **TERM**

2.1 Term. This Agreement shall be in force and effect as of the Effective Date and shall continue in full force and effect for a period ending at 9:00 a.m. CCT on November 1, 2009, unless earlier terminated pursuant to the terms hereof. Deliveries of the Scheduled Contract Quantity shall commence at 9:00 a.m. CCT on the first Day of the Period of Delivery.

3. REPRESENTATIONS AND WARRANTIES

- 3.1 Representations. Each Party, with respect to itself, hereby represents and warrants to the other Party that, as of the Effective Date: (i) there are no suits, proceedings, judgements or orders by or before any court or any Governmental Body that materially adversely affect its ability to perform this Agreement or the rights of the other Party under this Agreement; (ii) subject to Section 8.1, it has the legal right, power and authority to conduct its business, to execute and deliver this Agreement and to perform its obligations hereunder; (iii) the making and performance of this Agreement are within its powers and do not and will not violate any provision of law or any rule, regulation, order, writ, judgement, decree or other determination presently in effect applicable to it or any provision of its governing documents, except any such violations which would not have a material adverse effect; (iv) this Agreement constitutes a legal, valid, and binding act and obligation of it, enforceable against it, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally; and (v) there are no bankruptcy, insolvency, reorganization, receivership or other proceedings pending, or being contemplated by it or, to its knowledge, threatened against it.

- 3.2 Warranty. SELLER warrants that it shall at the time of delivery have good title to and/or the full right and authority to sell good and merchantable title to all Gas delivered by SELLER to BUYER hereunder, and that such Gas is free and clear from all liens and adverse claims accruing prior to delivery of such Gas to BUYER. SELLER warrants that it shall as of November 1, 2009 (or such earlier date as may be required by the terms of this Agreement) have good title to the TransCanada Capacity on a year-to-year renewable basis and the full right and authority to permanently assign such TransCanada Capacity to BUYER and/or Con Edison as required by the terms of this Agreement free and clear of all liens and adverse claims accruing prior to the effective date of any such assignment.

4. **QUANTITY OBLIGATIONS**

- 4.1 BUYER's Purchase Obligation. BUYER shall purchase and receive from SELLER at the Delivery Point, on a Firm basis each Day during the Period of Delivery, a quantity of Gas equal to the Scheduled Contract Quantity. Con Edison shall be the importer of Gas into the United States.
- 4.2 SELLER's Sales Obligation. SELLER shall sell and deliver to BUYER at the Delivery Point, on a Firm basis each Day during the Period of Delivery, a quantity of gas equal to the Scheduled Contract Quantity. BUYER shall be the exporter of Gas from Canada.
- 4.3 BUYER's Failure to Receive. If on any Day during the Period of Delivery, BUYER fails to purchase and receive the Scheduled Contract Quantity for such Day at the Delivery Point and such failure is not excused by SELLER's non-performance or pursuant to an event of *Force Majeure*, then such occurrence shall constitute a "Buyer Deficiency Default," and the difference between the Scheduled Contract Quantity for such Day and the quantity of Gas purchased and received by BUYER for such Day is the "Buyer Deficiency Quantity." For further clarity, a reduction of an Alternate Nomination or a Monthly Nomination in accordance with Section 5.3 shall not constitute a Buyer Deficiency Default. In the event of a Buyer Deficiency Default, BUYER shall pay SELLER an amount equal to the product of the Buyer Deficiency Quantity multiplied by the Replacement Price Differential, pursuant to the invoicing and payment provisions set forth in Sections 7.1(b) and 7.2 (respectively), provided that SELLER has used commercially reasonable efforts to sell the Buyer Deficiency Quantity at the market price that will result in the least amount of damages being incurred. If a Buyer Deficiency Default continues unabated for three (3) consecutive Days or five (5) or more cumulative Days in any thirty (30) Day period, such event shall be an Event of Default hereunder and SELLER may, at

its sole option, at any time within fifteen (15) Days after the conclusion of either such period, give written notice to BUYER, to terminate this Agreement otherwise in accordance with the provisions of Section 7.6.

- 4.4 SELLER's Failure to Deliver. If on any Day during the Period of Delivery, SELLER fails to sell and deliver BUYER's Scheduled Contract Quantity for such Day at the Delivery Point and such failure is not excused by BUYER's non-performance or pursuant to an event of *Force Majeure*, then such occurrence shall constitute a "Seller Deficiency Default," and the difference between BUYER's Scheduled Contract Quantity for such Day and the quantity of Gas sold and delivered by SELLER is the "Seller Deficiency Quantity." For further clarity, a reduction of an Alternate Nomination or a Monthly Nomination in accordance with Section 5.3 shall not constitute a Seller Deficiency Default. In the event of a Seller Deficiency Default, SELLER shall pay BUYER an amount equal to the product of the Seller Deficiency Quantity multiplied by the Replacement Price Differential, pursuant to the invoicing and payment provisions set forth in Sections 7.1(b) and 7.2 (respectively), provided that BUYER has used commercially reasonable efforts to purchase gas in substitution for the Seller Deficiency Quantity at the market price that will result in the least amount of damages being incurred. If a Seller Deficiency Default continues unabated for three (3) consecutive Days or five (5) or more cumulative Days in any thirty (30) Day period, such event shall be an Event of Default hereunder and BUYER may, at its sole option, at any time within fifteen (15) Days after the conclusion of either such period, give written notice to SELLER to terminate this Agreement otherwise in accordance with the provisions of Section 7.6.
- 4.5 Priority of Deliveries. For purposes of Sections 4.3, 4.4 and 11.1, all Gas not delivered and/or received shall be accounted for as follows: the category or categories of Gas not delivered and/or received shall be deemed to be first the Daily Nomination, then the Monthly Nomination, and last the Alternate Nomination(s), as such terms are defined in Section 5.
- 4.6 Market Disruption Event. If a Market Disruption Event occurs on any Day, the Parties shall promptly and in good faith negotiate a substitute for the Alternate Commodity Price, Monthly Commodity Price, Daily Commodity Price, or Average Daily Commodity Price, as applicable (or method for determining a substitute for such Price) for the affected Day or Days. If a substitute is not so determined by the third (3rd) Business Day after the Day on which the Market Disruption Event first occurred, then on or before the fifth (5th) Business Day after the Day on which the Market Disruption Event first occurred, each Party shall obtain in good faith and transmit to the other Party up to three quotes from

leading dealers for the sale of Gas in the relevant market and the Parties together shall determine the substitute by averaging all such quotes if four or fewer or, if more than four, averaging the remaining quotes after discarding the highest and lowest.

- 4.7 Redetermination of a Price Index. If a price index required to calculate the Monthly Commodity Price, Daily Commodity Price, Average Daily Commodity Price or the Alternate Commodity Price permanently ceases to be available or a Market Disruption Event affecting such price index continues for seven (7) Days, and no successor price index is identified or generally accepted within the industry, the Parties shall promptly and in good faith negotiate a replacement index for such price index (the "Replacement Price Index"). If the Parties cannot agree on a substitute methodology or price index by the end of the first Month in which a price index ceases to be available, then within ten (10) Days of the end of such Month, each Party shall prepare and submit simultaneously to the other Party a list, numbered in order of preference, of up to five alternate published reference postings or prices representative of spot prices for Gas delivered in or near the point of the price index to be replaced. The Replacement Price Index shall be the index that appears on both Parties' lists and for which the sum of the numbers indicating each Party's order of preference is the lowest; in the event that such sums are the same for two indices, then the choice between the two will be determined by lot. If no index appears on both Parties' lists, then within ten (10) Days of the most recent exchange of lists, each Party shall prepare and submit a new list adding two indices. This procedure shall be repeated until a Replacement Price Index is determined. If either Party fails to provide timely a list, the Replacement Price Index shall be the index listed first on the other Party's list. For the first half of the period from and after the date the price index ceases to be available until the date that the Replacement Price Index is determined, the price index shall be the last price index available, and for the second half of such period, the price index shall be the Replacement Price Index.
- 4.8 Conversion to an Alternate Commodity Price. BUYER and SELLER may agree to convert the Monthly Commodity Price to a fixed or basis differential price in the following manner. BUYER may transmit to SELLER by facsimile or email a notice specifying (a) the quantity of Gas for which BUYER elects to convert the price (the "Alternate Price Quantity," which quantity may not exceed the DCQ); (b) the term for which such conversion shall be in effect (which may not be in excess of the term of this Agreement); and (c) the fixed or basis differential price which BUYER proposes for such quantity and term. Upon receipt of such notice, SELLER shall transmit to BUYER by facsimile or email a notice of its quote of a fixed or basis differential price for the Alternate Price Quantity and term. Upon

provision of such quotes, the Parties shall negotiate in good faith with the objective of agreeing upon a price based upon the quotes exchanged. Any such agreement of the Parties regarding what constitutes the Alternate Commodity Price for the Alternate Price Quantity for the agreed term shall be reflected in a writing executed by both Parties.

5. OPERATIONS AND DELIVERY

5.1 BUYER's Nominations to SELLER.

- 5.2 Nomination Stipulations. Unless otherwise agreed by BUYER and SELLER, the sum of BUYER's Alternate, Monthly and Daily Nominations shall not exceed the DCQ. Subject to Section 5.3, once BUYER's Alternate, Monthly and Daily Nominations are made or deemed to be made by BUYER, BUYER is obligated to take the nominated quantity on a Firm basis for the respective period for which each is nominated.

5.3

- 5.4 Measurement. The volume and energy content of the Gas sold hereunder shall be measured at the Delivery Point by TransCanada. SELLER shall (a) provide notice to BUYER at such time as it receives notice, if any, from TransCanada that the measurement equipment is to be tested and, if agreed by TransCanada, permit BUYER to attend such testing and (b) procure from TransCanada, upon reasonable request by BUYER therefor, the results of any measurement equipment testing performed at the Delivery Point during the term of this Agreement. If at any time any inaccuracy in such measurement equipment is found, it shall be resolved in accordance with the TransCanada and Tennessee tariffs.

6. **POSSESSION AND TITLE**

- 6.1 Title Transfer and Indemnity. SELLER shall be responsible for any injury or damage caused by the Gas delivered hereunder up to and including the time it is delivered to BUYER at the Delivery Point. Following delivery of Gas to BUYER at the Delivery Point, BUYER shall be responsible for any injury or damage caused thereby. Title to Gas delivered hereunder shall pass from SELLER to BUYER at the Delivery Point.
- 6.2 Risk of Loss. SELLER and BUYER each assume full responsibility and liability for, and shall indemnify and hold harmless the other Party from all losses,

liabilities or claims (including reasonable legal fees and costs of Court), arising from any act or incident related to the Gas occurring when title to the Gas is vested in the indemnifying Party, except to the extent such act or incident was caused by the gross negligence or wilful misconduct of the other Party.

7. **BILLING AND PAYMENT**

7.1 Invoice Date and Charges.

- (a) By the 10th Day of the Month immediately following the Delivery Month, SELLER shall invoice BUYER for Gas which was delivered and received in the Delivery Month and for any applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. Such amount due shall be the sum of:

together with any other amounts due under this Agreement and reflecting any credits or debits required under this Agreement, including those required pursuant to Section 5.3. The Parties agree that the intent of the foregoing provisions with respect to the cost of fuel on TransCanada is that SELLER will be fully compensated by BUYER for such cost of fuel. If the actual quantity of Gas delivered is not available by such billing date, billing will be prepared based on the Scheduled Contract Quantity, and the invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

- (b) After either a Seller Deficiency Default or a Buyer Deficiency Default occurs, the non-defaulting Party shall provide to the other Party a detailed statement ("Deficiency Default Statement") setting forth the amount due

for such default and the basis upon which the amount was calculated pursuant to either Section 4.3 or Section 4.4. The defaulting Party must notify the other Party of a default no later than five (5) Business Days after the date such Party became aware of the default and the non-defaulting Party shall provide a Deficiency Default Statement no later than the tenth Day of the Month following the Month of the Deficiency Default.

- 7.2 Payment Date. Subject to Section 7.4, BUYER shall pay amounts BUYER owes and SELLER shall pay amounts SELLER owes as set forth in invoices and/or statements under Section 7.1 no later than the Payment Date. For invoices rendered under Section 7.1(a), "Payment Date" means the later of the twenty-fifth Day of the Month following the Delivery Month or the Day fifteen (15) Days after receipt of the invoice, provided that if the Payment Date is not a Business Day, payment is due on the next following Business Day, provided further that if the Payment Date falls on a Friday which is not a Business Day, BUYER shall use commercially reasonable efforts to make payment on the immediately preceding Business Day. For Deficiency Default Statements rendered under Section 7.1(b), "Payment Date" means the fifth Business Day after the defaulting Party receives the Deficiency Default Statement. All payments invoiced under Section 7.1 shall be made in immediately available funds by electronic funds transfer to the payee's account designated on Exhibit "A" hereto.
- 7.3 Late Payment. If the invoiced Party fails to remit the full amount payable when due under this Agreement, Interest on the unpaid portion shall accrue from the date payment was due until the date payment is made in full.
- 7.4 Invoice Disputes. If the invoiced Party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced Party will pay such amount as it concedes to be correct; provided however if the invoiced Party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. A Party shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other Party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment or computation made under the Agreement. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Agreement. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within

two years after the Delivery Month. All retroactive adjustments under this Section 7 shall be paid in full by the Party owing payment within 30 Days of notice and substantiation of such inaccuracy.

7.5 Billing/Payment Address. Billings, payments and statements shall be made to the accounts or the addresses specified in Exhibit "A" hereto, as may be amended from time to time.

7.6 Financial Responsibility.

(a) For the purposes of this Section 7.6(a), any reference to a Party includes a reference to (i) SELLER, (ii) BUYER only in the event that BUYER is requesting Adequate Assurance of Performance or BUYER is the Non-Defaulting Party (as defined hereinafter), (iii) Con Edison and (iv) any other party providing Adequate Assurance of Performance (as defined hereinafter). If a Party becomes Materially Weaker (as defined hereinafter) or a Designated Event (as defined hereinafter) occurs with respect to that Party, causing the resulting, surviving or transferee entity to become Materially Weaker, the other Party may demand Adequate Assurance of Performance, whether or not an Event of Default or another event of non-performance has occurred, which Adequate Assurance of Performance shall be provided by the Party by the end of the second Business Day after a demand is received.

(i) "Adequate Assurance of Performance" shall mean sufficient security in the form, amount, term and from an issuer reasonably acceptable to the Party requesting same, including, but not limited to

(A) a standby irrevocable letter of credit issued by a U.S. commercial bank or the New York branch of a Canadian Bank with such bank having credit rating of at least "A" from Standard & Poor's ("S&P") and "A3" from Moody's Investor Service ("Moody's") (Exhibit "C" sets forth provisions of an acceptable letter of credit);

(B) a guaranty from a third party having a minimum credit rating on its senior unsecured long-term debt (not supported by third-party enhancement) of at least "BBB-" from S&P and "Baa3" from Moody's and not on Credit Watch with a Negative Outlook or other similar terminology (the "Minimum Rating") and, in instances where a third party is rated by only one of the two rating agencies, only the

minimum credit rating specified above for that agency must be satisfied; or

- (C) a cash deposit or prepayment.
- (ii) "Materially Weaker" shall mean, for the purposes of this Section 7.6(a), where X refers to a Party, the senior long-term unsecured debt (not supported by third-party enhancement) or deposits of X, or in the event of reorganization, the resulting, surviving or transferee entity of X, is or are, as the case may be, rated less than the Minimum Rating as defined in Section 7.6(a)(i)(B). If X is not rated by either of the above agencies during the term of this Agreement, it shall be deemed to be Materially Weaker and be required to provide Adequate Assurance of Performance.
- (iii) "Designated Event" shall mean:
 - (A) X consolidates, reorganizes, amalgamates or merges with, or transfers all or substantially all its assets to, or receives all or substantially all the assets or obligations of, another entity; or
 - (B) any person or entity acquires directly or indirectly the beneficial ownership of equity securities having the power to elect a majority of the board of directors of X; or
 - (C) X effects any substantial change in its capital structure by means of the issuance or occurrence of debt or preferred stock or other securities convertible into or exchangeable for, debt or preferred stock; or
 - (D) X enters into any agreement providing for any of the foregoing.

If a Party (or its guarantor) that initially satisfied the Minimum Rating (as defined in Section 7.6(a)(i)(B)) is subsequently downgraded below the Minimum Rating that Party must provide Adequate Assurance of Performance to the other Party within forty-eight (48) hours but at least one Business Day of receiving the other Party's request for same or the other Party shall have the right to immediately terminate this Agreement under Section 7.6(c) and, in the case of BUYER, shall also have the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of

such TransCanada Capacity, effective immediately. Any failure by either Party to exercise its rights (as set forth above) at the first available opportunity shall not be construed as a waiver of such rights (unless expressly done so in writing) and shall not preclude either Party from exercising them at a later time.

- (b) In the event (each an "Event of Default") either Party (the "Defaulting Party") or its guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other Party with respect to any obligation(s) to provide or establish for, or on behalf of, a Party any Adequate Assurance of Performance; (vii) not have paid any amount due the other Party hereunder on or before the second Business Day following written Notice that such payment is due; (viii) fail to receive or deliver Gas for the specified period set forth in Section 4.3 or Section 4.4, respectively; or (ix) fail to perform any other material obligation to the other Party under this Agreement; then the other Party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate this Agreement, in the manner provided in Section 7.6(c), in addition to any and all other remedies available hereunder (which for BUYER shall include the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity), effective upon the Early Termination Date as defined in Section 7.6(c).
- (c) If an Event of Default has occurred, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 7.6(c)(i) of this Agreement.

- (i) As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each Party with respect to all Gas delivered and received between the Parties under this Agreement on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Sections 4.3 or 4.4), for which payment has not yet been made by the Party that owes such payment under this Agreement and (ii) the Market Value, as defined below, of this Agreement. The Non-Defaulting Party shall (x) liquidate this Agreement at its Market Value, so that the difference between the Market Value and the Contract Value, as defined below, shall be due to the BUYER if such Market Value exceeds the Contract Value and to the SELLER if the opposite is the case; and (y) discount the amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to this Agreement). For purposes of this Section 7.6(c)(i), "Contract Value" means the amount of Gas remaining to be delivered or purchased under this Agreement multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under this Agreement multiplied by the market price for a similar long haul supply agreement at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A Party shall not be required to enter into a replacement agreement(s) in order to determine the Market Value. Any extension of the term of this Agreement to which Parties are not bound as of the Early Termination Date shall not be considered in determining Contract Value and Market Value. For the avoidance of doubt, any option pursuant to which one Party has the right to extend the term of this Agreement shall not be considered in determining Contract Value and Market Value. The rate of interest

- used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.
- (ii) The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the Parties under Section 7.6(c)(i), so that all such amounts are netted or aggregated to a single liquidated amount payable by one Party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff (i) any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any obligation(s) to provide or establish for, or on behalf of, a Party any Adequate Assurance of Performance; or (ii) any Net Settlement Amount payable to the Defaulting Party against any amount(s) payable by the Defaulting Party to the Non-Defaulting Party under any other agreement or arrangement between SELLER and BUYER provided that BUYER is acting therein on behalf of Con Edison.
 - (iii) If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 7.6(c)(ii) is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 7.6(c)(ii) shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.
 - (d) As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount shall accrue from the date due until the date of payment.

- (c) The Non-Defaulting Party's remedies under this Section 7.6 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date except that BUYER shall have the right as provided in this Agreement to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity. Each Party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Agreement.

8. REGULATION

- 8.1 Regulatory Approval. Implementation of the terms and conditions of this Agreement is subject to receipt and acceptance, not to be unreasonably withheld, of all necessary authorizations for SELLER to remove Gas from Alberta, export authorizations for BUYER from the National Energy Board of Canada and import authorizations for Con Edison from the U.S. Department of Energy Office of Fossil Energy on or before October 1, 2006 or such later date as may be mutually agreed upon for good cause by SELLER and BUYER.
- 8.2 Other Events. If a Party's or Con Edison's activities under this Agreement, the Back to Back Agreement and/or the Consent Agreement (the "Affected Party") become subject to new law or regulation or a change in law or regulation which renders this Agreement, the Back to Back Agreement and/or the Consent Agreement illegal or incapable of being performed, or an event of *Force Majeure* continues unabated for at least 30 consecutive Days, then the Affected Party (or, in the case of an unabated *Force Majeure*, either Party) may elect, by written notice to the other Party, to terminate this Agreement immediately, provided, however, that, if SELLER is the Affected Party or Party entitled to the benefit of the provision of *Force Majeure*, then BUYER shall have the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity, effective upon the termination.

9. NOTICE

Address for and Receipt of Notices. All notices and communications made pursuant to this Agreement shall be in writing and transmitted as specified in Exhibit "A" and shall, if transmitted and confirmed by facsimile, telecopier, or other similar form of telecommunication or by email during normal business

hours, be deemed to have been given or made on the Day on which so transmitted and, if sent by overnight courier and delivery is confirmed, or, if mailed by registered or certified mail, return receipt requested, be deemed to have been given or made on the Day on which delivered.

10. **TRANSFER OR ASSIGNMENT**

10.1 Transfer or Assignment. Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by security or otherwise) by either Party without the prior written consent of the other Party (such consent shall not be unreasonably withheld), except that a Party may make such transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to another entity (but without prejudice to any other right or remedy under this Agreement) provided that the aforesaid entity has a credit rating equal to or greater than that of the transferring Party or otherwise is of greater or equal creditworthiness as the transferring Party. Notwithstanding the foregoing, BUYER shall have the right to assign this Agreement and all of its interests and obligations hereunder to Con Edison as long as Con Edison meets the Minimum Rating or posts Adequate Assurance of Performance.

10.2 Enurement. This Agreement shall enure to and be binding upon the successors and permitted assigns of the Parties hereto.

11. **FORCE MAJEURE**

11.1 Suspension for Force Majeure. For the purposes of this Section 11, in the case of SELLER, "Party" and "SELLER" shall mean Nexen Marketing and, in the case of BUYER, "Party" and "BUYER" shall mean Alberta Northeast Gas Limited or Con Edison. Except with regard to a Party's obligation to make payment(s) due under Section 7 and for imbalances, imbalance charges or penalties under Section 13, neither Party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by *Force Majeure*. The term "*Force Majeure*" as employed herein means any cause not reasonably within the control of the Party claiming suspension, as further defined in Section 11.2.

11.2 Events Constituting Force Majeure. "*Force Majeure*" shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe or storms or storm

warnings, such as hurricanes, which result in evacuation of such entire geographic region; (iii) interruption and/or curtailment of Firm transportation and/or storage by TransCanada or Tennessee; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, terrorist attacks, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. SELLER and BUYER shall make reasonable efforts to avoid the adverse impacts of a *Force Majeure* and to resolve the event or occurrence once it has occurred in order to resume performance.

- 11.3 Obligations of Parties During Force Majeure. Neither Party shall be entitled to the benefit of the provisions of *Force Majeure* to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the Party claiming excuse failed to use reasonable efforts to overcome the condition or otherwise failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, SELLER's ability to sell Gas at a higher or more advantageous price than the Contract Price or BUYER's ability to purchase Gas at a lower or more advantageous price than the Contract Price; (iv) the loss of BUYER's market(s) or BUYER's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; (v) the loss or failure of SELLER's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2; or (vi) partial or entire failure of specific wells, including without limitation, well blow outs and well craterings. The Party claiming *Force Majeure* shall not be excused from its responsibility for imbalances, imbalance charges or penalties under Section 13 related to its interruption after the nomination is made to TransCanada, in the case of SELLER, and to Tennessee, in the case of BUYER, and until the change in deliveries and/or receipts is confirmed by the respective transporter.
- 11.4 Industrial Disturbances. Notwithstanding anything to the contrary herein, the Parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance.
- 11.5 Notice of Force Majeure. The Party whose performance is prevented by *Force Majeure* must provide Notice to the other Party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written

Notice of *Force Majeure* to the other Party, the affected Party will be relieved of its obligation, from the onset of the *Force Majeure* event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of *Force Majeure*, and neither Party shall be deemed to have failed in such obligations to the other during such occurrence or event; provided, however, that in the event of a *Force Majeure* affecting some, but not all of SELLER's gas supplies accessible at the Delivery Point, BUYER, at a minimum, shall be entitled to a pro rata allocation of any gas supplies delivered to SELLER's Firm buyers at the Delivery Point and any failure by SELLER to make such allocation and deliveries shall not be excusable by *Force Majeure*.

12. TAXES

Allocation of and Indemnity for Taxes. The Contract Price includes and SELLER is liable for and shall pay, all Taxes applicable to the Gas sold hereunder that may be imposed prior to its delivery at the Delivery Point. SELLER shall reimburse BUYER for all Taxes paid on behalf of SELLER by BUYER. The Contract Price does not include and BUYER is liable for and shall pay, all Taxes applicable to Gas sold hereunder that may be imposed at or after delivery at the Delivery Point, including any goods and services tax ("GST") due under the *Excise Tax Act* (Canada). BUYER shall reimburse SELLER for all such Taxes paid on behalf of BUYER by SELLER. BUYER represents and warrants to SELLER that, unless BUYER notifies SELLER to the contrary, BUYER will comply with the requirements of the *Excise Tax Act* (Canada) for a zero-rated export of the Gas sold hereunder, and such Gas will be invoiced by SELLER on a zero-rated (i.e. no GST payable) basis.

13. IMBALANCES

Responsibility for Imbalances. Subject to Section 11.3, the Party causing (or Party whose pipeline transporter causes) a pipeline imbalance, imbalance or variance charge, or a pipeline-imposed penalty shall be responsible for, liable for and shall indemnify the other Party from such imbalances, charges or penalties.

14. MISCELLANEOUS

- 14.1 Winding Up Arrangements. Upon termination of this Agreement, any monies due and owing shall be promptly paid pursuant to the terms hereof. Notwithstanding the termination of this Agreement, the provisions respecting liabilities and indemnities which have accrued prior to the effective date of such termination and provisions respecting confidentiality, maintenance of records,

audit rights and settlement of accounts, shall continue in full force and effect in accordance with their terms.

- 14.2 Non-Waiver. No waiver by either Party of any default by the other in the performance of any provisions of this Agreement shall be construed as a waiver of any other default whether of a like or different nature. Except as otherwise expressly stated herein, failure of a Party to complain of any act or to declare the other Party in default, or to elect to terminate this Agreement, regardless of how long such failure continues, shall not constitute a waiver thereof until the applicable statute of limitations period has expired.
- 14.3 Severability. Except as otherwise stated herein, if any provision or Section of this Agreement is declared or rendered unlawful by a court of law or Governmental Body or deemed unlawful because of a statutory change, the remaining provisions of this Agreement shall be unaffected.
- 14.4 Headings and Exhibits. The headings used for the Sections herein are for convenience and reference purposes only and shall not affect the meaning or interpretation of the provisions of this Agreement. All Exhibits referenced in this Agreement are hereby incorporated for all purposes.
- 14.5 Record Retention. The Parties shall retain all relevant records throughout the Period of Delivery and for two years thereafter.
- 14.6 Dispute Resolution. Any claim, counterclaim, demand, cause of action, dispute, or controversy arising out of or relating to this Agreement, any provision hereof, or the alleged breach thereof, (collectively the "Claims"), whether such Claims sound in contract, tort, or otherwise, at law or in equity, under provincial, state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding and non-appealable arbitration.

The Parties agree that all disputes arising out of this Agreement shall be determined by final and binding arbitration conducted in accordance with the CPR Institute for Dispute Resolution Rules for Non-Administered Arbitration of International Disputes. The site of the arbitration shall be in New York, and the language of the arbitration shall be in English. The validity, construction, and interpretation of this Agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the Parties' Claims, the arbitrators shall apply the laws of the Province of Alberta, Canada. It is agreed that the Arbitrators shall have no authority to award treble, exemplary or punitive damages or consequential, indirect or incidental damages of any type under any circumstances whether or not such damages may be available under provincial, state or federal law, or

under any applicable Arbitration Act, the Parties hereby waiving their right, if any, to recover any such damages. All awards shall be in writing and shall state the reasoning on which the award rests unless the Parties agree otherwise. The Parties shall bear equally all fees, costs and expenses of the arbitration and each Party shall bear its own legal expenses, attorneys' fees and costs of all experts and witnesses, provided, however, that the arbitration panel may apportion between the Parties the costs incurred by either Party as the arbitration panel may deem equitable.

Within thirty Days of the date one Party notifies the other Party of initiation of the arbitration procedure under this Section, each Party shall select one arbitrator. The two arbitrators shall select a third arbitrator. One of the arbitrators shall be a lawyer. The arbitrators shall take an oath at the first session of the arbitration affirming that they are neutral and impartial and each of the arbitrators shall be experienced in the resolution of disputes, controversies or claims relating to the subject matter of the dispute.

To the fullest extent permitted by law, any arbitration proceeding and the arbitrators award shall be maintained in confidence by the Parties.

- 14.7 Applicable Law. This Agreement shall be governed by and construed, enforced, and performed in accordance with the laws of the Province of Alberta, Canada, without regard to principles of conflicts of law.
- 14.8 Further Assurances. Each of the Parties shall during the term of this Agreement, on a reasonable written request to do so, do all such further acts and execute and deliver or cause to be done, executed or delivered all such further acts, deeds, documents, assurances and things as may be reasonably required in order to perform the terms of this Agreement.
- 14.9 Confidentiality. Each Party agrees that it will maintain this Agreement, and all parts and contents thereof, in strict confidence, and that it will not cause or permit disclosure of same to any third-party without the express written consent of the other Party; provided that disclosure by a Party is permitted in the event and to the extent:
- (1) such Party is required by a court or agency exercising jurisdiction over the subject matter hereof, by order or regulation or law, to disclose; provided that in the event either Party becomes aware of a judicial or administrative proceeding that has resulted or may result in such a requirement or need to disclose, it shall (A) so notify the other Party immediately, (B) utilize all reasonably available means to limit the scope of the required disclosure,

- and (C) take all actions reasonably necessary to prevent disclosure to the public as a result of disclosure to the court or administrative body;
- (2) disclosure is necessary to obtain transportation of the Gas covered by this Agreement;
 - (3) disclosure of information to such third-party is for the sole purpose of calculating a published index price;
 - (4) disclosure is required to implement capacity assignment programs; or
 - (5) disclosure is required in the course of routine audit procedures or to enforce the provisions of the Agreement.
- 14.10 Electronic Recording. Each Party agrees that the other Party may at its option electronically record, without any additional notice, all telephone conversations between the officers, employees or agents of the Parties under this Agreement.
- 14.11 Disclosure of Tax Treatment. Notwithstanding anything to the contrary, each Party to this Agreement (and each employee, representative or other agent of such Party for so long as they remain an employee, representative or agent) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction contemplated herein (the "Transaction") and all materials of any kind (including opinions or other analysis) that are provided to such Party relating to such tax treatment or tax structure; provided, however, that any such disclosure may not be made (a) until the earlier of (i) the date of the public announcement of the discussions relating to the Transaction, (ii) the date of the public announcement of the Transaction, or (iii) the date of the execution of this Agreement (with or without conditions) and (b) to the extent required to be kept confidential to comply with any applicable securities laws. Nothing in this Agreement, or any other agreement between the Parties hereto express or implied, shall be construed as limiting in any way the ability of either Party to consult with any tax adviser (including a tax adviser independent from all other entities involved in the Transaction) regarding the tax treatment or tax structure of the Transaction.
- 14.12 Type of Parties. To the extent that this Agreement shall constitute a "commodity contract" or an "OTC derivative" pursuant to the *Securities Act* (Alberta) or the *Securities Act* (British Columbia), SELLER represents that it, and BUYER represents that it and Con Edison, is a "Qualified Party" within the meaning of Paragraph 9.1 of the Alberta Securities Commission Blanket Order 91-502 and Paragraph 1.1 of the British Columbia Securities Commission Blanket Order BOR #91-501.

- 14.13 Restrictions. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION (UNLESS THE THIRD PARTY CLAIMANT OBTAINS A JUDGEMENT FOR SUCH) OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.
- 14.14 Counterparts. This Agreement is executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Alberta Northeast Gas Limited

Per: _____

Per: Michael S. Lucy

Name Printed

MICHAEL S. Lucy
Name Printed

Title

PRESIDENT
Title

Acknowledged by:

Consolidated Edison Company of New
York, Inc.

Per: _____

Name Printed

Title

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Alberta Northeast Gas Limited

Per: Janet E. Vellutini

Per: _____

Janet E. Vellutini
Vice President,
Natural Gas Marketing

Name Printed

Susan L. Schull

Susan L. Schull
General Counsel

Title

Name Printed

Title

Acknowledged by:

Consolidated Edison Company of New
York, Inc.

Per: _____

Name Printed

Title

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Alberta Northeast Gas Limited

Per: _____

Per: _____

Name Printed

Name Printed

Title

Title

Acknowledged by:

Consolidated Edison Company of New
York, Inc.

Per: _____

Terry Agriss
Terry Agriss

Name Printed

Vice President-Energy Management

Title

EXECUTION COPY

**EXHIBIT "A" to LONG HAUL TERM GAS SUPPLY AGREEMENT
NOTICES AND COMMUNICATIONS**

NOTICES TO BUYER:

Alberta Northeast Gas Limited
c/o Northeast Gas Markets, L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 10915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

PAYMENTS TO BUYER:**NOTICES TO SELLER:**

Nexen Marketing
801 - 7 Avenue S.W. (Suite 1700)
Calgary, Alberta T2P 3P7
Telephone No. (403) 699-4088/5724
Facsimile No. (403) 699-5701
E-mail: sharron_roberts@nexeninc.com

PAYMENTS TO SELLER:**BILLING AND ACCOUNTING MATTERS:
BUYER**

c/o Northeast Gas Markets L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 10915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

CONFIRMATIONS:**BUYER**

Facsimile No.

AFTER HOUR NOTICES:**BILLING AND ACCOUNTING MATTERS:
SELLER**

Nexen Marketing
801 - 7 Avenue S.W. (Suite 1700)
Calgary, Alberta T2P 3P7
Telephone No. (403) 699-4221
Facsimile No. (403) 699-5705
E-mail: terry_ohara@nexeninc.com ;
amin_alibhai@nexeninc.com

CONFIRMATIONS:**SELLER**

Facsimile No.

AFTER HOUR NOTICES:

**EXHIBIT "B" to LONG HAUL TERM GAS SUPPLY AGREEMENT
FORM OF CONFIRMATION**

CONFIRMATION FOR IMMEDIATE DELIVERY

Letterhead/Logo	Date: _____ Confirmation #: _____
This Confirmation is under the Long Haul Term Gas Supply Agreement ("Agreement") between Buyer and Seller dated _____, 2006.	
SELLER: _____ Attn: _____ Phone: _____ Fax: _____ Transporter: _____ TransporterContractNumber: _____	BUYER: _____ Attn: _____ Phone: _____ Fax: _____ Transporter: _____ Transporter Contract Number: _____
Special Conditions:	
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____

BACK TO BACK AGREEMENT
ANE/NEXEN CONTRACT

This Agreement is made as of this 13th day of March, 2006, by and between Alberta Northeast Gas Limited, a Canadian corporation ("ANE"), and Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison").

WHEREAS, Con Edison has authorized ANE to execute the Long Haul Term Gas Supply Agreement ("Nexen Contract") between ANE and Nexen Marketing, an Alberta partnership ("Nexen"); and

WHEREAS, the natural gas to be purchased by ANE pursuant to the Nexen Contract will be immediately resold by ANE to Con Edison; and

WHEREAS, Con Edison desires, as an inducement to Nexen to enter into the Nexen Contract, to support ANE's obligations under the Nexen Contract.

NOW THEREFORE, in consideration of the mutual covenants and benefits herein provided, it is hereby agreed as follows:

1. Definitions: All capitalized terms not defined herein shall have the meanings assigned to them in the Nexen Contract.

2. Nexen DCQ and TransCanada Capacity: Pursuant to the Nexen Contract, ANE has contracted for the purchase of 40,000 MMBtu of natural gas per day at the Delivery Point (the "Nexen DCQ").

3. Obligations and Rights of Parties Generally: Con Edison, by execution of this Agreement, acknowledges and agrees that all liabilities, obligations, rights and benefits of ANE under the Nexen Contract, whether or not specifically addressed in this Agreement, are matched by corresponding liabilities, obligations, rights and benefits under this Agreement. Con Edison assumes responsibility for the corresponding liabilities and obligations, and is entitled to the corresponding rights and benefits, of ANE under the Nexen Contract. The responsibilities, liabilities and obligations of Con Edison under this Agreement are those of Con Edison alone and are not joint or collective obligations with or of other parties. Con Edison hereby indemnifies and holds harmless ANE from the liabilities and obligations of ANE under the Nexen Contract. ANE shall have no obligation to Con Edison under this Agreement other than its obligation to make all of ANE's rights and benefits under the Nexen Contract available to Con Edison as provided herein.

4. Nominations; ANE's Purchase and Resale of Gas and Obligation to Make Capacity Available: Con Edison shall submit nominations for Gas subject to the Monthly Commodity Price, Daily Commodity Price and/or Alternate Commodity Price

to ANE on the Business Day immediately prior to
the Day on which ANE is required to nominate Gas for delivery by Nexen under the
Nexen Contract. Upon acceptance of delivery by Nexen on any Day, ANE shall

immediately resell to Con Edison, and Con Edison shall purchase from ANE, at the Delivery Point, the Scheduled Contract Quantity or such lesser quantity delivered as a result of *Force Majeure* or a Seller Deficiency Default.

5. Charges and Rates; Con Edison's Payment Obligations: It is understood that, pursuant to Section 7.1 of the Nexen Contract, the Contract Price to be paid by ANE to Nexen for each MMBtu of the DCQ will consist of a Demand Charge and, for each MMBtu delivered to the Delivery Point, the Transportation Commodity Charges plus a Monthly Commodity Price, a Daily Commodity Price, or an Alternate Commodity Price. Con Edison shall pay to ANE an amount equal to the amount billed to ANE by Nexen in each month as the Contract Price, fuel charges or other amounts due under the Nexen Contract. In addition, Con Edison shall pay all costs and expenses incurred by ANE in any contract month in connection with the Nexen Contract, including but not limited to all administrative and operating expenses, legal fees, taxes and duties.

6. Invoices and Payments: ANE shall render a monthly invoice to Con Edison for all amounts due pursuant to Section 5, promptly after ANE's receipt of its monthly invoice from Nexen. Payment by Con Edison of the amount due shall be made in U.S. dollars to the account specified in Attachment 1 at or before 11 a.m. Eastern Standard Time on the Payment Date. If the correct amounts are not paid by Con Edison when due, Con Edison shall pay Interest on the unpaid portion of the invoice from the date due to the date payment is made in full. If Nexen exercises its right to suspend service, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount attributable to Nexen's exercise of its right to terminate the Nexen Contract as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement. Con Edison shall have the right in good faith to dispute the amount of any invoice or part thereof rendered to it by ANE. If the dispute involves an amount that has been billed to ANE by Nexen, Con Edison shall pay to ANE such amounts as it concedes to be correct and ANE shall promptly declare a dispute to Nexen. After a final determination of the amount properly due and owing by ANE to Nexen, Con Edison shall timely pay to ANE the amount, if any, found to be due. If the dispute does not involve an amount which has been billed by Nexen to ANE, Con Edison shall pay the full amount of the invoice which is, in whole or part, subject to the dispute. Any amount later determined not to be due to ANE by Con Edison shall be reimbursed to Con Edison by ANE, together with such interest as ANE is able, using commercially reasonable efforts, to recover from third parties to whom such amounts were paid.

7. Representations and Warranties; Possession, Title, and Risk of Loss; Financial Assurances: Con Edison makes to ANE the representations and warranties made by ANE to Nexen pursuant to Section 3.1 of the Nexen Contract. Sections 6.1, 6.2 and 7.6 of the Nexen Contract are hereby incorporated in this Agreement mutatis mutandis. Should Nexen require Adequate Assurance of Performance from Con Edison pursuant to Section 7.6(a) of the Nexen Contract, such Adequate Assurance of Performance shall be furnished timely and directly to Nexen by Con Edison in accordance with Section 7.6(a) of the Nexen Contract. If Con Edison does not timely

furnish such Adequate Assurance of Performance and Nexen exercises its right to suspend service pursuant to Section 7.6(b) of the Nexen Contract, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract pursuant to Section 7.6(b) of the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement.

8. Term: This Agreement shall be effective from the date of execution hereof and shall remain in full force and effect for the entire term and duration of the Nexen Contract.

9.

10. Assignment: Con Edison may assign its rights, benefits, liabilities and obligations under this Agreement to a third party, subject to Nexen's consent. ANE shall, if requested by Con Edison, assign to Con Edison ANE's rights, benefits, liabilities and obligations under the Nexen Contract as long as Con Edison meets the Minimum Rating or posts Adequate Assurance of Performance. Con Edison expressly agrees that the rights conferred by this Agreement on ANE may be assigned by ANE to Nexen.

11. Miscellaneous: Sections 11, 12, 13, 14.1, 14.2, 14.3, 14.4, 14.5, 14.7, 14.8, 14.9, 14.10, 14.11 and 14.13 of the Nexen Contract are hereby incorporated in this Agreement mutatis mutandis. This Agreement sets forth all understandings and agreements among the parties respecting the subject matter hereof, and all prior agreements, understandings and representations, whether written or oral, respecting the subject matter hereof are merged into and superseded by this Agreement, with the exception of the Assignment and Consent Agreement (ANE/Con Edison/Nexen). This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an originally executed copy, and it shall not be necessary in making proof of this Agreement to produce all of such counterparts.

12. Notices: Any notice permitted or required under this Agreement shall be in writing and delivered by facsimile or email to the persons at the addresses specified in Attachment 1 hereto.

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New York, Inc.

Alberta Northeast Gas Limited

Per: 

Per: _____

Name Printed: Terry Agriss

Name Printed: _____

Title: Vice President-Energy Management

Title: _____

js 3/10/00

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New
York, Inc.

Alberta Northeast Gas Limited

Per: _____

Per: Michael S. Lucy

Name Printed: _____

Name Printed: MICHAEL S. Lucy

Title: _____

Title: PRESIDENT

**ATTACHMENT 1 to BACK TO BACK AGREEMENT (ANE/NEXEN CONTRACT)
NOTICES AND COMMUNICATIONS**

NOTICES TO ANE:

Alberta Northeast Gas Limited
c/o Northeast Gas Markets, L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 10915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

PAYMENTS TO ANE:

NOTICES TO CON EDISON:

Consolidated Edison Company of New York,
Inc.
4 Irving Place
Room 1300-S
New York, New York 10003
Telephone No.: (212) 460-4898
Facsimile: (212) 538-8254

PAYMENTS TO CON EDISON:

BILLING AND ACCOUNTING MATTERS:
ANE

c/o Northeast Gas Markets L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 10915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

CONFIRMATIONS:

ANE

Facsimile No.

AFTER HOUR NOTICES:

BILLING AND ACCOUNTING MATTERS:
CON EDISON

Attn: Gas Accounting and Contract
Administration Attn. Cleon Dawes
Telephone No. (212) 460-6473
Facsimile No. (917) 534-4081
E-Mail: dawesc@coned.com ;
maurices@coned.com

CONFIRMATIONS:

CON EDISON

Facsimile No.

AFTER HOUR NOTICES:

DICKSTEINSHAPIRO_{LLP}

1825 Eye Street NW | Washington, DC 20006-5403
TEL (202) 420-2200 | FAX (202) 420-2201 | dicksteinshapiro.com

September 24, 2007

By Email and U.S. Mail

larine.moore@hq.doe.gov

Larine A. Moore
Docket Room Manager
Natural Gas Regulatory Activities
Office of Fossil Energy
(FE-34) Room 3E-042,
1000 Independence Avenue, S.W.
U.S. Department of Energy
Washington, D.C. 20585

Re: Consolidated Edison Company of New York, Inc.
DOE/FE Order No. 2282 (granting long-term authorization
to import and export natural gas from and to Canada)
FE Docket No. 06-53-NG

Dear Ms. Moore:

We have enclosed for informational purposes, pursuant to 10 C.F.R. § 590.407, a copy of letter of acknowledgement dated July 13, 2007 and executed in connection with the contracts underlying the above-referenced authorization. The letter is an acknowledgement by the parties to those contracts that Consolidated Edison Company of New York, Inc. ("Con Edison") has been and will be acting under the agreements for itself and as agent for Orange and Rockland Utilities, Inc. This acknowledgement does not concern a matter that is contrary to, or not permitted by, Con Edison's existing import authority and thus this informational filing requires no specific action by OFE.

If you have any questions about this matter, please contact me. Thank you for your attention.

Very truly yours,



Joan M. Darby
Counsel
Dickstein Shapiro LLP
Attorneys for Alberta Northeast Gas Limited,
acting as agent for Consolidated Edison
Company of New York, Inc.



Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York NY 10003
www.conEd.com

July 13, 2007

TO: Signatories to the March 13, 2006 (i) Long Haul Term Gas Supply Agreement (Nexen Marketing ("Nexen") and Alberta Northeast Gas Limited ("ANE")); (ii) Back to Back Agreement (ANE and Con Edison); and (iii) Assignment and Consent Agreement (ANE, Nexen and Con Edison)

FROM: Consolidated Edison Company of New York, Inc. ("Con Edison")

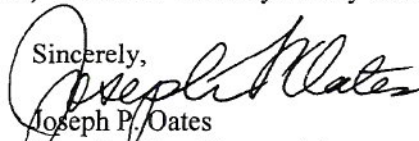
Subject: Acknowledgement of Name Change in Above-Stated Agreements

Con Edison requests your assistance in executing an acknowledgment relating to the above-named agreements to which your firm is a party. In July 1999, Con Edison's parent, CEI, acquired Orange and Rockland Utilities, Inc. ("O&R") and, with the approval of the New York Public Service Commission, established a joint portfolio with Con Edison designated as its administrator (with authorization to execute gas purchase contracts on O&R's behalf). From that point forward, Con Edison sought to execute all new gas supply agreements in the names of both companies as joint purchasers. Through an administrative oversight, when Con Edison entered into the above-described agreements we neglected to include O&R's name as a joint purchaser with Con Edison.

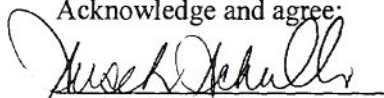
Therefore, for the sake of good order, would you kindly have the appropriate person in your firm sign and return to me one copy of this letter acknowledging and agreeing that Con Edison has been and will be acting under each of the three agreements described above as of March 13, 2006 for itself and as agent for O&R. Specifically, in each place where Con Edison's name appears, it is acknowledged to mean: Consolidated Edison Company of New York, Inc., for itself and as agent for Orange and Rockland Utilities, Inc.

Con Edison requests that you kindly address this matter at your earliest convenience. If you have any questions, please call either Paul A. Olmsted, Director-Gas Supply, at (212) 460-4898, or Jeff Futter, our counsel, at (212) 460-3933. Thank you very much for your prompt attention to this.

Sincerely,


Joseph P. Oates
Vice President-Energy Management

Acknowledge and agree:


Nexen Marketing


Kenneth S. Heywood
Assistant Secretary

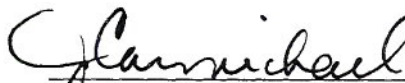

Alberta Northeast Gas Limited

EXHIBIT "C" to LONG HAUL TERM GAS SUPPLY AGREEMENT
PROVISIONS OF ACCEPTABLE LETTER OF CREDIT

LETTER OF CREDIT PROVISIONS

Adequate Assurance of Performance in the form of a Letter of Credit, provided by one party ("X") for the benefit of the other ("Y") pursuant to Section 7.6(a)(i)(A) of this Agreement, shall provide as follows:

- (a)
 - (i) the Letter of Credit shall have an initial term of one year, which shall automatically renew for successive one-year terms, unless the issuer of the Letter of Credit, by the date ninety (90) Days prior to the expiry of any such term (or a shorter notice period required by the issuer), provides written notice of its intent not to renew the outstanding Letter of Credit to Y;
 - (ii) the issuer of the Letter of Credit must honor Y's properly documented request to draw on the Letter of Credit within two (2) Business Days of presentation of the request to draw; and,
 - (iii) if the Letter of Credit shall expire during an interruption of business of the issuer of such Letter of Credit arising from a cause or circumstance referenced in Article 17 of the Uniform Customs and Practice for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500 (as such Article may be amended from time to time), the issuer of such Letter of Credit shall specifically agree to honor drafts drawn on such Letter of Credit if they are presented to the bank within thirty (30) Days after the issuer's resumption of business from such interruption and such drawings are otherwise in compliance with the terms and conditions of such Letter of Credit.
- (b) upon or at any time after the occurrence of an Event of Default or an Early Termination Date, in either case with respect to X as the Defaulting Party, Y may draw upon the Letter of Credit in an amount that is equal to all amounts that are due and owing from X but have not been paid to Y within the time allowed for such payments under the Long Haul Term Gas Supply Agreement between Nexen Marketing and Alberta Northeast Gas Limited dated _____, 2006, including, but not limited to, the Net Settlement Amount as provided therein. A drawing may be made on the Letter of Credit upon submission to the bank issuing the Letter of Credit of one or more certificates of Y in accordance with the specific requirements of the Letter of Credit.

Exhibit C

EXECUTION COPY

BACK TO BACK AGREEMENT
ANE/NEXEN CONTRACT

This Agreement is made as of this 13th day of March, 2006, by and between Alberta Northeast Gas Limited, a Canadian corporation ("ANE"), and Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison").

WHEREAS, Con Edison has authorized ANE to execute the Long Haul Term Gas Supply Agreement ("Nexen Contract") between ANE and Nexen Marketing, an Alberta partnership ("Nexen"); and

WHEREAS, the natural gas to be purchased by ANE pursuant to the Nexen Contract will be immediately resold by ANE to Con Edison; and

WHEREAS, Con Edison desires, as an inducement to Nexen to enter into the Nexen Contract, to support ANE's obligations under the Nexen Contract.

NOW THEREFORE, in consideration of the mutual covenants and benefits herein provided, it is hereby agreed as follows:

1. Definitions: All capitalized terms not defined herein shall have the meanings assigned to them in the Nexen Contract.

2. Nexen DCO and TransCanada Capacity: Pursuant to the Nexen Contract, ANE has contracted for the purchase of 40,000 MMBtu of natural gas per day at the Delivery Point (the "Nexen DCQ").

3. Obligations and Rights of Parties Generally: Con Edison, by execution of this Agreement, acknowledges and agrees that all liabilities, obligations, rights and benefits of ANE under the Nexen Contract, whether or not specifically addressed in this Agreement, are matched by corresponding liabilities, obligations, rights and benefits under this Agreement. Con Edison assumes responsibility for the corresponding liabilities and obligations, and is entitled to the corresponding rights and benefits, of ANE under the Nexen Contract. The responsibilities, liabilities and obligations of Con Edison under this Agreement are those of Con Edison alone and are not joint or collective obligations with or of other parties. Con Edison hereby indemnifies and holds harmless ANE from the liabilities and obligations of ANE under the Nexen Contract. ANE shall have no obligation to Con Edison under this Agreement other than its obligation to make all of ANE's rights and benefits under the Nexen Contract available to Con Edison as provided herein.

4. Nominations; ANE's Purchase and Resale of Gas and Obligation to Make Capacity Available: Con Edison shall submit nominations for Gas subject to the Monthly Commodity Price, Daily Commodity Price and/or Alternate Commodity Price

to ANE on the Business Day immediately prior to the Day on which ANE is required to nominate Gas for delivery by Nexen under the Nexen Contract. Upon acceptance of delivery by Nexen on any Day, ANE shall

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immediately resell to Con Edison, and Con Edison shall purchase from ANE, at the Delivery Point, the Scheduled Contract Quantity or such lesser quantity delivered as a result of *Force Majeure* or a Seller Deficiency Default.

5. Charges and Rates; Con Edison's Payment Obligations: It is understood that, pursuant to Section 7.1 of the Nexen Contract, the Contract Price to be paid by ANE to Nexen for each MMBtu of the DCQ will consist of a Demand Charge and, for each MMBtu delivered to the Delivery Point, the Transportation Commodity Charges plus a Monthly Commodity Price, a Daily Commodity Price, or an Alternate Commodity Price. Con Edison shall pay to ANE an amount equal to the amount billed to ANE by Nexen in each month as the Contract Price, fuel charges or other amounts due under the Nexen Contract. In addition, Con Edison shall pay all costs and expenses incurred by ANE in any contract month in connection with the Nexen Contract, including but not limited to all administrative and operating expenses, legal fees, taxes and duties.

6. Invoices and Payments: ANE shall render a monthly invoice to Con Edison for all amounts due pursuant to Section 5, promptly after ANE's receipt of its monthly invoice from Nexen. Payment by Con Edison of the amount due shall be made in U.S. dollars to the account specified in Attachment 1 at or before 11 a.m. Eastern Standard Time on the Payment Date. If the correct amounts are not paid by Con Edison when due, Con Edison shall pay Interest on the unpaid portion of the invoice from the date due to the date payment is made in full. If Nexen exercises its right to suspend service, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount attributable to Nexen's exercise of its right to terminate the Nexen Contract as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement. Con Edison shall have the right in good faith to dispute the amount of any invoice or part thereof rendered to it by ANE. If the dispute involves an amount that has been billed to ANE by Nexen, Con Edison shall pay to ANE such amounts as it concedes to be correct and ANE shall promptly declare a dispute to Nexen. After a final determination of the amount properly due and owing by ANE to Nexen, Con Edison shall timely pay to ANE the amount, if any, found to be due. If the dispute does not involve an amount which has been billed by Nexen to ANE, Con Edison shall pay the full amount of the invoice which is, in whole or part, subject to the dispute. Any amount later determined not to be due to ANE by Con Edison shall be reimbursed to Con Edison by ANE, together with such interest as ANE is able, using commercially reasonable efforts, to recover from third parties to whom such amounts were paid.

7. Representations and Warranties; Possession, Title, and Risk of Loss; Financial Assurances: Con Edison makes to ANE the representations and warranties made by ANE to Nexen pursuant to Section 3.1 of the Nexen Contract. Sections 6.1, 6.2 and 7.6 of the Nexen Contract are hereby incorporated in this Agreement *mutatis mutandis*. Should Nexen require Adequate Assurance of Performance from Con Edison pursuant to Section 7.6(a) of the Nexen Contract, such Adequate Assurance of Performance shall be furnished timely and directly to Nexen by Con Edison in accordance with Section 7.6(a) of the Nexen Contract. If Con Edison does not timely

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furnish such Adequate Assurance of Performance and Nexen exercises its right to suspend service pursuant to Section 7.6(b) of the Nexen Contract, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract pursuant to Section 7.6(b) of the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement.

8. Term: This Agreement shall be effective from the date of execution hereof and shall remain in full force and effect for the entire term and duration of the Nexen Contract.

9.

10. Assignment: Con Edison may assign its rights, benefits, liabilities and obligations under this Agreement to a third party, subject to Nexen's consent. ANE shall, if requested by Con Edison, assign to Con Edison ANE's rights, benefits, liabilities and obligations under the Nexen Contract as long as Con Edison meets the Minimum Rating or posts Adequate Assurance of Performance. Con Edison expressly agrees that the rights conferred by this Agreement on ANE may be assigned by ANE to Nexen.

11. Miscellaneous: Sections 11, 12, 13, 14.1, 14.2, 14.3, 14.4, 14.5, 14.7, 14.8, 14.9, 14.10, 14.11 and 14.13 of the Nexen Contract are hereby incorporated in this Agreement mutatis mutandis. This Agreement sets forth all understandings and agreements among the parties respecting the subject matter hereof, and all prior agreements, understandings and representations, whether written or oral, respecting the subject matter hereof are merged into and superseded by this Agreement, with the exception of the Assignment and Consent Agreement (ANE/Con Edison/Nexen). This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an originally executed copy, and it shall not be necessary in making proof of this Agreement to produce all of such counterparts.

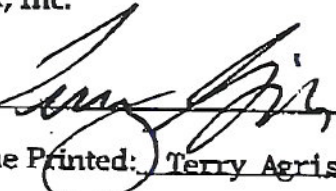
12. Notices: Any notice permitted or required under this Agreement shall be in writing and delivered by facsimile or email to the persons at the addresses specified in Attachment 1 hereto.

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New
York, Inc.

Alberta Northeast Gas Limited

Per: 

Per: _____

Name Printed: Terry Agriss

Name Printed: _____

Title: Vice President-Energy Management

Title: _____

js 3/16/06

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New
York, Inc.

Alberta Northeast Gas Limited

Per: _____

Per: Michael Schuy

Name Printed: _____

Name Printed: MICHAEL Schuy

Title: _____

Title: PRESIDENT

EXECUTION COPY

**ATTACHMENT 1 to BACK TO BACK AGREEMENT (ANE/NEXEN CONTRACT)
NOTICES AND COMMUNICATIONS****NOTICES TO ANE:**

Alberta Northeast Gas Limited
c/o Northeast Gas Markets, L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

PAYMENTS TO ANE:**NOTICES TO CON EDISON:**

Consolidated Edison Company of New York,
Inc.
4 Irving Place
Room 1300-S
New York, New York 10003
Telephone No.: (212) 460-4898
Facsimile: (212) 538-8254

PAYMENTS TO CON EDISON:**BILLING AND ACCOUNTING MATTERS:
ANE**

c/o Northeast Gas Markets L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

CONFIRMATIONS:

ANE

Facsimile No.

AFTER HOUR NOTICES:**BILLING AND ACCOUNTING MATTERS:
CON EDISON**

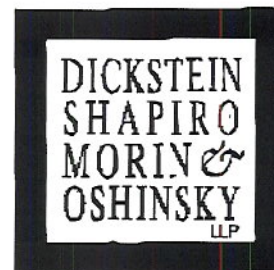
Attn: Gas Accounting and Contract
Administration Attn. Cleon Dawes
Telephone No. (212) 460-6473
Facsimile No. (917) 534-4081
E-Mail: dawesc@coned.com ;
maurices@coned.com

CONFIRMATIONS:

CON EDISON

Facsimile No. |

AFTER HOUR NOTICES:

FAX TRANSMISSION

DATE: June 23, 2006
CLIENT NO.: A3690.0000
MESSAGE TO: Larine Moore
COMPANY: Docket Room Manager, Natural Gas Regulation
FAX NUMBER: (202) 586-6050
PHONE: (202) 586-9478
FROM: Joan Darby
PHONE: 202-572-2745
PAGES (Including Cover Sheet): 44 **HARD COPY TO FOLLOW:** ☐ YES ☐ NO

MESSAGE: Attached please find a copy of the Application of the Application of Consolidated Edison Company of New York, Inc. ("Con Edison") for Long-Term Authorization to Import and Export Natural Gas from and to Canada that was mailed today.

If your receipt of this transmission is in error, please notify this firm immediately by collect call to our Facsimile Department at 202-861-9106, and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526

Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: (202) 775-4783

E-Mail Address: DarbyJ@dsmo.com

June 23, 2006

By Facsimile and U.S. Mail

(202) 586-6050

06-53

Ms. Larine Moore

Docket Room Manager, Natural Gas Regulation

Office for Oil and Gas Global Security

Docket Room 3E-042, FE-34

Fossil Energy, U.S. Department of Energy (FE-34)

PO Box 44375

Washington, D.C. 20026-4375

filed
6/27/06

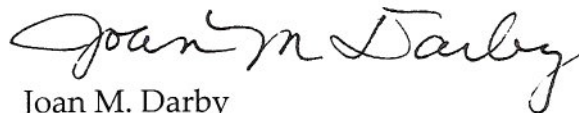
Re: Application of Consolidated Edison Company of New York, Inc.
for Long-Term Authorization to Import and Export Natural Gas
from and to Canada, FE Docket No. 06- -NG

Dear Ms. Moore:

Please find enclosed for filing an original and three copies of the Application of Consolidated Edison Company of New York, Inc. ("Con Edison") for Long-Term Authorization to Import and Export Natural Gas from and to Canada. Also enclosed is a check in the amount of \$50.00, made payable to the U.S. Department of Treasury, for the filing fee.

A copy of Con Edison's application is also being transmitted to you as of the date of this letter by facsimile. Thank you for your assistance.

Sincerely,



Joan M. Darby

Enclosures



Peter A. Irwin
Vice President
Legal Services

Exhibit A

June 16, 2006

Mr. Paul Olmsted
Director – Energy Management
Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York, New York 10003

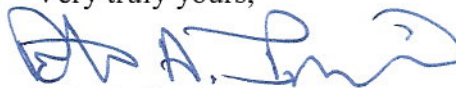
Dear Mr. Olmsted:

I am the Vice President of Legal Services of Consolidated Edison Company of New York (“Con Edison”), and I am a member of the Bar of the State of New York. You have informed me that Con Edison proposes to apply to the U.S. Department of Energy, Office of Fossil Energy for authorization pursuant to Section 3 of the Natural Gas Act to import and export volumes of natural gas from and to Canada. Based on a review of such documents and discussions with such personnel of Con Edison as I considered necessary and appropriate, and for purposes of Exhibit A to Con Edison’s attached Import and Export Application as prescribed by 10 C.F.R. § 590.202(c), I am of the opinion that:

- (i) Con Edison is a corporation duly organized, validly existing, and in good standing under the laws of the State of New York;
- (ii) Con Edison is in compliance in all material respects with applicable rules and regulations of state regulatory authorities in the state in which it operates; and
- (iii) The proposed importation and exportation of natural gas by Con Edison from and to Canada is within the corporate powers of Con Edison.

This letter is being furnished to you solely in connection with the above referenced Application and is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,



Peter A. Irwin

Exhibit B**LONG HAUL TERM GAS SUPPLY AGREEMENT**

THIS AGREEMENT is made effective this 13th day of March, 2006 **BETWEEN:**

Nexen Marketing, an Alberta Partnership, with principal offices in Calgary, Alberta (hereinafter referred to as "SELLER")

and

Alberta Northeast Gas Limited, a Canadian Corporation, with principal offices in Beverly, Massachusetts (hereinafter referred to as "BUYER").

SELLER and BUYER are sometimes hereinafter referred to separately as "Party" and jointly as "Parties".

WHEREAS, SELLER has or will have contracted for certain long haul natural gas transportation capacity to the Delivery Point on NGTL and TransCanada.

WHEREAS, BUYER seeks to purchase certain Firm natural gas supplies.

WHEREAS, SELLER desires to sell certain Firm natural gas supplies.

WHEREAS, BUYER will immediately resell the natural gas supplies purchased hereunder to Consolidated Edison Company of New York, Inc. ("Con Edison") pursuant to the Back to Back Agreement between BUYER and Con Edison and the Consent Agreement between SELLER, BUYER and Con Edison.

WHEREAS, the Parties desire to set forth the terms and conditions applicable to the sale by SELLER and the purchase by BUYER of certain quantities of natural gas.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein SELLER and BUYER mutually agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following capitalized words and phrases have the following meanings:

"10³m³" means the quantity of Gas occupying one thousand cubic metres at a temperature of 15 degrees Celsius and at a pressure of 101.325 kilopascals absolute.

"Agreement" means this Long Haul Term Gas Supply Agreement.

"Alternate Commodity Price" means

"Average Daily Commodity Price" means

"Back to Back Agreement" means that certain agreement titled "Back to Back Agreement (ANE/Nexen Contract)" of even date herewith by and between BUYER and Con Edison.

"Business Day" means any Day, other than a Saturday, Sunday, or a United States or Canadian Federal holiday.

"CCT" means Central Clock Time, which shall be the prevailing time (standard or daylight savings) in the United States Central Time Zone.

"Confirmation" means a completed document substantially in the form of Exhibit "B" confirming Alternate, Monthly and Daily Nominations (other than deemed Nominations) under Section 5.

"Consent Agreement" means that certain agreement titled "Assignment and Consent Agreement (ANE/Con Edison/Nexen)" of even date herewith by and among BUYER, Con Edison and SELLER.

"Contract Price" means

"Conversion Factors" means for Gas stated in 10³m³ to be converted to GJ, NGTL's posted heating value at the Empress border for the Delivery Month and for Gas stated in GJ to be converted to MMBtu, 1.055056 GJ/MMBtu.

"Daily Commodity Price" means

"Daily Contract Quantity" or **"DCQ"** means a quantity of Gas per Day equal to 40,000 MMBtu.

"Day" means a period of twenty-four consecutive hours, beginning at 9:00 a.m. CCT on any calendar day.

"Deemed Yearly Fuel Allowance" means the fuel percentage rate for TransCanada agreed to by the Parties prior to November 1st of each year for a one year period commencing each November 1st, which agreement shall reflect a weighted blending of anticipated fuel percentage rates for TransCanada for each of the winter and summer seasons.

"Deficiency Default" has the meaning set forth in Sections 4.3 and 4.4.

"Deficiency Quantity" has the meaning set forth in Sections 4.3 and 4.4.

"Delivery Month" means the Month in which Gas is or is to be delivered.

"Delivery Point" means a point on the international boundary between Canada and the United States of America at or near the point of interconnection between the facilities of TransCanada and the facilities of Tennessee at or near Niagara Falls, Ontario.

"Demand Charge" means

"Dollars" (and the symbol "\$") means dollars, which shall be designated as U.S. dollars ("US\$") or Canadian Dollars ("CAD\$").

"Effective Date" means the date of this Agreement as hereinabove written.

"Exchange Rate" means the published Bank of Canada noon day rate of exchange for CAD\$/US\$ for the first Business Day of the month following the Delivery Month. The Exchange Rate shall be utilized for all conversions between US\$ and CAD\$.

"Firm" means the Parties' obligations are unconditional except in the event of a *Force Majeure* or where excused by the other Party's failure to perform its obligations hereunder.

"Force Majeure" has the meaning set out in Section 11.

"Gas" means methane and other gaseous hydrocarbons that is consistent with the quality, temperature and pressure standards and specifications of TransCanada and Tennessee, as amended from time to time and approved by jurisdictional regulatory authorities.

"GJ" means 1 gigajoule; 1 gigajoule is equal to one million joules; a joule has the meaning specified in the SI system of units.

"Governmental Body" means a federal, state or provincial governmental agency, regulatory body, or legislature with the authority to approve, change, modify or reject any or all of the terms of this Agreement, the Back to Back Agreement, or the Consent Agreement or with the authority to take any other action which affects performance under this Agreement, the Back to Back Agreement, or the Consent Agreement or to grant or deny permits or licenses necessary therefor.

"Interest" means interest which shall accrue on any amounts owing under this Agreement calculated daily and not compounded for the period of time from the date the payment is due until it is paid, at a rate equal to the Prime Rate as reported in the Money Rates column of the Wall Street Journal on the last Business Day of the preceding month, plus one percent, divided by 365.

"Market Disruption Event" means, with respect to a price index, any of the following events: (i) the failure of the price source to announce or publish information necessary for determining the Alternate Commodity Price, the Monthly Commodity Price, the Daily Commodity Price, or the Average Daily Commodity Price; (ii) the failure of trading to commence or the discontinuation or material suspension of trading in the relevant commodity on the exchange or market acting as the price source; (iii) the

discontinuance or unavailability of the price source; or (iv) the closing of any exchange acting as the price source.

"MMBtu" means one million British thermal units; a British thermal unit has the same meaning as the International Btu ("Btu(IT)").

"Month" means a period of time beginning at 9:00 a.m. CCT on the first Day of any calendar month and ending at 9:00 a.m. CCT on the first Day of the next calendar month.

"Monthly Commodity Price" means

"Monthly Fuel Over or Under Collection" means the positive or negative difference obtained when the Deemed Yearly Fuel Allowance is subtracted from the fuel percentage rate effective on TransCanada for the Delivery Month.

"NGTL" means Nova Gas Transmission Limited, a subsidiary of TransCanada, or any successor thereto.

"Period of Delivery" means the period commencing at 9:00 a.m. CCT on November 1, 2006 and ending at 9:00 a.m. CCT on November 1, 2009.

"Reference Price" means, in the case of a Seller Deficiency Default, the price stated in US\$/MMBtu at which BUYER obtains gas in substitution for the Seller Deficiency Quantity at the Delivery Point and, in the case of a Buyer Deficiency Default, the price stated in US\$/MMBtu at which SELLER sells the Buyer Deficiency Quantity at the Delivery Point; and in either case, the Conversion Factors and Exchange Rate shall be utilized for any required conversions.

"Replacement Price Differential" means, in the event of a Seller Deficiency Default, the positive difference, if any, obtained by subtracting the Contract Price from the Reference Price, and, in the event of a Buyer Deficiency Default, the positive difference, if any, obtained by subtracting such Reference Price from the Contract Price.

"Scheduled Contract Quantity" means the sum of the Alternate Nomination, Monthly Nomination, and Daily Nomination as determined under Section 5.

"Taxes" means all *ad valorem*, property, occupation, severance, consumption, production, gathering, pipeline, utility, gross production, gross receipts, sales, use, excise and other taxes, governmental charges, licenses, permits and assessments, other than taxes based on excess profits, net income or net worth.

"Tennessee" means Tennessee Gas Pipeline Company.

"TransCanada" means TransCanada PipeLines Limited, or any successor thereto.

"TransCanada Capacity" means 40,000 MMBtu per Day of long haul Firm natural gas transportation capacity on the mainline pipeline facilities of TransCanada from Empress, Alberta to Niagara Falls, Ontario for which SELLER has or will have contracted on a year-to-year renewable basis.

"Transportation Commodity Charges" means

1.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, whether written or oral, existing at the date hereof between the Parties concerning such subject matter. No amendment, modification or change to this Agreement shall be enforceable unless executed in writing by both Parties.

1.3 BUYER and Con Edison. It is acknowledged and agreed that BUYER will immediately resell the natural gas supplies to be purchased by BUYER from SELLER hereunder to Con Edison.

2. **TERM**

2.1 Term. This Agreement shall be in force and effect as of the Effective Date and shall continue in full force and effect for a period ending at 9:00 a.m. CCT on November 1, 2009, unless earlier terminated pursuant to the terms hereof. Deliveries of the Scheduled Contract Quantity shall commence at 9:00 a.m. CCT on the first Day of the Period of Delivery.

3. REPRESENTATIONS AND WARRANTIES

- 3.1 Representations. Each Party, with respect to itself, hereby represents and warrants to the other Party that, as of the Effective Date: (i) there are no suits, proceedings, judgements or orders by or before any court or any Governmental Body that materially adversely affect its ability to perform this Agreement or the rights of the other Party under this Agreement; (ii) subject to Section 8.1, it has the legal right, power and authority to conduct its business, to execute and deliver this Agreement and to perform its obligations hereunder; (iii) the making and performance of this Agreement are within its powers and do not and will not violate any provision of law or any rule, regulation, order, writ, judgement, decree or other determination presently in effect applicable to it or any provision of its governing documents, except any such violations which would not have a material adverse effect; (iv) this Agreement constitutes a legal, valid, and binding act and obligation of it, enforceable against it, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally; and (v) there are no bankruptcy, insolvency, reorganization, receivership or other proceedings pending, or being contemplated by it or, to its knowledge, threatened against it.

- 3.2 Warranty. SELLER warrants that it shall at the time of delivery have good title to and/or the full right and authority to sell good and merchantable title to all Gas delivered by SELLER to BUYER hereunder, and that such Gas is free and clear from all liens and adverse claims accruing prior to delivery of such Gas to BUYER. SELLER warrants that it shall as of November 1, 2009 (or such earlier date as may be required by the terms of this Agreement) have good title to the TransCanada Capacity on a year-to-year renewable basis and the full right and authority to permanently assign such TransCanada Capacity to BUYER and/or Con Edison as required by the terms of this Agreement free and clear of all liens and adverse claims accruing prior to the effective date of any such assignment.

4. **QUANTITY OBLIGATIONS**

- 4.1 BUYER's Purchase Obligation. BUYER shall purchase and receive from SELLER at the Delivery Point, on a Firm basis each Day during the Period of Delivery, a quantity of Gas equal to the Scheduled Contract Quantity. Con Edison shall be the importer of Gas into the United States.
- 4.2 SELLER's Sales Obligation. SELLER shall sell and deliver to BUYER at the Delivery Point, on a Firm basis each Day during the Period of Delivery, a quantity of gas equal to the Scheduled Contract Quantity. BUYER shall be the exporter of Gas from Canada.
- 4.3 BUYER's Failure to Receive. If on any Day during the Period of Delivery, BUYER fails to purchase and receive the Scheduled Contract Quantity for such Day at the Delivery Point and such failure is not excused by SELLER's non-performance or pursuant to an event of *Force Majeure*, then such occurrence shall constitute a "Buyer Deficiency Default," and the difference between the Scheduled Contract Quantity for such Day and the quantity of Gas purchased and received by BUYER for such Day is the "Buyer Deficiency Quantity." For further clarity, a reduction of an Alternate Nomination or a Monthly Nomination in accordance with Section 5.3 shall not constitute a Buyer Deficiency Default. In the event of a Buyer Deficiency Default, BUYER shall pay SELLER an amount equal to the product of the Buyer Deficiency Quantity multiplied by the Replacement Price Differential, pursuant to the invoicing and payment provisions set forth in Sections 7.1(b) and 7.2 (respectively), provided that SELLER has used commercially reasonable efforts to sell the Buyer Deficiency Quantity at the market price that will result in the least amount of damages being incurred. If a Buyer Deficiency Default continues unabated for three (3) consecutive Days or five (5) or more cumulative Days in any thirty (30) Day period, such event shall be an Event of Default hereunder and SELLER may, at

its sole option, at any time within fifteen (15) Days after the conclusion of either such period, give written notice to BUYER, to terminate this Agreement otherwise in accordance with the provisions of Section 7.6.

- 4.4 SELLER's Failure to Deliver. If on any Day during the Period of Delivery, SELLER fails to sell and deliver BUYER's Scheduled Contract Quantity for such Day at the Delivery Point and such failure is not excused by BUYER's non-performance or pursuant to an event of *Force Majeure*, then such occurrence shall constitute a "Seller Deficiency Default," and the difference between BUYER's Scheduled Contract Quantity for such Day and the quantity of Gas sold and delivered by SELLER is the "Seller Deficiency Quantity." For further clarity, a reduction of an Alternate Nomination or a Monthly Nomination in accordance with Section 5.3 shall not constitute a Seller Deficiency Default. In the event of a Seller Deficiency Default, SELLER shall pay BUYER an amount equal to the product of the Seller Deficiency Quantity multiplied by the Replacement Price Differential, pursuant to the invoicing and payment provisions set forth in Sections 7.1(b) and 7.2 (respectively), provided that BUYER has used commercially reasonable efforts to purchase gas in substitution for the Seller Deficiency Quantity at the market price that will result in the least amount of damages being incurred. If a Seller Deficiency Default continues unabated for three (3) consecutive Days or five (5) or more cumulative Days in any thirty (30) Day period, such event shall be an Event of Default hereunder and BUYER may, at its sole option, at any time within fifteen (15) Days after the conclusion of either such period, give written notice to SELLER to terminate this Agreement otherwise in accordance with the provisions of Section 7.6.
- 4.5 Priority of Deliveries. For purposes of Sections 4.3, 4.4 and 11.1, all Gas not delivered and/or received shall be accounted for as follows: the category or categories of Gas not delivered and/or received shall be deemed to be first the Daily Nomination, then the Monthly Nomination, and last the Alternate Nomination(s), as such terms are defined in Section 5.
- 4.6 Market Disruption Event. If a Market Disruption Event occurs on any Day, the Parties shall promptly and in good faith negotiate a substitute for the Alternate Commodity Price, Monthly Commodity Price, Daily Commodity Price, or Average Daily Commodity Price, as applicable (or method for determining a substitute for such Price) for the affected Day or Days. If a substitute is not so determined by the third (3rd) Business Day after the Day on which the Market Disruption Event first occurred, then on or before the fifth (5th) Business Day after the Day on which the Market Disruption Event first occurred, each Party shall obtain in good faith and transmit to the other Party up to three quotes from

leading dealers for the sale of Gas in the relevant market and the Parties together shall determine the substitute by averaging all such quotes if four or fewer or, if more than four, averaging the remaining quotes after discarding the highest and lowest.

- 4.7 Redetermination of a Price Index. If a price index required to calculate the Monthly Commodity Price, Daily Commodity Price, Average Daily Commodity Price or the Alternate Commodity Price permanently ceases to be available or a Market Disruption Event affecting such price index continues for seven (7) Days, and no successor price index is identified or generally accepted within the industry, the Parties shall promptly and in good faith negotiate a replacement index for such price index (the "Replacement Price Index"). If the Parties cannot agree on a substitute methodology or price index by the end of the first Month in which a price index ceases to be available, then within ten (10) Days of the end of such Month, each Party shall prepare and submit simultaneously to the other Party a list, numbered in order of preference, of up to five alternate published reference postings or prices representative of spot prices for Gas delivered in or near the point of the price index to be replaced. The Replacement Price Index shall be the index that appears on both Parties' lists and for which the sum of the numbers indicating each Party's order of preference is the lowest; in the event that such sums are the same for two indices, then the choice between the two will be determined by lot. If no index appears on both Parties' lists, then within ten (10) Days of the most recent exchange of lists, each Party shall prepare and submit a new list adding two indices. This procedure shall be repeated until a Replacement Price Index is determined. If either Party fails to provide timely a list, the Replacement Price Index shall be the index listed first on the other Party's list. For the first half of the period from and after the date the price index ceases to be available until the date that the Replacement Price Index is determined, the price index shall be the last price index available, and for the second half of such period, the price index shall be the Replacement Price Index.
- 4.8 Conversion to an Alternate Commodity Price. BUYER and SELLER may agree to convert the Monthly Commodity Price to a fixed or basis differential price in the following manner. BUYER may transmit to SELLER by facsimile or email a notice specifying (a) the quantity of Gas for which BUYER elects to convert the price (the "Alternate Price Quantity," which quantity may not exceed the DCQ); (b) the term for which such conversion shall be in effect (which may not be in excess of the term of this Agreement); and (c) the fixed or basis differential price which BUYER proposes for such quantity and term. Upon receipt of such notice, SELLER shall transmit to BUYER by facsimile or email a notice of its quote of a fixed or basis differential price for the Alternate Price Quantity and term. Upon

provision of such quotes, the Parties shall negotiate in good faith with the objective of agreeing upon a price based upon the quotes exchanged. Any such agreement of the Parties regarding what constitutes the Alternate Commodity Price for the Alternate Price Quantity for the agreed term shall be reflected in a writing executed by both Parties.

5. OPERATIONS AND DELIVERY

5.1 BUYER's Nominations to SELLER.

- 5.2 Nomination Stipulations. Unless otherwise agreed by BUYER and SELLER, the sum of BUYER's Alternate, Monthly and Daily Nominations shall not exceed the DCQ. Subject to Section 5.3, once BUYER's Alternate, Monthly and Daily Nominations are made or deemed to be made by BUYER, BUYER is obligated to take the nominated quantity on a Firm basis for the respective period for which each is nominated.

- 5.4 Measurement. The volume and energy content of the Gas sold hereunder shall be measured at the Delivery Point by TransCanada. SELLER shall (a) provide notice to BUYER at such time as it receives notice, if any, from TransCanada that the measurement equipment is to be tested and, if agreed by TransCanada, permit BUYER to attend such testing and (b) procure from TransCanada, upon reasonable request by BUYER therefor, the results of any measurement equipment testing performed at the Delivery Point during the term of this Agreement. If at any time any inaccuracy in such measurement equipment is found, it shall be resolved in accordance with the TransCanada and Tennessee tariffs.

6. POSSESSION AND TITLE

- 6.1 Title Transfer and Indemnity. SELLER shall be responsible for any injury or damage caused by the Gas delivered hereunder up to and including the time it is delivered to BUYER at the Delivery Point. Following delivery of Gas to BUYER at the Delivery Point, BUYER shall be responsible for any injury or damage caused thereby. Title to Gas delivered hereunder shall pass from SELLER to BUYER at the Delivery Point.
- 6.2 Risk of Loss. SELLER and BUYER each assume full responsibility and liability for, and shall indemnify and hold harmless the other Party from all losses,

liabilities or claims (including reasonable legal fees and costs of Court), arising from any act or incident related to the Gas occurring when title to the Gas is vested in the indemnifying Party, except to the extent such act or incident was caused by the gross negligence or wilful misconduct of the other Party.

7. BILLING AND PAYMENT

7.1 Invoice Date and Charges.

- (a) By the 10th Day of the Month immediately following the Delivery Month, SELLER shall invoice BUYER for Gas which was delivered and received in the Delivery Month and for any applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. Such amount due shall be the sum of:

together with any other amounts due under this Agreement and reflecting any credits or debits required under this Agreement, including those required pursuant to Section 5.3. The Parties agree that the intent of the foregoing provisions with respect to the cost of fuel on TransCanada is that SELLER will be fully compensated by BUYER for such cost of fuel. If the actual quantity of Gas delivered is not available by such billing date, billing will be prepared based on the Scheduled Contract Quantity, and the invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

- (b) After either a Seller Deficiency Default or a Buyer Deficiency Default occurs, the non-defaulting Party shall provide to the other Party a detailed statement ("Deficiency Default Statement") setting forth the amount due

for such default and the basis upon which the amount was calculated pursuant to either Section 4.3 or Section 4.4. The defaulting Party must notify the other Party of a default no later than five (5) Business Days after the date such Party became aware of the default and the non-defaulting Party shall provide a Deficiency Default Statement no later than the tenth Day of the Month following the Month of the Deficiency Default.

- 7.2 Payment Date. Subject to Section 7.4, BUYER shall pay amounts BUYER owes and SELLER shall pay amounts SELLER owes as set forth in invoices and/or statements under Section 7.1 no later than the Payment Date. For invoices rendered under Section 7.1(a), "Payment Date" means the later of the twenty-fifth Day of the Month following the Delivery Month or the Day fifteen (15) Days after receipt of the invoice, provided that if the Payment Date is not a Business Day, payment is due on the next following Business Day, provided further that if the Payment Date falls on a Friday which is not a Business Day, BUYER shall use commercially reasonable efforts to make payment on the immediately preceding Business Day. For Deficiency Default Statements rendered under Section 7.1(b), "Payment Date" means the fifth Business Day after the defaulting Party receives the Deficiency Default Statement. All payments invoiced under Section 7.1 shall be made in immediately available funds by electronic funds transfer to the payee's account designated on Exhibit "A" hereto.
- 7.3 Late Payment. If the invoiced Party fails to remit the full amount payable when due under this Agreement, Interest on the unpaid portion shall accrue from the date payment was due until the date payment is made in full.
- 7.4 Invoice Disputes. If the invoiced Party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced Party will pay such amount as it concedes to be correct; provided however if the invoiced Party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. A Party shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other Party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment or computation made under the Agreement. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Agreement. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within

two years after the Delivery Month. All retroactive adjustments under this Section 7 shall be paid in full by the Party owing payment within 30 Days of notice and substantiation of such inaccuracy.

7.5 Billing/Payment Address. Billings, payments and statements shall be made to the accounts or the addresses specified in Exhibit "A" hereto, as may be amended from time to time.

7.6 Financial Responsibility.

(a) For the purposes of this Section 7.6(a), any reference to a Party includes a reference to (i) SELLER, (ii) BUYER only in the event that BUYER is requesting Adequate Assurance of Performance or BUYER is the Non-Defaulting Party (as defined hereinafter), (iii) Con Edison and (iv) any other party providing Adequate Assurance of Performance (as defined hereinafter). If a Party becomes Materially Weaker (as defined hereinafter) or a Designated Event (as defined hereinafter) occurs with respect to that Party, causing the resulting, surviving or transferee entity to become Materially Weaker, the other Party may demand Adequate Assurance of Performance, whether or not an Event of Default or another event of non-performance has occurred, which Adequate Assurance of Performance shall be provided by the Party by the end of the second Business Day after a demand is received.

(i) "Adequate Assurance of Performance" shall mean sufficient security in the form, amount, term and from an issuer reasonably acceptable to the Party requesting same, including, but not limited to

(A) a standby irrevocable letter of credit issued by a U.S. commercial bank or the New York branch of a Canadian Bank with such bank having credit rating of at least "A" from Standard & Poor's ("S&P") and "A3" from Moody's Investor Service ("Moody's") (Exhibit "C" sets forth provisions of an acceptable letter of credit);

(B) a guaranty from a third party having a minimum credit rating on its senior unsecured long-term debt (not supported by third-party enhancement) of at least "BBB-" from S&P and "Baa3" from Moody's and not on Credit Watch with a Negative Outlook or other similar terminology (the "Minimum Rating") and, in instances where a third party is rated by only one of the two rating agencies, only the

minimum credit rating specified above for that agency must be satisfied; or

- (C) a cash deposit or prepayment.
- (ii) "Materially Weaker" shall mean, for the purposes of this Section 7.6(a), where X refers to a Party, the senior long-term unsecured debt (not supported by third-party enhancement) or deposits of X, or in the event of reorganization, the resulting, surviving or transferee entity of X, is or are, as the case may be, rated less than the Minimum Rating as defined in Section 7.6(a)(i)(B). If X is not rated by either of the above agencies during the term of this Agreement, it shall be deemed to be Materially Weaker and be required to provide Adequate Assurance of Performance.
- (iii) "Designated Event" shall mean:
 - (A) X consolidates, reorganizes, amalgamates or merges with, or transfers all or substantially all its assets to, or receives all or substantially all the assets or obligations of, another entity; or
 - (B) any person or entity acquires directly or indirectly the beneficial ownership of equity securities having the power to elect a majority of the board of directors of X; or
 - (C) X effects any substantial change in its capital structure by means of the issuance or occurrence of debt or preferred stock or other securities convertible into or exchangeable for, debt or preferred stock; or
 - (D) X enters into any agreement providing for any of the foregoing.

If a Party (or its guarantor) that initially satisfied the Minimum Rating (as defined in Section 7.6(a)(i)(B)) is subsequently downgraded below the Minimum Rating that Party must provide Adequate Assurance of Performance to the other Party within forty-eight (48) hours but at least one Business Day of receiving the other Party's request for same or the other Party shall have the right to immediately terminate this Agreement under Section 7.6(c) and, in the case of BUYER, shall also have the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of

such TransCanada Capacity, effective immediately. Any failure by either Party to exercise its rights (as set forth above) at the first available opportunity shall not be construed as a waiver of such rights (unless expressly done so in writing) and shall not preclude either Party from exercising them at a later time.

- (b) In the event (each an "Event of Default") either Party (the "Defaulting Party") or its guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other Party with respect to any obligation(s) to provide or establish for, or on behalf of, a Party any Adequate Assurance of Performance; (vii) not have paid any amount due the other Party hereunder on or before the second Business Day following written Notice that such payment is due; (viii) fail to receive or deliver Gas for the specified period set forth in Section 4.3 or Section 4.4, respectively; or (ix) fail to perform any other material obligation to the other Party under this Agreement; then the other Party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate this Agreement, in the manner provided in Section 7.6(c), in addition to any and all other remedies available hereunder (which for BUYER shall include the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity), effective upon the Early Termination Date as defined in Section 7.6(c).
- (c) If an Event of Default has occurred, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 7.6(c)(i) of this Agreement.

- (i) As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each Party with respect to all Gas delivered and received between the Parties under this Agreement on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Sections 4.3 or 4.4), for which payment has not yet been made by the Party that owes such payment under this Agreement and (ii) the Market Value, as defined below, of this Agreement. The Non-Defaulting Party shall (x) liquidate this Agreement at its Market Value, so that the difference between the Market Value and the Contract Value, as defined below, shall be due to the BUYER if such Market Value exceeds the Contract Value and to the SELLER if the opposite is the case; and (y) discount the amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to this Agreement). For purposes of this Section 7.6(c)(i), "Contract Value" means the amount of Gas remaining to be delivered or purchased under this Agreement multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under this Agreement multiplied by the market price for a similar long haul supply agreement at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A Party shall not be required to enter into a replacement agreement(s) in order to determine the Market Value. Any extension of the term of this Agreement to which Parties are not bound as of the Early Termination Date shall not be considered in determining Contract Value and Market Value. For the avoidance of doubt, any option pursuant to which one Party has the right to extend the term of this Agreement shall not be considered in determining Contract Value and Market Value. The rate of interest

used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

- (ii) The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the Parties under Section 7.6(c)(i), so that all such amounts are netted or aggregated to a single liquidated amount payable by one Party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff (i) any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any obligation(s) to provide or establish for, or on behalf of, a Party any Adequate Assurance of Performance; or (ii) any Net Settlement Amount payable to the Defaulting Party against any amount(s) payable by the Defaulting Party to the Non-Defaulting Party under any other agreement or arrangement between SELLER and BUYER provided that BUYER is acting therein on behalf of Con Edison.
- (iii) If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 7.6(c)(ii) is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 7.6(c)(ii) shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.
- (d) As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount shall accrue from the date due until the date of payment.

- (e) The Non-Defaulting Party's remedies under this Section 7.6 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date except that BUYER shall have the right as provided in this Agreement to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity. Each Party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Agreement.

8. REGULATION

- 8.1 Regulatory Approval. Implementation of the terms and conditions of this Agreement is subject to receipt and acceptance, not to be unreasonably withheld, of all necessary authorizations for SELLER to remove Gas from Alberta, export authorizations for BUYER from the National Energy Board of Canada and import authorizations for Con Edison from the U.S. Department of Energy Office of Fossil Energy on or before October 1, 2006 or such later date as may be mutually agreed upon for good cause by SELLER and BUYER.
- 8.2 Other Events. If a Party's or Con Edison's activities under this Agreement, the Back to Back Agreement and/or the Consent Agreement (the "Affected Party") become subject to new law or regulation or a change in law or regulation which renders this Agreement, the Back to Back Agreement and/or the Consent Agreement illegal or incapable of being performed, or an event of *Force Majeure* continues unabated for at least 30 consecutive Days, then the Affected Party (or, in the case of an unabated *Force Majeure*, either Party) may elect, by written notice to the other Party, to terminate this Agreement immediately, provided, however, that, if SELLER is the Affected Party or Party entitled to the benefit of the provision of *Force Majeure*, then BUYER shall have the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity, effective upon the termination.

9. NOTICE

Address for and Receipt of Notices. All notices and communications made pursuant to this Agreement shall be in writing and transmitted as specified in Exhibit "A" and shall, if transmitted and confirmed by facsimile, telecopier, or other similar form of telecommunication or by email during normal business

hours, be deemed to have been given or made on the Day on which so transmitted and, if sent by overnight courier and delivery is confirmed, or, if mailed by registered or certified mail, return receipt requested, be deemed to have been given or made on the Day on which delivered.

10. **TRANSFER OR ASSIGNMENT**

10.1 Transfer or Assignment. Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by security or otherwise) by either Party without the prior written consent of the other Party (such consent shall not be unreasonably withheld), except that a Party may make such transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to another entity (but without prejudice to any other right or remedy under this Agreement) provided that the aforesaid entity has a credit rating equal to or greater than that of the transferring Party or otherwise is of greater or equal creditworthiness as the transferring Party. Notwithstanding the foregoing, BUYER shall have the right to assign this Agreement and all of its interests and obligations hereunder to Con Edison as long as Con Edison meets the Minimum Rating or posts Adequate Assurance of Performance.

10.2 Enurement. This Agreement shall enure to and be binding upon the successors and permitted assigns of the Parties hereto.

11. **FORCE MAJEURE**

11.1 Suspension for Force Majeure. For the purposes of this Section 11, in the case of SELLER, "Party" and "SELLER" shall mean Nexen Marketing and, in the case of BUYER, "Party" and "BUYER" shall mean Alberta Northeast Gas Limited or Con Edison. Except with regard to a Party's obligation to make payment(s) due under Section 7 and for imbalances, imbalance charges or penalties under Section 13, neither Party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by *Force Majeure*. The term "*Force Majeure*" as employed herein means any cause not reasonably within the control of the Party claiming suspension, as further defined in Section 11.2.

11.2 Events Constituting Force Majeure. "*Force Majeure*" shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe or storms or storm

warnings, such as hurricanes, which result in evacuation of such entire geographic region; (iii) interruption and/or curtailment of Firm transportation and/or storage by TransCanada or Tennessee; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, terrorist attacks, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. SELLER and BUYER shall make reasonable efforts to avoid the adverse impacts of a *Force Majeure* and to resolve the event or occurrence once it has occurred in order to resume performance.

- 11.3 Obligations of Parties During *Force Majeure*. Neither Party shall be entitled to the benefit of the provisions of *Force Majeure* to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the Party claiming excuse failed to use reasonable efforts to overcome the condition or otherwise failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, SELLER's ability to sell Gas at a higher or more advantageous price than the Contract Price or BUYER's ability to purchase Gas at a lower or more advantageous price than the Contract Price; (iv) the loss of BUYER's market(s) or BUYER's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; (v) the loss or failure of SELLER's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2; or (vi) partial or entire failure of specific wells, including without limitation, well blow outs and well craterings. The Party claiming *Force Majeure* shall not be excused from its responsibility for imbalances, imbalance charges or penalties under Section 13 related to its interruption after the nomination is made to TransCanada, in the case of SELLER, and to Tennessee, in the case of BUYER, and until the change in deliveries and/or receipts is confirmed by the respective transporter.
- 11.4 Industrial Disturbances. Notwithstanding anything to the contrary herein, the Parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance.
- 11.5 Notice of *Force Majeure*. The Party whose performance is prevented by *Force Majeure* must provide Notice to the other Party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written

Notice of *Force Majeure* to the other Party, the affected Party will be relieved of its obligation, from the onset of the *Force Majeure* event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of *Force Majeure*, and neither Party shall be deemed to have failed in such obligations to the other during such occurrence or event; provided, however, that in the event of a *Force Majeure* affecting some, but not all of SELLER's gas supplies accessible at the Delivery Point, BUYER, at a minimum, shall be entitled to a pro rata allocation of any gas supplies delivered to SELLER's Firm buyers at the Delivery Point and any failure by SELLER to make such allocation and deliveries shall not be excusable by *Force Majeure*.

12. TAXES

Allocation of and Indemnity for Taxes. The Contract Price includes and SELLER is liable for and shall pay, all Taxes applicable to the Gas sold hereunder that may be imposed prior to its delivery at the Delivery Point. SELLER shall reimburse BUYER for all Taxes paid on behalf of SELLER by BUYER. The Contract Price does not include and BUYER is liable for and shall pay, all Taxes applicable to Gas sold hereunder that may be imposed at or after delivery at the Delivery Point, including any goods and services tax ("GST") due under the *Excise Tax Act* (Canada). BUYER shall reimburse SELLER for all such Taxes paid on behalf of BUYER by SELLER. BUYER represents and warrants to SELLER that, unless BUYER notifies SELLER to the contrary, BUYER will comply with the requirements of the *Excise Tax Act* (Canada) for a zero-rated export of the Gas sold hereunder, and such Gas will be invoiced by SELLER on a zero-rated (i.e. no GST payable) basis.

13. IMBALANCES

Responsibility for Imbalances. Subject to Section 11.3, the Party causing (or Party whose pipeline transporter causes) a pipeline imbalance, imbalance or variance charge, or a pipeline-imposed penalty shall be responsible for, liable for and shall indemnify the other Party from such imbalances, charges or penalties.

14. MISCELLANEOUS

- 14.1 Winding Up Arrangements. Upon termination of this Agreement, any monies due and owing shall be promptly paid pursuant to the terms hereof. Notwithstanding the termination of this Agreement, the provisions respecting liabilities and indemnities which have accrued prior to the effective date of such termination and provisions respecting confidentiality, maintenance of records,

audit rights and settlement of accounts, shall continue in full force and effect in accordance with their terms.

- 14.2 Non-Waiver. No waiver by either Party of any default by the other in the performance of any provisions of this Agreement shall be construed as a waiver of any other default whether of a like or different nature. Except as otherwise expressly stated herein, failure of a Party to complain of any act or to declare the other Party in default, or to elect to terminate this Agreement, regardless of how long such failure continues, shall not constitute a waiver thereof until the applicable statute of limitations period has expired.
- 14.3 Severability. Except as otherwise stated herein, if any provision or Section of this Agreement is declared or rendered unlawful by a court of law or Governmental Body or deemed unlawful because of a statutory change, the remaining provisions of this Agreement shall be unaffected.
- 14.4 Headings and Exhibits. The headings used for the Sections herein are for convenience and reference purposes only and shall not affect the meaning or interpretation of the provisions of this Agreement. All Exhibits referenced in this Agreement are hereby incorporated for all purposes.
- 14.5 Record Retention. The Parties shall retain all relevant records throughout the Period of Delivery and for two years thereafter.
- 14.6 Dispute Resolution. Any claim, counterclaim, demand, cause of action, dispute, or controversy arising out of or relating to this Agreement, any provision hereof, or the alleged breach thereof, (collectively the "Claims"), whether such Claims sound in contract, tort, or otherwise, at law or in equity, under provincial, state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding and non-appealable arbitration.

The Parties agree that all disputes arising out of this Agreement shall be determined by final and binding arbitration conducted in accordance with the CPR Institute for Dispute Resolution Rules for Non-Administered Arbitration of International Disputes. The site of the arbitration shall be in New York, and the language of the arbitration shall be in English. The validity, construction, and interpretation of this Agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the Parties' Claims, the arbitrators shall apply the laws of the Province of Alberta, Canada. It is agreed that the Arbitrators shall have no authority to award treble, exemplary or punitive damages or consequential, indirect or incidental damages of any type under any circumstances whether or not such damages may be available under provincial, state or federal law, or

under any applicable Arbitration Act, the Parties hereby waiving their right, if any, to recover any such damages. All awards shall be in writing and shall state the reasoning on which the award rests unless the Parties agree otherwise. The Parties shall bear equally all fees, costs and expenses of the arbitration and each Party shall bear its own legal expenses, attorneys' fees and costs of all experts and witnesses, provided, however, that the arbitration panel may apportion between the Parties the costs incurred by either Party as the arbitration panel may deem equitable.

Within thirty Days of the date one Party notifies the other Party of initiation of the arbitration procedure under this Section, each Party shall select one arbitrator. The two arbitrators shall select a third arbitrator. One of the arbitrators shall be a lawyer. The arbitrators shall take an oath at the first session of the arbitration affirming that that they are neutral and impartial and each of the arbitrators shall be experienced in the resolution of disputes, controversies or claims relating to the subject matter of the dispute.

To the fullest extent permitted by law, any arbitration proceeding and the arbitrators award shall be maintained in confidence by the Parties.

- 14.7 Applicable Law. This Agreement shall be governed by and construed, enforced, and performed in accordance with the laws of the Province of Alberta, Canada, without regard to principles of conflicts of law.
- 14.8 Further Assurances. Each of the Parties shall during the term of this Agreement, on a reasonable written request to do so, do all such further acts and execute and deliver or cause to be done, executed or delivered all such further acts, deeds, documents, assurances and things as may be reasonably required in order to perform the terms of this Agreement.
- 14.9 Confidentiality. Each Party agrees that it will maintain this Agreement, and all parts and contents thereof, in strict confidence, and that it will not cause or permit disclosure of same to any third-party without the express written consent of the other Party; provided that disclosure by a Party is permitted in the event and to the extent:
- (1) such Party is required by a court or agency exercising jurisdiction over the subject matter hereof, by order or regulation or law, to disclose; provided that in the event either Party becomes aware of a judicial or administrative proceeding that has resulted or may result in such a requirement or need to disclose, it shall (A) so notify the other Party immediately, (B) utilize all reasonably available means to limit the scope of the required disclosure,

and (C) take all actions reasonably necessary to prevent disclosure to the public as a result of disclosure to the court or administrative body;

- (2) disclosure is necessary to obtain transportation of the Gas covered by this Agreement;
- (3) disclosure of information to such third-party is for the sole purpose of calculating a published index price;
- (4) disclosure is required to implement capacity assignment programs; or
- (5) disclosure is required in the course of routine audit procedures or to enforce the provisions of the Agreement.

14.10 Electronic Recording. Each Party agrees that the other Party may at its option electronically record, without any additional notice, all telephone conversations between the officers, employees or agents of the Parties under this Agreement.

14.11 Disclosure of Tax Treatment. Notwithstanding anything to the contrary, each Party to this Agreement (and each employee, representative or other agent of such Party for so long as they remain an employee, representative or agent) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction contemplated herein (the "Transaction") and all materials of any kind (including opinions or other analysis) that are provided to such Party relating to such tax treatment or tax structure; provided, however, that any such disclosure may not be made (a) until the earlier of (i) the date of the public announcement of the discussions relating to the Transaction, (ii) the date of the public announcement of the Transaction, or (iii) the date of the execution of this Agreement (with or without conditions) and (b) to the extent required to be kept confidential to comply with any applicable securities laws. Nothing in this Agreement, or any other agreement between the Parties hereto express or implied, shall be construed as limiting in any way the ability of either Party to consult with any tax adviser (including a tax adviser independent from all other entities involved in the Transaction) regarding the tax treatment or tax structure of the Transaction.

14.12 Type of Parties. To the extent that this Agreement shall constitute a "commodity contract" or an "OTC derivative" pursuant to the *Securities Act* (Alberta) or the *Securities Act* (British Columbia), SELLER represents that it, and BUYER represents that it and Con Edison, is a "Qualified Party" within the meaning of Paragraph 9.1 of the Alberta Securities Commission Blanket Order 91-502 and Paragraph 1.1 of the British Columbia Securities Commission Blanket Order BOR #91-501.

- 14.13 Restrictions. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION (UNLESS THE THIRD PARTY CLAIMANT OBTAINS A JUDGEMENT FOR SUCH) OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.
- 14.14 Counterparts. This Agreement is executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Per: _____

Name Printed

Title

Alberta Northeast Gas Limited

Per: _____

Michael S. Lucy

MICHAEL S. Lucy
Name Printed

PRESIDENT
Title

Acknowledged by:

Consolidated Edison Company of New
York, Inc.

Per: _____

Name Printed

Title

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Alberta Northeast Gas Limited

Per: Janet E. Vellutini

Janet E. Vellutini
Vice President,
Natural Gas Marketing

Name Printed
Susan L. Schulli
Susan L. Schulli
General Counsel

Title

Per: _____

Name Printed

Title

Acknowledged by:

Consolidated Edison Company of New
York, Inc.

Per: _____

Name Printed

Title

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Alberta Northeast Gas Limited

Per: _____

Per: _____

Name Printed

Name Printed

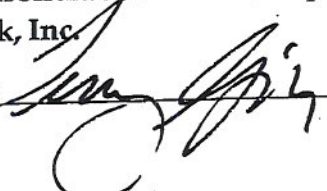
Title

Title

Acknowledged by:

**Consolidated Edison Company of New
York, Inc.**

Per: _____

 *ms 3/12/06*

Terry Agriss

Name Printed

Vice President-Energy Management

Title

EXHIBIT "A" to LONG HAUL TERM GAS SUPPLY AGREEMENT
NOTICES AND COMMUNICATIONS

NOTICES TO BUYER:

Alberta Northeast Gas Limited
c/o Northeast Gas Markets, L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

NOTICES TO SELLER:

Nexen Marketing
801 – 7 Avenue S.W. (Suite 1700)
Calgary, Alberta T2P 3P7
Telephone No. (403) 699-4088/5724
Facsimile No. (403) 699-5701
E-mail: sharron_roberts@nexeninc.com

PAYMENTS TO BUYER:

PAYMENTS TO SELLER:

BILLING AND ACCOUNTING MATTERS:
BUYER

c/o Northeast Gas Markets L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

BILLING AND ACCOUNTING MATTERS:
SELLER

Nexen Marketing
801 – 7 Avenue S.W. (Suite 1700)
Calgary, Alberta T2P 3P7
Telephone No. (403) 699-4221
Facsimile No. (403) 699-5705
E-mail: terry_ohara@nexeninc.com ;
amin_alibhai@nexeninc.com

CONFIRMATIONS:

BUYER

Facsimile No.

CONFIRMATIONS:

SELLER

Facsimile No.

AFTER HOUR NOTICES:

AFTER HOUR NOTICES:

CONFIRMATION FOR IMMEDIATE DELIVERY

Letterhead/Logo	Date: _____, ____ Confirmation #: _____
This Confirmation is under the Long Haul Term Gas Supply Agreement ("Agreement") between Buyer and Seller dated _____, 2006.	
SELLER: _____ Attn: _____ Phone: _____ Fax: _____ Transporter: _____ TransporterContractNumber: _____	BUYER: _____ Attn: _____ Phone: _____ Fax: _____ Transporter: _____ Transporter Contract Number: _____
Special Conditions: 	
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____

EXHIBIT "C" to LONG HAUL TERM GAS SUPPLY AGREEMENT
PROVISIONS OF ACCEPTABLE LETTER OF CREDIT

LETTER OF CREDIT PROVISIONS

Adequate Assurance of Performance in the form of a Letter of Credit, provided by one party ("X") for the benefit of the other ("Y") pursuant to Section 7.6(a)(i)(A) of this Agreement, shall provide as follows:

- (a)
 - (i) the Letter of Credit shall have an initial term of one year, which shall automatically renew for successive one-year terms, unless the issuer of the Letter of Credit, by the date ninety (90) Days prior to the expiry of any such term (or a shorter notice period required by the issuer), provides written notice of its intent not to renew the outstanding Letter of Credit to Y;
 - (ii) the issuer of the Letter of Credit must honor Y's properly documented request to draw on the Letter of Credit within two (2) Business Days of presentation of the request to draw; and,
 - (iii) if the Letter of Credit shall expire during an interruption of business of the issuer of such Letter of Credit arising from a cause or circumstance referenced in Article 17 of the Uniform Customs and Practice for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500 (as such Article may be amended from time to time), the issuer of such Letter of Credit shall specifically agree to honor drafts drawn on such Letter of Credit if they are presented to the bank within thirty (30) Days after the issuer's resumption of business from such interruption and such drawings are otherwise in compliance with the terms and conditions of such Letter of Credit.
- (b) upon or at any time after the occurrence of an Event of Default or an Early Termination Date, in either case with respect to X as the Defaulting Party, Y may draw upon the Letter of Credit in an amount that is equal to all amounts that are due and owing from X but have not been paid to Y within the time allowed for such payments under the Long Haul Term Gas Supply Agreement between Nexen Marketing and Alberta Northeast Gas Limited dated _____, 2006, including, but not limited to, the Net Settlement Amount as provided therein. A drawing may be made on the Letter of Credit upon submission to the bank issuing the Letter of Credit of one or more certificates of Y in accordance with the specific requirements of the Letter of Credit.

BACK TO BACK AGREEMENT
ANE/NEXEN CONTRACT

This Agreement is made as of this 13th day of March, 2006, by and between Alberta Northeast Gas Limited, a Canadian corporation ("ANE"), and Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison").

WHEREAS, Con Edison has authorized ANE to execute the Long Haul Term Gas Supply Agreement ("Nexen Contract") between ANE and Nexen Marketing, an Alberta partnership ("Nexen"); and

WHEREAS, the natural gas to be purchased by ANE pursuant to the Nexen Contract will be immediately resold by ANE to Con Edison; and

WHEREAS, Con Edison desires, as an inducement to Nexen to enter into the Nexen Contract, to support ANE's obligations under the Nexen Contract.

NOW THEREFORE, in consideration of the mutual covenants and benefits herein provided, it is hereby agreed as follows:

1. Definitions: All capitalized terms not defined herein shall have the meanings assigned to them in the Nexen Contract.

2. Nexen DCQ and TransCanada Capacity: Pursuant to the Nexen Contract, ANE has contracted for the purchase of 40,000 MMBtu of natural gas per day at the Delivery Point (the "Nexen DCQ").

3. Obligations and Rights of Parties Generally: Con Edison, by execution of this Agreement, acknowledges and agrees that all liabilities, obligations, rights and benefits of ANE under the Nexen Contract, whether or not specifically addressed in this Agreement, are matched by corresponding liabilities, obligations, rights and benefits under this Agreement. Con Edison assumes responsibility for the corresponding liabilities and obligations, and is entitled to the corresponding rights and benefits, of ANE under the Nexen Contract. The responsibilities, liabilities and obligations of Con Edison under this Agreement are those of Con Edison alone and are not joint or collective obligations with or of other parties. Con Edison hereby indemnifies and holds harmless ANE from the liabilities and obligations of ANE under the Nexen Contract. ANE shall have no obligation to Con Edison under this Agreement other than its obligation to make all of ANE's rights and benefits under the Nexen Contract available to Con Edison as provided herein.

4. Nominations; ANE's Purchase and Resale of Gas and Obligation to Make Capacity Available: Con Edison shall submit nominations for Gas subject to the Monthly Commodity Price, Daily Commodity Price and/or Alternate Commodity Price

to ANE on the Business Day immediately prior to the Day on which ANE is required to nominate Gas for delivery by Nexen under the Nexen Contract. Upon acceptance of delivery by Nexen on any Day, ANE shall

DICKSTEINSHAPIRO_{LLP}

1825 Eye Street NW | Washington, DC 20006-5403
TEL (202) 420-2200 | FAX (202) 420-2201 | dicksteinshapiro.com

September 24, 2007

By Email and U.S. Mail

larine.moore@hq.doe.gov

Larine A. Moore
Docket Room Manager
Natural Gas Regulatory Activities
Office of Fossil Energy
(FE-34) Room 3E-042,
1000 Independence Avenue, S.W.
U.S. Department of Energy
Washington, D.C. 20585

Re: Consolidated Edison Company of New York, Inc.
DOE/FE Order No. 2282 (granting long-term authorization
to import and export natural gas from and to Canada)
FE Docket No. 06-53-NG

Dear Ms. Moore:

We have enclosed for informational purposes, pursuant to 10 C.F.R. § 590.407, a copy of letter of acknowledgement dated July 13, 2007 and executed in connection with the contracts underlying the above-referenced authorization. The letter is an acknowledgement by the parties to those contracts that Consolidated Edison Company of New York, Inc. ("Con Edison") has been and will be acting under the agreements for itself and as agent for Orange and Rockland Utilities, Inc. This acknowledgement does not concern a matter that is contrary to, or not permitted by, Con Edison's existing import authority and thus this informational filing requires no specific action by OFE.

If you have any questions about this matter, please contact me. Thank you for your attention.

Very truly yours,



Joan M. Darby
Counsel
Dickstein Shapiro LLP
Attorneys for Alberta Northeast Gas Limited,
acting as agent for Consolidated Edison
Company of New York, Inc.



Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York NY 10003
www.conEd.com

July 13, 2007

TO: Signatories to the March 13, 2006 (i) Long Haul Term Gas Supply Agreement (Nexen Marketing ("Nexen") and Alberta Northeast Gas Limited ("ANE")); (ii) Back to Back Agreement (ANE and Con Edison); and (iii) Assignment and Consent Agreement (ANE, Nexen and Con Edison)

FROM: Consolidated Edison Company of New York, Inc. ("Con Edison")

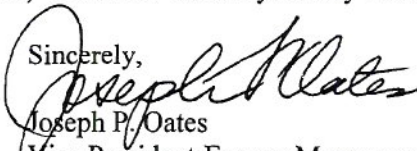
Subject: Acknowledgement of Name Change in Above-Stated Agreements

Con Edison requests your assistance in executing an acknowledgment relating to the above-named agreements to which your firm is a party. In July 1999, Con Edison's parent, CEI, acquired Orange and Rockland Utilities, Inc. ("O&R") and, with the approval of the New York Public Service Commission, established a joint portfolio with Con Edison designated as its administrator (with authorization to execute gas purchase contracts on O&R's behalf). From that point forward, Con Edison sought to execute all new gas supply agreements in the names of both companies as joint purchasers. Through an administrative oversight, when Con Edison entered into the above-described agreements we neglected to include O&R's name as a joint purchaser with Con Edison.

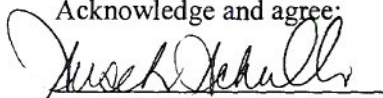
Therefore, for the sake of good order, would you kindly have the appropriate person in your firm sign and return to me one copy of this letter acknowledging and agreeing that Con Edison has been and will be acting under each of the three agreements described above as of March 13, 2006 for itself and as agent for O&R. Specifically, in each place where Con Edison's name appears, it is acknowledged to mean: Consolidated Edison Company of New York, Inc., for itself and as agent for Orange and Rockland Utilities, Inc.

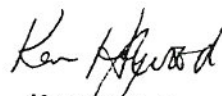
Con Edison requests that you kindly address this matter at your earliest convenience. If you have any questions, please call either Paul A. Olmsted, Director-Gas Supply, at (212) 460-4898, or Jeff Futter, our counsel, at (212) 460-3933. Thank you very much for your prompt attention to this.

Sincerely,


Joseph P. Oates
Vice President-Energy Management

Acknowledge and agree:


Nexen Marketing


Kenneth S. Heywood
Assistant Secretary

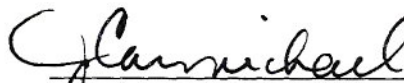

Alberta Northeast Gas Limited

EXHIBIT "C" to LONG HAUL TERM GAS SUPPLY AGREEMENT
PROVISIONS OF ACCEPTABLE LETTER OF CREDIT

LETTER OF CREDIT PROVISIONS

Adequate Assurance of Performance in the form of a Letter of Credit, provided by one party ("X") for the benefit of the other ("Y") pursuant to Section 7.6(a)(i)(A) of this Agreement, shall provide as follows:

- (a)
 - (i) the Letter of Credit shall have an initial term of one year, which shall automatically renew for successive one-year terms, unless the issuer of the Letter of Credit, by the date ninety (90) Days prior to the expiry of any such term (or a shorter notice period required by the issuer), provides written notice of its intent not to renew the outstanding Letter of Credit to Y;
 - (ii) the issuer of the Letter of Credit must honor Y's properly documented request to draw on the Letter of Credit within two (2) Business Days of presentation of the request to draw; and,
 - (iii) if the Letter of Credit shall expire during an interruption of business of the issuer of such Letter of Credit arising from a cause or circumstance referenced in Article 17 of the Uniform Customs and Practice for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500 (as such Article may be amended from time to time), the issuer of such Letter of Credit shall specifically agree to honor drafts drawn on such Letter of Credit if they are presented to the bank within thirty (30) Days after the issuer's resumption of business from such interruption and such drawings are otherwise in compliance with the terms and conditions of such Letter of Credit.
- (b) upon or at any time after the occurrence of an Event of Default or an Early Termination Date, in either case with respect to X as the Defaulting Party, Y may draw upon the Letter of Credit in an amount that is equal to all amounts that are due and owing from X but have not been paid to Y within the time allowed for such payments under the Long Haul Term Gas Supply Agreement between Nexen Marketing and Alberta Northeast Gas Limited dated _____, 2006, including, but not limited to, the Net Settlement Amount as provided therein. A drawing may be made on the Letter of Credit upon submission to the bank issuing the Letter of Credit of one or more certificates of Y in accordance with the specific requirements of the Letter of Credit.

Exhibit C

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BACK TO BACK AGREEMENT
ANE/NEXEN CONTRACT

This Agreement is made as of this 13th day of March, 2006, by and between Alberta Northeast Gas Limited, a Canadian corporation ("ANE"), and Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison").

WHEREAS, Con Edison has authorized ANE to execute the Long Haul Term Gas Supply Agreement ("Nexen Contract") between ANE and Nexen Marketing, an Alberta partnership ("Nexen"); and

WHEREAS, the natural gas to be purchased by ANE pursuant to the Nexen Contract will be immediately resold by ANE to Con Edison; and

WHEREAS, Con Edison desires, as an inducement to Nexen to enter into the Nexen Contract, to support ANE's obligations under the Nexen Contract.

NOW THEREFORE, in consideration of the mutual covenants and benefits herein provided, it is hereby agreed as follows:

1. Definitions: All capitalized terms not defined herein shall have the meanings assigned to them in the Nexen Contract.

2. Nexen DCO and TransCanada Capacity: Pursuant to the Nexen Contract, ANE has contracted for the purchase of 40,000 MMBtu of natural gas per day at the Delivery Point (the "Nexen DCQ").

3. Obligations and Rights of Parties Generally: Con Edison, by execution of this Agreement, acknowledges and agrees that all liabilities, obligations, rights and benefits of ANE under the Nexen Contract, whether or not specifically addressed in this Agreement, are matched by corresponding liabilities, obligations, rights and benefits under this Agreement. Con Edison assumes responsibility for the corresponding liabilities and obligations, and is entitled to the corresponding rights and benefits, of ANE under the Nexen Contract. The responsibilities, liabilities and obligations of Con Edison under this Agreement are those of Con Edison alone and are not joint or collective obligations with or of other parties. Con Edison hereby indemnifies and holds harmless ANE from the liabilities and obligations of ANE under the Nexen Contract. ANE shall have no obligation to Con Edison under this Agreement other than its obligation to make all of ANE's rights and benefits under the Nexen Contract available to Con Edison as provided herein.

4. Nominations; ANE's Purchase and Resale of Gas and Obligation to Make Capacity Available: Con Edison shall submit nominations for Gas subject to the Monthly Commodity Price, Daily Commodity Price and/or Alternate Commodity Price

to ANE on the Business Day immediately prior to the Day on which ANE is required to nominate Gas for delivery by Nexen under the Nexen Contract. Upon acceptance of delivery by Nexen on any Day, ANE shall

EXECUTION COPY

immediately resell to Con Edison, and Con Edison shall purchase from ANE, at the Delivery Point, the Scheduled Contract Quantity or such lesser quantity delivered as a result of *Force Majeure* or a Seller Deficiency Default.

5. Charges and Rates; Con Edison's Payment Obligations: It is understood that, pursuant to Section 7.1 of the Nexen Contract, the Contract Price to be paid by ANE to Nexen for each MMBtu of the DCQ will consist of a Demand Charge and, for each MMBtu delivered to the Delivery Point, the Transportation Commodity Charges plus a Monthly Commodity Price, a Daily Commodity Price, or an Alternate Commodity Price. Con Edison shall pay to ANE an amount equal to the amount billed to ANE by Nexen in each month as the Contract Price, fuel charges or other amounts due under the Nexen Contract. In addition, Con Edison shall pay all costs and expenses incurred by ANE in any contract month in connection with the Nexen Contract, including but not limited to all administrative and operating expenses, legal fees, taxes and duties.

6. Invoices and Payments: ANE shall render a monthly invoice to Con Edison for all amounts due pursuant to Section 5, promptly after ANE's receipt of its monthly invoice from Nexen. Payment by Con Edison of the amount due shall be made in U.S. dollars to the account specified in Attachment 1 at or before 11 a.m. Eastern Standard Time on the Payment Date. If the correct amounts are not paid by Con Edison when due, Con Edison shall pay Interest on the unpaid portion of the invoice from the date due to the date payment is made in full. If Nexen exercises its right to suspend service, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount attributable to Nexen's exercise of its right to terminate the Nexen Contract as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement. Con Edison shall have the right in good faith to dispute the amount of any invoice or part thereof rendered to it by ANE. If the dispute involves an amount that has been billed to ANE by Nexen, Con Edison shall pay to ANE such amounts as it concedes to be correct and ANE shall promptly declare a dispute to Nexen. After a final determination of the amount properly due and owing by ANE to Nexen, Con Edison shall timely pay to ANE the amount, if any, found to be due. If the dispute does not involve an amount which has been billed by Nexen to ANE, Con Edison shall pay the full amount of the invoice which is, in whole or part, subject to the dispute. Any amount later determined not to be due to ANE by Con Edison shall be reimbursed to Con Edison by ANE, together with such interest as ANE is able, using commercially reasonable efforts, to recover from third parties to whom such amounts were paid.

7. Representations and Warranties; Possession, Title, and Risk of Loss; Financial Assurances: Con Edison makes to ANE the representations and warranties made by ANE to Nexen pursuant to Section 3.1 of the Nexen Contract. Sections 6.1, 6.2 and 7.6 of the Nexen Contract are hereby incorporated in this Agreement *mutatis mutandis*. Should Nexen require Adequate Assurance of Performance from Con Edison pursuant to Section 7.6(a) of the Nexen Contract, such Adequate Assurance of Performance shall be furnished timely and directly to Nexen by Con Edison in accordance with Section 7.6(a) of the Nexen Contract. If Con Edison does not timely

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furnish such Adequate Assurance of Performance and Nexen exercises its right to suspend service pursuant to Section 7.6(b) of the Nexen Contract, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract pursuant to Section 7.6(b) of the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement.

8. Term: This Agreement shall be effective from the date of execution hereof and shall remain in full force and effect for the entire term and duration of the Nexen Contract.

9.

10. Assignment: Con Edison may assign its rights, benefits, liabilities and obligations under this Agreement to a third party, subject to Nexen's consent. ANE shall, if requested by Con Edison, assign to Con Edison ANE's rights, benefits, liabilities and obligations under the Nexen Contract as long as Con Edison meets the Minimum Rating or posts Adequate Assurance of Performance. Con Edison expressly agrees that the rights conferred by this Agreement on ANE may be assigned by ANE to Nexen.

11. Miscellaneous: Sections 11, 12, 13, 14.1, 14.2, 14.3, 14.4, 14.5, 14.7, 14.8, 14.9, 14.10, 14.11 and 14.13 of the Nexen Contract are hereby incorporated in this Agreement mutatis mutandis. This Agreement sets forth all understandings and agreements among the parties respecting the subject matter hereof, and all prior agreements, understandings and representations, whether written or oral, respecting the subject matter hereof are merged into and superseded by this Agreement, with the exception of the Assignment and Consent Agreement (ANE/Con Edison/Nexen). This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an originally executed copy, and it shall not be necessary in making proof of this Agreement to produce all of such counterparts.

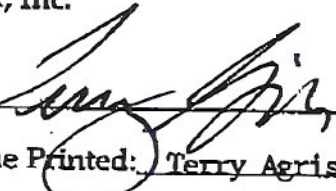
12. Notices: Any notice permitted or required under this Agreement shall be in writing and delivered by facsimile or email to the persons at the addresses specified in Attachment 1 hereto.

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New
York, Inc.

Alberta Northeast Gas Limited

Per: 

Per: _____

Name Printed: Terry Agriss

Name Printed: _____

Title: Vice President-Energy Management

Title: _____

js 3/16/06

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New
York, Inc.

Alberta Northeast Gas Limited

Per: _____

Per: Michael Schuy

Name Printed: _____

Name Printed: MICHAEL Schuy

Title: _____

Title: PRESIDENT

EXECUTION COPY

**ATTACHMENT 1 to BACK TO BACK AGREEMENT (ANE/NEXEN CONTRACT)
NOTICES AND COMMUNICATIONS****NOTICES TO ANE:**

Alberta Northeast Gas Limited
c/o Northeast Gas Markets, L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: msslucy@negm.com ;
mferullo@negm.com

PAYMENTS TO ANE:**NOTICES TO CON EDISON:**

Consolidated Edison Company of New York,
Inc.
4 Irving Place
Room 1300-S
New York, New York 10003
Telephone No.: (212) 460-4898
Facsimile: (212) 538-8254

PAYMENTS TO CON EDISON:**BILLING AND ACCOUNTING MATTERS:
ANE**

c/o Northeast Gas Markets L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: msslucy@negm.com ;
mferullo@negm.com

CONFIRMATIONS:

ANE

Facsimile No.

AFTER HOUR NOTICES:**BILLING AND ACCOUNTING MATTERS:
CON EDISON**

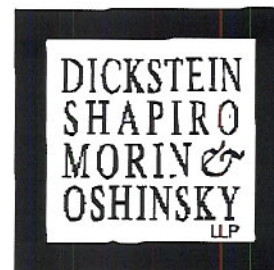
Attn: Gas Accounting and Contract
Administration Attn. Cleon Dawes
Telephone No. (212) 460-6473
Facsimile No. (917) 534-4081
E-Mail: dawesc@coned.com ;
maurices@coned.com

CONFIRMATIONS:

CON EDISON

Facsimile No. |

AFTER HOUR NOTICES:

FAX TRANSMISSION

DATE: June 23, 2006
CLIENT NO.: A3690.0000
MESSAGE TO: Larine Moore
COMPANY: Docket Room Manager, Natural Gas Regulation
FAX NUMBER: (202) 586-6050
PHONE: (202) 586-9478
FROM: Joan Darby
PHONE: 202-572-2745
PAGES (Including Cover Sheet): 44 **HARD COPY TO FOLLOW:** ☐ YES ☐ NO

MESSAGE: Attached please find a copy of the Application of the Application of Consolidated Edison Company of New York, Inc. ("Con Edison") for Long-Term Authorization to Import and Export Natural Gas from and to Canada that was mailed today.

If your receipt of this transmission is in error, please notify this firm immediately by collect call to our Facsimile Department at 202-861-9106, and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526

Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: (202) 775-4783

E-Mail Address: DarbyJ@dsmo.com

June 23, 2006

By Facsimile and U.S. Mail

(202) 586-6050

06-53

Ms. Larine Moore

Docket Room Manager, Natural Gas Regulation

Office for Oil and Gas Global Security

Docket Room 3E-042, FE-34

Fossil Energy, U.S. Department of Energy (FE-34)

PO Box 44375

Washington, D.C. 20026-4375

filed
6/27/06

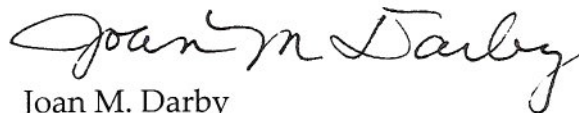
Re: Application of Consolidated Edison Company of New York, Inc.
for Long-Term Authorization to Import and Export Natural Gas
from and to Canada, FE Docket No. 06- -NG

Dear Ms. Moore:

Please find enclosed for filing an original and three copies of the Application of Consolidated Edison Company of New York, Inc. ("Con Edison") for Long-Term Authorization to Import and Export Natural Gas from and to Canada. Also enclosed is a check in the amount of \$50.00, made payable to the U.S. Department of Treasury, for the filing fee.

A copy of Con Edison's application is also being transmitted to you as of the date of this letter by facsimile. Thank you for your assistance.

Sincerely,



Joan M. Darby

Enclosures



Peter A. Irwin
Vice President
Legal Services

Exhibit A

June 16, 2006

Mr. Paul Olmsted
Director – Energy Management
Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York, New York 10003

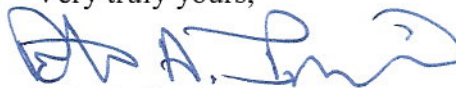
Dear Mr. Olmsted:

I am the Vice President of Legal Services of Consolidated Edison Company of New York (“Con Edison”), and I am a member of the Bar of the State of New York. You have informed me that Con Edison proposes to apply to the U.S. Department of Energy, Office of Fossil Energy for authorization pursuant to Section 3 of the Natural Gas Act to import and export volumes of natural gas from and to Canada. Based on a review of such documents and discussions with such personnel of Con Edison as I considered necessary and appropriate, and for purposes of Exhibit A to Con Edison’s attached Import and Export Application as prescribed by 10 C.F.R. § 590.202(c), I am of the opinion that:

- (i) Con Edison is a corporation duly organized, validly existing, and in good standing under the laws of the State of New York;
- (ii) Con Edison is in compliance in all material respects with applicable rules and regulations of state regulatory authorities in the state in which it operates; and
- (iii) The proposed importation and exportation of natural gas by Con Edison from and to Canada is within the corporate powers of Con Edison.

This letter is being furnished to you solely in connection with the above referenced Application and is not to be used, circulated, quoted or otherwise referred to for any other purpose.

Very truly yours,



Peter A. Irwin

Exhibit B**LONG HAUL TERM GAS SUPPLY AGREEMENT**

THIS AGREEMENT is made effective this 13th day of March, 2006 **BETWEEN:**

Nexen Marketing, an Alberta Partnership, with principal offices in Calgary, Alberta (hereinafter referred to as "SELLER")

and

Alberta Northeast Gas Limited, a Canadian Corporation, with principal offices in Beverly, Massachusetts (hereinafter referred to as "BUYER").

SELLER and BUYER are sometimes hereinafter referred to separately as "Party" and jointly as "Parties".

WHEREAS, SELLER has or will have contracted for certain long haul natural gas transportation capacity to the Delivery Point on NGTL and TransCanada.

WHEREAS, BUYER seeks to purchase certain Firm natural gas supplies.

WHEREAS, SELLER desires to sell certain Firm natural gas supplies.

WHEREAS, BUYER will immediately resell the natural gas supplies purchased hereunder to Consolidated Edison Company of New York, Inc. ("Con Edison") pursuant to the Back to Back Agreement between BUYER and Con Edison and the Consent Agreement between SELLER, BUYER and Con Edison.

WHEREAS, the Parties desire to set forth the terms and conditions applicable to the sale by SELLER and the purchase by BUYER of certain quantities of natural gas.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein SELLER and BUYER mutually agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following capitalized words and phrases have the following meanings:

"10³m³" means the quantity of Gas occupying one thousand cubic metres at a temperature of 15 degrees Celsius and at a pressure of 101.325 kilopascals absolute.

"Agreement" means this Long Haul Term Gas Supply Agreement.

"Alternate Commodity Price" means

"Average Daily Commodity Price" means

"Back to Back Agreement" means that certain agreement titled "Back to Back Agreement (ANE/Nexen Contract)" of even date herewith by and between BUYER and Con Edison.

"Business Day" means any Day, other than a Saturday, Sunday, or a United States or Canadian Federal holiday.

"CCT" means Central Clock Time, which shall be the prevailing time (standard or daylight savings) in the United States Central Time Zone.

"Confirmation" means a completed document substantially in the form of Exhibit "B" confirming Alternate, Monthly and Daily Nominations (other than deemed Nominations) under Section 5.

"Consent Agreement" means that certain agreement titled "Assignment and Consent Agreement (ANE/Con Edison/Nexen)" of even date herewith by and among BUYER, Con Edison and SELLER.

"Contract Price" means

"Conversion Factors" means for Gas stated in 10³m³ to be converted to GJ, NGTL's posted heating value at the Empress border for the Delivery Month and for Gas stated in GJ to be converted to MMBtu, 1.055056 GJ/MMBtu.

"Daily Commodity Price" means

"Daily Contract Quantity" or **"DCQ"** means a quantity of Gas per Day equal to 40,000 MMBtu.

"Day" means a period of twenty-four consecutive hours, beginning at 9:00 a.m. CCT on any calendar day.

"Deemed Yearly Fuel Allowance" means the fuel percentage rate for TransCanada agreed to by the Parties prior to November 1st of each year for a one year period commencing each November 1st, which agreement shall reflect a weighted blending of anticipated fuel percentage rates for TransCanada for each of the winter and summer seasons.

"Deficiency Default" has the meaning set forth in Sections 4.3 and 4.4.

"Deficiency Quantity" has the meaning set forth in Sections 4.3 and 4.4.

"Delivery Month" means the Month in which Gas is or is to be delivered.

"Delivery Point" means a point on the international boundary between Canada and the United States of America at or near the point of interconnection between the facilities of TransCanada and the facilities of Tennessee at or near Niagara Falls, Ontario.

"Demand Charge" means

"Dollars" (and the symbol "\$") means dollars, which shall be designated as U.S. dollars ("US\$") or Canadian Dollars ("CAD\$").

"Effective Date" means the date of this Agreement as hereinabove written.

"Exchange Rate" means the published Bank of Canada noon day rate of exchange for CAD\$/US\$ for the first Business Day of the month following the Delivery Month. The Exchange Rate shall be utilized for all conversions between US\$ and CAD\$.

"Firm" means the Parties' obligations are unconditional except in the event of a *Force Majeure* or where excused by the other Party's failure to perform its obligations hereunder.

"Force Majeure" has the meaning set out in Section 11.

"Gas" means methane and other gaseous hydrocarbons that is consistent with the quality, temperature and pressure standards and specifications of TransCanada and Tennessee, as amended from time to time and approved by jurisdictional regulatory authorities.

"GJ" means 1 gigajoule; 1 gigajoule is equal to one million joules; a joule has the meaning specified in the SI system of units.

"Governmental Body" means a federal, state or provincial governmental agency, regulatory body, or legislature with the authority to approve, change, modify or reject any or all of the terms of this Agreement, the Back to Back Agreement, or the Consent Agreement or with the authority to take any other action which affects performance under this Agreement, the Back to Back Agreement, or the Consent Agreement or to grant or deny permits or licenses necessary therefor.

"Interest" means interest which shall accrue on any amounts owing under this Agreement calculated daily and not compounded for the period of time from the date the payment is due until it is paid, at a rate equal to the Prime Rate as reported in the Money Rates column of the Wall Street Journal on the last Business Day of the preceding month, plus one percent, divided by 365.

"Market Disruption Event" means, with respect to a price index, any of the following events: (i) the failure of the price source to announce or publish information necessary for determining the Alternate Commodity Price, the Monthly Commodity Price, the Daily Commodity Price, or the Average Daily Commodity Price; (ii) the failure of trading to commence or the discontinuation or material suspension of trading in the relevant commodity on the exchange or market acting as the price source; (iii) the

discontinuance or unavailability of the price source; or (iv) the closing of any exchange acting as the price source.

"MMBtu" means one million British thermal units; a British thermal unit has the same meaning as the International Btu ("Btu(IT)").

"Month" means a period of time beginning at 9:00 a.m. CCT on the first Day of any calendar month and ending at 9:00 a.m. CCT on the first Day of the next calendar month.

"Monthly Commodity Price" means

"Monthly Fuel Over or Under Collection" means the positive or negative difference obtained when the Deemed Yearly Fuel Allowance is subtracted from the fuel percentage rate effective on TransCanada for the Delivery Month.

"NGTL" means Nova Gas Transmission Limited, a subsidiary of TransCanada, or any successor thereto.

"Period of Delivery" means the period commencing at 9:00 a.m. CCT on November 1, 2006 and ending at 9:00 a.m. CCT on November 1, 2009.

"Reference Price" means, in the case of a Seller Deficiency Default, the price stated in US\$/MMBtu at which BUYER obtains gas in substitution for the Seller Deficiency Quantity at the Delivery Point and, in the case of a Buyer Deficiency Default, the price stated in US\$/MMBtu at which SELLER sells the Buyer Deficiency Quantity at the Delivery Point; and in either case, the Conversion Factors and Exchange Rate shall be utilized for any required conversions.

"Replacement Price Differential" means, in the event of a Seller Deficiency Default, the positive difference, if any, obtained by subtracting the Contract Price from the Reference Price, and, in the event of a Buyer Deficiency Default, the positive difference, if any, obtained by subtracting such Reference Price from the Contract Price.

"Scheduled Contract Quantity" means the sum of the Alternate Nomination, Monthly Nomination, and Daily Nomination as determined under Section 5.

"Taxes" means all *ad valorem*, property, occupation, severance, consumption, production, gathering, pipeline, utility, gross production, gross receipts, sales, use, excise and other taxes, governmental charges, licenses, permits and assessments, other than taxes based on excess profits, net income or net worth.

"Tennessee" means Tennessee Gas Pipeline Company.

"TransCanada" means TransCanada PipeLines Limited, or any successor thereto.

"TransCanada Capacity" means 40,000 MMBtu per Day of long haul Firm natural gas transportation capacity on the mainline pipeline facilities of TransCanada from Empress, Alberta to Niagara Falls, Ontario for which SELLER has or will have contracted on a year-to-year renewable basis.

"Transportation Commodity Charges" means

1.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, whether written or oral, existing at the date hereof between the Parties concerning such subject matter. No amendment, modification or change to this Agreement shall be enforceable unless executed in writing by both Parties.

1.3 BUYER and Con Edison. It is acknowledged and agreed that BUYER will immediately resell the natural gas supplies to be purchased by BUYER from SELLER hereunder to Con Edison.

2. **TERM**

2.1 Term. This Agreement shall be in force and effect as of the Effective Date and shall continue in full force and effect for a period ending at 9:00 a.m. CCT on November 1, 2009, unless earlier terminated pursuant to the terms hereof. Deliveries of the Scheduled Contract Quantity shall commence at 9:00 a.m. CCT on the first Day of the Period of Delivery.

3. REPRESENTATIONS AND WARRANTIES

- 3.1 Representations. Each Party, with respect to itself, hereby represents and warrants to the other Party that, as of the Effective Date: (i) there are no suits, proceedings, judgements or orders by or before any court or any Governmental Body that materially adversely affect its ability to perform this Agreement or the rights of the other Party under this Agreement; (ii) subject to Section 8.1, it has the legal right, power and authority to conduct its business, to execute and deliver this Agreement and to perform its obligations hereunder; (iii) the making and performance of this Agreement are within its powers and do not and will not violate any provision of law or any rule, regulation, order, writ, judgement, decree or other determination presently in effect applicable to it or any provision of its governing documents, except any such violations which would not have a material adverse effect; (iv) this Agreement constitutes a legal, valid, and binding act and obligation of it, enforceable against it, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally; and (v) there are no bankruptcy, insolvency, reorganization, receivership or other proceedings pending, or being contemplated by it or, to its knowledge, threatened against it.

- 3.2 Warranty. SELLER warrants that it shall at the time of delivery have good title to and/or the full right and authority to sell good and merchantable title to all Gas delivered by SELLER to BUYER hereunder, and that such Gas is free and clear from all liens and adverse claims accruing prior to delivery of such Gas to BUYER. SELLER warrants that it shall as of November 1, 2009 (or such earlier date as may be required by the terms of this Agreement) have good title to the TransCanada Capacity on a year-to-year renewable basis and the full right and authority to permanently assign such TransCanada Capacity to BUYER and/or Con Edison as required by the terms of this Agreement free and clear of all liens and adverse claims accruing prior to the effective date of any such assignment.

4. **QUANTITY OBLIGATIONS**

- 4.1 BUYER's Purchase Obligation. BUYER shall purchase and receive from SELLER at the Delivery Point, on a Firm basis each Day during the Period of Delivery, a quantity of Gas equal to the Scheduled Contract Quantity. Con Edison shall be the importer of Gas into the United States.
- 4.2 SELLER's Sales Obligation. SELLER shall sell and deliver to BUYER at the Delivery Point, on a Firm basis each Day during the Period of Delivery, a quantity of gas equal to the Scheduled Contract Quantity. BUYER shall be the exporter of Gas from Canada.
- 4.3 BUYER's Failure to Receive. If on any Day during the Period of Delivery, BUYER fails to purchase and receive the Scheduled Contract Quantity for such Day at the Delivery Point and such failure is not excused by SELLER's non-performance or pursuant to an event of *Force Majeure*, then such occurrence shall constitute a "Buyer Deficiency Default," and the difference between the Scheduled Contract Quantity for such Day and the quantity of Gas purchased and received by BUYER for such Day is the "Buyer Deficiency Quantity." For further clarity, a reduction of an Alternate Nomination or a Monthly Nomination in accordance with Section 5.3 shall not constitute a Buyer Deficiency Default. In the event of a Buyer Deficiency Default, BUYER shall pay SELLER an amount equal to the product of the Buyer Deficiency Quantity multiplied by the Replacement Price Differential, pursuant to the invoicing and payment provisions set forth in Sections 7.1(b) and 7.2 (respectively), provided that SELLER has used commercially reasonable efforts to sell the Buyer Deficiency Quantity at the market price that will result in the least amount of damages being incurred. If a Buyer Deficiency Default continues unabated for three (3) consecutive Days or five (5) or more cumulative Days in any thirty (30) Day period, such event shall be an Event of Default hereunder and SELLER may, at

its sole option, at any time within fifteen (15) Days after the conclusion of either such period, give written notice to BUYER, to terminate this Agreement otherwise in accordance with the provisions of Section 7.6.

- 4.4 SELLER's Failure to Deliver. If on any Day during the Period of Delivery, SELLER fails to sell and deliver BUYER's Scheduled Contract Quantity for such Day at the Delivery Point and such failure is not excused by BUYER's non-performance or pursuant to an event of *Force Majeure*, then such occurrence shall constitute a "Seller Deficiency Default," and the difference between BUYER's Scheduled Contract Quantity for such Day and the quantity of Gas sold and delivered by SELLER is the "Seller Deficiency Quantity." For further clarity, a reduction of an Alternate Nomination or a Monthly Nomination in accordance with Section 5.3 shall not constitute a Seller Deficiency Default. In the event of a Seller Deficiency Default, SELLER shall pay BUYER an amount equal to the product of the Seller Deficiency Quantity multiplied by the Replacement Price Differential, pursuant to the invoicing and payment provisions set forth in Sections 7.1(b) and 7.2 (respectively), provided that BUYER has used commercially reasonable efforts to purchase gas in substitution for the Seller Deficiency Quantity at the market price that will result in the least amount of damages being incurred. If a Seller Deficiency Default continues unabated for three (3) consecutive Days or five (5) or more cumulative Days in any thirty (30) Day period, such event shall be an Event of Default hereunder and BUYER may, at its sole option, at any time within fifteen (15) Days after the conclusion of either such period, give written notice to SELLER to terminate this Agreement otherwise in accordance with the provisions of Section 7.6.
- 4.5 Priority of Deliveries. For purposes of Sections 4.3, 4.4 and 11.1, all Gas not delivered and/or received shall be accounted for as follows: the category or categories of Gas not delivered and/or received shall be deemed to be first the Daily Nomination, then the Monthly Nomination, and last the Alternate Nomination(s), as such terms are defined in Section 5.
- 4.6 Market Disruption Event. If a Market Disruption Event occurs on any Day, the Parties shall promptly and in good faith negotiate a substitute for the Alternate Commodity Price, Monthly Commodity Price, Daily Commodity Price, or Average Daily Commodity Price, as applicable (or method for determining a substitute for such Price) for the affected Day or Days. If a substitute is not so determined by the third (3rd) Business Day after the Day on which the Market Disruption Event first occurred, then on or before the fifth (5th) Business Day after the Day on which the Market Disruption Event first occurred, each Party shall obtain in good faith and transmit to the other Party up to three quotes from

leading dealers for the sale of Gas in the relevant market and the Parties together shall determine the substitute by averaging all such quotes if four or fewer or, if more than four, averaging the remaining quotes after discarding the highest and lowest.

- 4.7 Redetermination of a Price Index. If a price index required to calculate the Monthly Commodity Price, Daily Commodity Price, Average Daily Commodity Price or the Alternate Commodity Price permanently ceases to be available or a Market Disruption Event affecting such price index continues for seven (7) Days, and no successor price index is identified or generally accepted within the industry, the Parties shall promptly and in good faith negotiate a replacement index for such price index (the "Replacement Price Index"). If the Parties cannot agree on a substitute methodology or price index by the end of the first Month in which a price index ceases to be available, then within ten (10) Days of the end of such Month, each Party shall prepare and submit simultaneously to the other Party a list, numbered in order of preference, of up to five alternate published reference postings or prices representative of spot prices for Gas delivered in or near the point of the price index to be replaced. The Replacement Price Index shall be the index that appears on both Parties' lists and for which the sum of the numbers indicating each Party's order of preference is the lowest; in the event that such sums are the same for two indices, then the choice between the two will be determined by lot. If no index appears on both Parties' lists, then within ten (10) Days of the most recent exchange of lists, each Party shall prepare and submit a new list adding two indices. This procedure shall be repeated until a Replacement Price Index is determined. If either Party fails to provide timely a list, the Replacement Price Index shall be the index listed first on the other Party's list. For the first half of the period from and after the date the price index ceases to be available until the date that the Replacement Price Index is determined, the price index shall be the last price index available, and for the second half of such period, the price index shall be the Replacement Price Index.
- 4.8 Conversion to an Alternate Commodity Price. BUYER and SELLER may agree to convert the Monthly Commodity Price to a fixed or basis differential price in the following manner. BUYER may transmit to SELLER by facsimile or email a notice specifying (a) the quantity of Gas for which BUYER elects to convert the price (the "Alternate Price Quantity," which quantity may not exceed the DCQ); (b) the term for which such conversion shall be in effect (which may not be in excess of the term of this Agreement); and (c) the fixed or basis differential price which BUYER proposes for such quantity and term. Upon receipt of such notice, SELLER shall transmit to BUYER by facsimile or email a notice of its quote of a fixed or basis differential price for the Alternate Price Quantity and term. Upon

provision of such quotes, the Parties shall negotiate in good faith with the objective of agreeing upon a price based upon the quotes exchanged. Any such agreement of the Parties regarding what constitutes the Alternate Commodity Price for the Alternate Price Quantity for the agreed term shall be reflected in a writing executed by both Parties.

5. OPERATIONS AND DELIVERY

5.1 BUYER's Nominations to SELLER.

- 5.2 Nomination Stipulations. Unless otherwise agreed by BUYER and SELLER, the sum of BUYER's Alternate, Monthly and Daily Nominations shall not exceed the DCQ. Subject to Section 5.3, once BUYER's Alternate, Monthly and Daily Nominations are made or deemed to be made by BUYER, BUYER is obligated to take the nominated quantity on a Firm basis for the respective period for which each is nominated.

- 5.4 Measurement. The volume and energy content of the Gas sold hereunder shall be measured at the Delivery Point by TransCanada. SELLER shall (a) provide notice to BUYER at such time as it receives notice, if any, from TransCanada that the measurement equipment is to be tested and, if agreed by TransCanada, permit BUYER to attend such testing and (b) procure from TransCanada, upon reasonable request by BUYER therefor, the results of any measurement equipment testing performed at the Delivery Point during the term of this Agreement. If at any time any inaccuracy in such measurement equipment is found, it shall be resolved in accordance with the TransCanada and Tennessee tariffs.

6. **POSSESSION AND TITLE**

- 6.1 Title Transfer and Indemnity. SELLER shall be responsible for any injury or damage caused by the Gas delivered hereunder up to and including the time it is delivered to BUYER at the Delivery Point. Following delivery of Gas to BUYER at the Delivery Point, BUYER shall be responsible for any injury or damage caused thereby. Title to Gas delivered hereunder shall pass from SELLER to BUYER at the Delivery Point.
- 6.2 Risk of Loss. SELLER and BUYER each assume full responsibility and liability for, and shall indemnify and hold harmless the other Party from all losses,

liabilities or claims (including reasonable legal fees and costs of Court), arising from any act or incident related to the Gas occurring when title to the Gas is vested in the indemnifying Party, except to the extent such act or incident was caused by the gross negligence or wilful misconduct of the other Party.

7. BILLING AND PAYMENT

7.1 Invoice Date and Charges.

- (a) By the 10th Day of the Month immediately following the Delivery Month, SELLER shall invoice BUYER for Gas which was delivered and received in the Delivery Month and for any applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. Such amount due shall be the sum of:

together with any other amounts due under this Agreement and reflecting any credits or debits required under this Agreement, including those required pursuant to Section 5.3. The Parties agree that the intent of the foregoing provisions with respect to the cost of fuel on TransCanada is that SELLER will be fully compensated by BUYER for such cost of fuel. If the actual quantity of Gas delivered is not available by such billing date, billing will be prepared based on the Scheduled Contract Quantity, and the invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

- (b) After either a Seller Deficiency Default or a Buyer Deficiency Default occurs, the non-defaulting Party shall provide to the other Party a detailed statement ("Deficiency Default Statement") setting forth the amount due

for such default and the basis upon which the amount was calculated pursuant to either Section 4.3 or Section 4.4. The defaulting Party must notify the other Party of a default no later than five (5) Business Days after the date such Party became aware of the default and the non-defaulting Party shall provide a Deficiency Default Statement no later than the tenth Day of the Month following the Month of the Deficiency Default.

- 7.2 Payment Date. Subject to Section 7.4, BUYER shall pay amounts BUYER owes and SELLER shall pay amounts SELLER owes as set forth in invoices and/or statements under Section 7.1 no later than the Payment Date. For invoices rendered under Section 7.1(a), "Payment Date" means the later of the twenty-fifth Day of the Month following the Delivery Month or the Day fifteen (15) Days after receipt of the invoice, provided that if the Payment Date is not a Business Day, payment is due on the next following Business Day, provided further that if the Payment Date falls on a Friday which is not a Business Day, BUYER shall use commercially reasonable efforts to make payment on the immediately preceding Business Day. For Deficiency Default Statements rendered under Section 7.1(b), "Payment Date" means the fifth Business Day after the defaulting Party receives the Deficiency Default Statement. All payments invoiced under Section 7.1 shall be made in immediately available funds by electronic funds transfer to the payee's account designated on Exhibit "A" hereto.
- 7.3 Late Payment. If the invoiced Party fails to remit the full amount payable when due under this Agreement, Interest on the unpaid portion shall accrue from the date payment was due until the date payment is made in full.
- 7.4 Invoice Disputes. If the invoiced Party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced Party will pay such amount as it concedes to be correct; provided however if the invoiced Party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. A Party shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other Party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment or computation made under the Agreement. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Agreement. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within

two years after the Delivery Month. All retroactive adjustments under this Section 7 shall be paid in full by the Party owing payment within 30 Days of notice and substantiation of such inaccuracy.

7.5 Billing/Payment Address. Billings, payments and statements shall be made to the accounts or the addresses specified in Exhibit "A" hereto, as may be amended from time to time.

7.6 Financial Responsibility.

(a) For the purposes of this Section 7.6(a), any reference to a Party includes a reference to (i) SELLER, (ii) BUYER only in the event that BUYER is requesting Adequate Assurance of Performance or BUYER is the Non-Defaulting Party (as defined hereinafter), (iii) Con Edison and (iv) any other party providing Adequate Assurance of Performance (as defined hereinafter). If a Party becomes Materially Weaker (as defined hereinafter) or a Designated Event (as defined hereinafter) occurs with respect to that Party, causing the resulting, surviving or transferee entity to become Materially Weaker, the other Party may demand Adequate Assurance of Performance, whether or not an Event of Default or another event of non-performance has occurred, which Adequate Assurance of Performance shall be provided by the Party by the end of the second Business Day after a demand is received.

(i) "Adequate Assurance of Performance" shall mean sufficient security in the form, amount, term and from an issuer reasonably acceptable to the Party requesting same, including, but not limited to

(A) a standby irrevocable letter of credit issued by a U.S. commercial bank or the New York branch of a Canadian Bank with such bank having credit rating of at least "A" from Standard & Poor's ("S&P") and "A3" from Moody's Investor Service ("Moody's") (Exhibit "C" sets forth provisions of an acceptable letter of credit);

(B) a guaranty from a third party having a minimum credit rating on its senior unsecured long-term debt (not supported by third-party enhancement) of at least "BBB-" from S&P and "Baa3" from Moody's and not on Credit Watch with a Negative Outlook or other similar terminology (the "Minimum Rating") and, in instances where a third party is rated by only one of the two rating agencies, only the

minimum credit rating specified above for that agency must be satisfied; or

- (C) a cash deposit or prepayment.
- (ii) "Materially Weaker" shall mean, for the purposes of this Section 7.6(a), where X refers to a Party, the senior long-term unsecured debt (not supported by third-party enhancement) or deposits of X, or in the event of reorganization, the resulting, surviving or transferee entity of X, is or are, as the case may be, rated less than the Minimum Rating as defined in Section 7.6(a)(i)(B). If X is not rated by either of the above agencies during the term of this Agreement, it shall be deemed to be Materially Weaker and be required to provide Adequate Assurance of Performance.
- (iii) "Designated Event" shall mean:
 - (A) X consolidates, reorganizes, amalgamates or merges with, or transfers all or substantially all its assets to, or receives all or substantially all the assets or obligations of, another entity; or
 - (B) any person or entity acquires directly or indirectly the beneficial ownership of equity securities having the power to elect a majority of the board of directors of X; or
 - (C) X effects any substantial change in its capital structure by means of the issuance or occurrence of debt or preferred stock or other securities convertible into or exchangeable for, debt or preferred stock; or
 - (D) X enters into any agreement providing for any of the foregoing.

If a Party (or its guarantor) that initially satisfied the Minimum Rating (as defined in Section 7.6(a)(i)(B)) is subsequently downgraded below the Minimum Rating that Party must provide Adequate Assurance of Performance to the other Party within forty-eight (48) hours but at least one Business Day of receiving the other Party's request for same or the other Party shall have the right to immediately terminate this Agreement under Section 7.6(c) and, in the case of BUYER, shall also have the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of

such TransCanada Capacity, effective immediately. Any failure by either Party to exercise its rights (as set forth above) at the first available opportunity shall not be construed as a waiver of such rights (unless expressly done so in writing) and shall not preclude either Party from exercising them at a later time.

- (b) In the event (each an "Event of Default") either Party (the "Defaulting Party") or its guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other Party with respect to any obligation(s) to provide or establish for, or on behalf of, a Party any Adequate Assurance of Performance; (vii) not have paid any amount due the other Party hereunder on or before the second Business Day following written Notice that such payment is due; (viii) fail to receive or deliver Gas for the specified period set forth in Section 4.3 or Section 4.4, respectively; or (ix) fail to perform any other material obligation to the other Party under this Agreement; then the other Party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate this Agreement, in the manner provided in Section 7.6(c), in addition to any and all other remedies available hereunder (which for BUYER shall include the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity), effective upon the Early Termination Date as defined in Section 7.6(c).
- (c) If an Event of Default has occurred, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 7.6(c)(i) of this Agreement.

- (i) As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each Party with respect to all Gas delivered and received between the Parties under this Agreement on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Sections 4.3 or 4.4), for which payment has not yet been made by the Party that owes such payment under this Agreement and (ii) the Market Value, as defined below, of this Agreement. The Non-Defaulting Party shall (x) liquidate this Agreement at its Market Value, so that the difference between the Market Value and the Contract Value, as defined below, shall be due to the BUYER if such Market Value exceeds the Contract Value and to the SELLER if the opposite is the case; and (y) discount the amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to this Agreement). For purposes of this Section 7.6(c)(i), "Contract Value" means the amount of Gas remaining to be delivered or purchased under this Agreement multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under this Agreement multiplied by the market price for a similar long haul supply agreement at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A Party shall not be required to enter into a replacement agreement(s) in order to determine the Market Value. Any extension of the term of this Agreement to which Parties are not bound as of the Early Termination Date shall not be considered in determining Contract Value and Market Value. For the avoidance of doubt, any option pursuant to which one Party has the right to extend the term of this Agreement shall not be considered in determining Contract Value and Market Value. The rate of interest

used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

- (ii) The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the Parties under Section 7.6(c)(i), so that all such amounts are netted or aggregated to a single liquidated amount payable by one Party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff (i) any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any obligation(s) to provide or establish for, or on behalf of, a Party any Adequate Assurance of Performance; or (ii) any Net Settlement Amount payable to the Defaulting Party against any amount(s) payable by the Defaulting Party to the Non-Defaulting Party under any other agreement or arrangement between SELLER and BUYER provided that BUYER is acting therein on behalf of Con Edison.
- (iii) If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 7.6(c)(ii) is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 7.6(c)(ii) shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.
- (d) As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount shall accrue from the date due until the date of payment.

- (e) The Non-Defaulting Party's remedies under this Section 7.6 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date except that BUYER shall have the right as provided in this Agreement to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity. Each Party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Agreement.

8. REGULATION

- 8.1 Regulatory Approval. Implementation of the terms and conditions of this Agreement is subject to receipt and acceptance, not to be unreasonably withheld, of all necessary authorizations for SELLER to remove Gas from Alberta, export authorizations for BUYER from the National Energy Board of Canada and import authorizations for Con Edison from the U.S. Department of Energy Office of Fossil Energy on or before October 1, 2006 or such later date as may be mutually agreed upon for good cause by SELLER and BUYER.
- 8.2 Other Events. If a Party's or Con Edison's activities under this Agreement, the Back to Back Agreement and/or the Consent Agreement (the "Affected Party") become subject to new law or regulation or a change in law or regulation which renders this Agreement, the Back to Back Agreement and/or the Consent Agreement illegal or incapable of being performed, or an event of *Force Majeure* continues unabated for at least 30 consecutive Days, then the Affected Party (or, in the case of an unabated *Force Majeure*, either Party) may elect, by written notice to the other Party, to terminate this Agreement immediately, provided, however, that, if SELLER is the Affected Party or Party entitled to the benefit of the provision of *Force Majeure*, then BUYER shall have the right to require SELLER to permanently assign or otherwise transfer the TransCanada Capacity to BUYER or Con Edison, in any case in a manner which gives BUYER or Con Edison complete ownership and control of such TransCanada Capacity, effective upon the termination.

9. NOTICE

Address for and Receipt of Notices. All notices and communications made pursuant to this Agreement shall be in writing and transmitted as specified in Exhibit "A" and shall, if transmitted and confirmed by facsimile, telecopier, or other similar form of telecommunication or by email during normal business

hours, be deemed to have been given or made on the Day on which so transmitted and, if sent by overnight courier and delivery is confirmed, or, if mailed by registered or certified mail, return receipt requested, be deemed to have been given or made on the Day on which delivered.

10. **TRANSFER OR ASSIGNMENT**

10.1 Transfer or Assignment. Neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by security or otherwise) by either Party without the prior written consent of the other Party (such consent shall not be unreasonably withheld), except that a Party may make such transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to another entity (but without prejudice to any other right or remedy under this Agreement) provided that the aforesaid entity has a credit rating equal to or greater than that of the transferring Party or otherwise is of greater or equal creditworthiness as the transferring Party. Notwithstanding the foregoing, BUYER shall have the right to assign this Agreement and all of its interests and obligations hereunder to Con Edison as long as Con Edison meets the Minimum Rating or posts Adequate Assurance of Performance.

10.2 Enurement. This Agreement shall enure to and be binding upon the successors and permitted assigns of the Parties hereto.

11. **FORCE MAJEURE**

11.1 Suspension for Force Majeure. For the purposes of this Section 11, in the case of SELLER, "Party" and "SELLER" shall mean Nexen Marketing and, in the case of BUYER, "Party" and "BUYER" shall mean Alberta Northeast Gas Limited or Con Edison. Except with regard to a Party's obligation to make payment(s) due under Section 7 and for imbalances, imbalance charges or penalties under Section 13, neither Party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by *Force Majeure*. The term "*Force Majeure*" as employed herein means any cause not reasonably within the control of the Party claiming suspension, as further defined in Section 11.2.

11.2 Events Constituting Force Majeure. "*Force Majeure*" shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe or storms or storm

warnings, such as hurricanes, which result in evacuation of such entire geographic region; (iii) interruption and/or curtailment of Firm transportation and/or storage by TransCanada or Tennessee; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, terrorist attacks, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. SELLER and BUYER shall make reasonable efforts to avoid the adverse impacts of a *Force Majeure* and to resolve the event or occurrence once it has occurred in order to resume performance.

- 11.3 Obligations of Parties During *Force Majeure*. Neither Party shall be entitled to the benefit of the provisions of *Force Majeure* to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the Party claiming excuse failed to use reasonable efforts to overcome the condition or otherwise failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, SELLER's ability to sell Gas at a higher or more advantageous price than the Contract Price or BUYER's ability to purchase Gas at a lower or more advantageous price than the Contract Price; (iv) the loss of BUYER's market(s) or BUYER's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; (v) the loss or failure of SELLER's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2; or (vi) partial or entire failure of specific wells, including without limitation, well blow outs and well craterings. The Party claiming *Force Majeure* shall not be excused from its responsibility for imbalances, imbalance charges or penalties under Section 13 related to its interruption after the nomination is made to TransCanada, in the case of SELLER, and to Tennessee, in the case of BUYER, and until the change in deliveries and/or receipts is confirmed by the respective transporter.
- 11.4 Industrial Disturbances. Notwithstanding anything to the contrary herein, the Parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance.
- 11.5 Notice of *Force Majeure*. The Party whose performance is prevented by *Force Majeure* must provide Notice to the other Party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written

Notice of *Force Majeure* to the other Party, the affected Party will be relieved of its obligation, from the onset of the *Force Majeure* event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of *Force Majeure*, and neither Party shall be deemed to have failed in such obligations to the other during such occurrence or event; provided, however, that in the event of a *Force Majeure* affecting some, but not all of SELLER's gas supplies accessible at the Delivery Point, BUYER, at a minimum, shall be entitled to a pro rata allocation of any gas supplies delivered to SELLER's Firm buyers at the Delivery Point and any failure by SELLER to make such allocation and deliveries shall not be excusable by *Force Majeure*.

12. TAXES

Allocation of and Indemnity for Taxes. The Contract Price includes and SELLER is liable for and shall pay, all Taxes applicable to the Gas sold hereunder that may be imposed prior to its delivery at the Delivery Point. SELLER shall reimburse BUYER for all Taxes paid on behalf of SELLER by BUYER. The Contract Price does not include and BUYER is liable for and shall pay, all Taxes applicable to Gas sold hereunder that may be imposed at or after delivery at the Delivery Point, including any goods and services tax ("GST") due under the *Excise Tax Act* (Canada). BUYER shall reimburse SELLER for all such Taxes paid on behalf of BUYER by SELLER. BUYER represents and warrants to SELLER that, unless BUYER notifies SELLER to the contrary, BUYER will comply with the requirements of the *Excise Tax Act* (Canada) for a zero-rated export of the Gas sold hereunder, and such Gas will be invoiced by SELLER on a zero-rated (i.e. no GST payable) basis.

13. IMBALANCES

Responsibility for Imbalances. Subject to Section 11.3, the Party causing (or Party whose pipeline transporter causes) a pipeline imbalance, imbalance or variance charge, or a pipeline-imposed penalty shall be responsible for, liable for and shall indemnify the other Party from such imbalances, charges or penalties.

14. MISCELLANEOUS

- 14.1 Winding Up Arrangements. Upon termination of this Agreement, any monies due and owing shall be promptly paid pursuant to the terms hereof. Notwithstanding the termination of this Agreement, the provisions respecting liabilities and indemnities which have accrued prior to the effective date of such termination and provisions respecting confidentiality, maintenance of records,

audit rights and settlement of accounts, shall continue in full force and effect in accordance with their terms.

- 14.2 Non-Waiver. No waiver by either Party of any default by the other in the performance of any provisions of this Agreement shall be construed as a waiver of any other default whether of a like or different nature. Except as otherwise expressly stated herein, failure of a Party to complain of any act or to declare the other Party in default, or to elect to terminate this Agreement, regardless of how long such failure continues, shall not constitute a waiver thereof until the applicable statute of limitations period has expired.
- 14.3 Severability. Except as otherwise stated herein, if any provision or Section of this Agreement is declared or rendered unlawful by a court of law or Governmental Body or deemed unlawful because of a statutory change, the remaining provisions of this Agreement shall be unaffected.
- 14.4 Headings and Exhibits. The headings used for the Sections herein are for convenience and reference purposes only and shall not affect the meaning or interpretation of the provisions of this Agreement. All Exhibits referenced in this Agreement are hereby incorporated for all purposes.
- 14.5 Record Retention. The Parties shall retain all relevant records throughout the Period of Delivery and for two years thereafter.
- 14.6 Dispute Resolution. Any claim, counterclaim, demand, cause of action, dispute, or controversy arising out of or relating to this Agreement, any provision hereof, or the alleged breach thereof, (collectively the "Claims"), whether such Claims sound in contract, tort, or otherwise, at law or in equity, under provincial, state or federal law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding and non-appealable arbitration.

The Parties agree that all disputes arising out of this Agreement shall be determined by final and binding arbitration conducted in accordance with the CPR Institute for Dispute Resolution Rules for Non-Administered Arbitration of International Disputes. The site of the arbitration shall be in New York, and the language of the arbitration shall be in English. The validity, construction, and interpretation of this Agreement to arbitrate, and all procedural aspects of the arbitration conducted pursuant hereto shall be decided by the arbitrators. In deciding the substance of the Parties' Claims, the arbitrators shall apply the laws of the Province of Alberta, Canada. It is agreed that the Arbitrators shall have no authority to award treble, exemplary or punitive damages or consequential, indirect or incidental damages of any type under any circumstances whether or not such damages may be available under provincial, state or federal law, or

under any applicable Arbitration Act, the Parties hereby waiving their right, if any, to recover any such damages. All awards shall be in writing and shall state the reasoning on which the award rests unless the Parties agree otherwise. The Parties shall bear equally all fees, costs and expenses of the arbitration and each Party shall bear its own legal expenses, attorneys' fees and costs of all experts and witnesses, provided, however, that the arbitration panel may apportion between the Parties the costs incurred by either Party as the arbitration panel may deem equitable.

Within thirty Days of the date one Party notifies the other Party of initiation of the arbitration procedure under this Section, each Party shall select one arbitrator. The two arbitrators shall select a third arbitrator. One of the arbitrators shall be a lawyer. The arbitrators shall take an oath at the first session of the arbitration affirming that that they are neutral and impartial and each of the arbitrators shall be experienced in the resolution of disputes, controversies or claims relating to the subject matter of the dispute.

To the fullest extent permitted by law, any arbitration proceeding and the arbitrators award shall be maintained in confidence by the Parties.

- 14.7 Applicable Law. This Agreement shall be governed by and construed, enforced, and performed in accordance with the laws of the Province of Alberta, Canada, without regard to principles of conflicts of law.
- 14.8 Further Assurances. Each of the Parties shall during the term of this Agreement, on a reasonable written request to do so, do all such further acts and execute and deliver or cause to be done, executed or delivered all such further acts, deeds, documents, assurances and things as may be reasonably required in order to perform the terms of this Agreement.
- 14.9 Confidentiality. Each Party agrees that it will maintain this Agreement, and all parts and contents thereof, in strict confidence, and that it will not cause or permit disclosure of same to any third-party without the express written consent of the other Party; provided that disclosure by a Party is permitted in the event and to the extent:
- (1) such Party is required by a court or agency exercising jurisdiction over the subject matter hereof, by order or regulation or law, to disclose; provided that in the event either Party becomes aware of a judicial or administrative proceeding that has resulted or may result in such a requirement or need to disclose, it shall (A) so notify the other Party immediately, (B) utilize all reasonably available means to limit the scope of the required disclosure,

and (C) take all actions reasonably necessary to prevent disclosure to the public as a result of disclosure to the court or administrative body;

- (2) disclosure is necessary to obtain transportation of the Gas covered by this Agreement;
- (3) disclosure of information to such third-party is for the sole purpose of calculating a published index price;
- (4) disclosure is required to implement capacity assignment programs; or
- (5) disclosure is required in the course of routine audit procedures or to enforce the provisions of the Agreement.

14.10 Electronic Recording. Each Party agrees that the other Party may at its option electronically record, without any additional notice, all telephone conversations between the officers, employees or agents of the Parties under this Agreement.

14.11 Disclosure of Tax Treatment. Notwithstanding anything to the contrary, each Party to this Agreement (and each employee, representative or other agent of such Party for so long as they remain an employee, representative or agent) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction contemplated herein (the "Transaction") and all materials of any kind (including opinions or other analysis) that are provided to such Party relating to such tax treatment or tax structure; provided, however, that any such disclosure may not be made (a) until the earlier of (i) the date of the public announcement of the discussions relating to the Transaction, (ii) the date of the public announcement of the Transaction, or (iii) the date of the execution of this Agreement (with or without conditions) and (b) to the extent required to be kept confidential to comply with any applicable securities laws. Nothing in this Agreement, or any other agreement between the Parties hereto express or implied, shall be construed as limiting in any way the ability of either Party to consult with any tax adviser (including a tax adviser independent from all other entities involved in the Transaction) regarding the tax treatment or tax structure of the Transaction.

14.12 Type of Parties. To the extent that this Agreement shall constitute a "commodity contract" or an "OTC derivative" pursuant to the *Securities Act* (Alberta) or the *Securities Act* (British Columbia), SELLER represents that it, and BUYER represents that it and Con Edison, is a "Qualified Party" within the meaning of Paragraph 9.1 of the Alberta Securities Commission Blanket Order 91-502 and Paragraph 1.1 of the British Columbia Securities Commission Blanket Order BOR #91-501.

- 14.13 Restrictions. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION (UNLESS THE THIRD PARTY CLAIMANT OBTAINS A JUDGEMENT FOR SUCH) OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.
- 14.14 Counterparts. This Agreement is executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Per: _____

Name Printed

Title

Alberta Northeast Gas Limited

Per: _____

Michael S. Lucy

MICHAEL S. Lucy
Name Printed

PRESIDENT
Title

Acknowledged by:

Consolidated Edison Company of New
York, Inc.

Per: _____

Name Printed

Title

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Alberta Northeast Gas Limited

Per: Janet E. Vellutini

Janet E. Vellutini
Vice President,
Natural Gas Marketing

Name Printed
Susan L. Schulli

Susan L. Schulli
General Counsel

Title

Per: _____

Name Printed

Title

Acknowledged by:

Consolidated Edison Company of New
York, Inc.

Per: _____

Name Printed

Title

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Nexen Marketing

Alberta Northeast Gas Limited

Per: _____

Per: _____

Name Printed

Name Printed

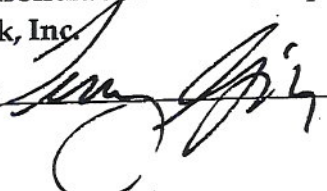
Title

Title

Acknowledged by:

**Consolidated Edison Company of New
York, Inc.**

Per: _____

 *ms 3/12/06*

Terry Agriss

Name Printed

Vice President-Energy Management

Title

EXHIBIT "A" to LONG HAUL TERM GAS SUPPLY AGREEMENT
NOTICES AND COMMUNICATIONS

NOTICES TO BUYER:

Alberta Northeast Gas Limited
c/o Northeast Gas Markets, L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

PAYMENTS TO BUYER:

NOTICES TO SELLER:

Nexen Marketing
801 – 7 Avenue S.W. (Suite 1700)
Calgary, Alberta T2P 3P7
Telephone No. (403) 699-4088/5724
Facsimile No. (403) 699-5701
E-mail: sharron_roberts@nexeninc.com

PAYMENTS TO SELLER:

BILLING AND ACCOUNTING MATTERS:
BUYER

c/o Northeast Gas Markets L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 01915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

CONFIRMATIONS:

BUYER

Facsimile No.

AFTER HOUR NOTICES:

BILLING AND ACCOUNTING MATTERS:
SELLER

Nexen Marketing
801 – 7 Avenue S.W. (Suite 1700)
Calgary, Alberta T2P 3P7
Telephone No. (403) 699-4221
Facsimile No. (403) 699-5705
E-mail: terry_ohara@nexeninc.com ;
amin_alibhai@nexeninc.com

CONFIRMATIONS:

SELLER

Facsimile No.

AFTER HOUR NOTICES:

CONFIRMATION FOR IMMEDIATE DELIVERY

Letterhead/Logo	Date: _____, Confirmation #: _____
This Confirmation is under the Long Haul Term Gas Supply Agreement ("Agreement") between Buyer and Seller dated _____, 2006.	
SELLER: _____ Attn: _____ Phone: _____ Fax: _____ Transporter: _____ TransporterContractNumber: _____	BUYER: _____ Attn: _____ Phone: _____ Fax: _____ Transporter: _____ Transporter Contract Number: _____
Special Conditions: 	
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____

EXHIBIT "C" to LONG HAUL TERM GAS SUPPLY AGREEMENT
PROVISIONS OF ACCEPTABLE LETTER OF CREDIT

LETTER OF CREDIT PROVISIONS

Adequate Assurance of Performance in the form of a Letter of Credit, provided by one party ("X") for the benefit of the other ("Y") pursuant to Section 7.6(a)(i)(A) of this Agreement, shall provide as follows:

- (a)
 - (i) the Letter of Credit shall have an initial term of one year, which shall automatically renew for successive one-year terms, unless the issuer of the Letter of Credit, by the date ninety (90) Days prior to the expiry of any such term (or a shorter notice period required by the issuer), provides written notice of its intent not to renew the outstanding Letter of Credit to Y;
 - (ii) the issuer of the Letter of Credit must honor Y's properly documented request to draw on the Letter of Credit within two (2) Business Days of presentation of the request to draw; and,
 - (iii) if the Letter of Credit shall expire during an interruption of business of the issuer of such Letter of Credit arising from a cause or circumstance referenced in Article 17 of the Uniform Customs and Practice for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500 (as such Article may be amended from time to time), the issuer of such Letter of Credit shall specifically agree to honor drafts drawn on such Letter of Credit if they are presented to the bank within thirty (30) Days after the issuer's resumption of business from such interruption and such drawings are otherwise in compliance with the terms and conditions of such Letter of Credit.
- (b) upon or at any time after the occurrence of an Event of Default or an Early Termination Date, in either case with respect to X as the Defaulting Party, Y may draw upon the Letter of Credit in an amount that is equal to all amounts that are due and owing from X but have not been paid to Y within the time allowed for such payments under the Long Haul Term Gas Supply Agreement between Nexen Marketing and Alberta Northeast Gas Limited dated _____, 2006, including, but not limited to, the Net Settlement Amount as provided therein. A drawing may be made on the Letter of Credit upon submission to the bank issuing the Letter of Credit of one or more certificates of Y in accordance with the specific requirements of the Letter of Credit.

BACK TO BACK AGREEMENT
ANE/NEXEN CONTRACT

This Agreement is made as of this 13th day of March, 2006, by and between Alberta Northeast Gas Limited, a Canadian corporation ("ANE"), and Consolidated Edison Company of New York, Inc., a New York corporation ("Con Edison").

WHEREAS, Con Edison has authorized ANE to execute the Long Haul Term Gas Supply Agreement ("Nexen Contract") between ANE and Nexen Marketing, an Alberta partnership ("Nexen"); and

WHEREAS, the natural gas to be purchased by ANE pursuant to the Nexen Contract will be immediately resold by ANE to Con Edison; and

WHEREAS, Con Edison desires, as an inducement to Nexen to enter into the Nexen Contract, to support ANE's obligations under the Nexen Contract.

NOW THEREFORE, in consideration of the mutual covenants and benefits herein provided, it is hereby agreed as follows:

1. Definitions: All capitalized terms not defined herein shall have the meanings assigned to them in the Nexen Contract.

2. Nexen DCQ and TransCanada Capacity: Pursuant to the Nexen Contract, ANE has contracted for the purchase of 40,000 MMBtu of natural gas per day at the Delivery Point (the "Nexen DCQ").

3. Obligations and Rights of Parties Generally: Con Edison, by execution of this Agreement, acknowledges and agrees that all liabilities, obligations, rights and benefits of ANE under the Nexen Contract, whether or not specifically addressed in this Agreement, are matched by corresponding liabilities, obligations, rights and benefits under this Agreement. Con Edison assumes responsibility for the corresponding liabilities and obligations, and is entitled to the corresponding rights and benefits, of ANE under the Nexen Contract. The responsibilities, liabilities and obligations of Con Edison under this Agreement are those of Con Edison alone and are not joint or collective obligations with or of other parties. Con Edison hereby indemnifies and holds harmless ANE from the liabilities and obligations of ANE under the Nexen Contract. ANE shall have no obligation to Con Edison under this Agreement other than its obligation to make all of ANE's rights and benefits under the Nexen Contract available to Con Edison as provided herein.

4. Nominations; ANE's Purchase and Resale of Gas and Obligation to Make Capacity Available: Con Edison shall submit nominations for Gas subject to the Monthly Commodity Price, Daily Commodity Price and/or Alternate Commodity Price

to ANE on the Business Day immediately prior to the Day on which ANE is required to nominate Gas for delivery by Nexen under the Nexen Contract. Upon acceptance of delivery by Nexen on any Day, ANE shall

DICKSTEINSHAPIRO_{LLP}

1825 Eye Street NW | Washington, DC 20006-5403
TEL (202) 420-2200 | FAX (202) 420-2201 | dicksteinshapiro.com

September 24, 2007

By Email and U.S. Mail

larine.moore@hq.doe.gov

Larine A. Moore
Docket Room Manager
Natural Gas Regulatory Activities
Office of Fossil Energy
(FE-34) Room 3E-042,
1000 Independence Avenue, S.W.
U.S. Department of Energy
Washington, D.C. 20585

Re: Consolidated Edison Company of New York, Inc.
DOE/FE Order No. 2282 (granting long-term authorization
to import and export natural gas from and to Canada)
FE Docket No. 06-53-NG

Dear Ms. Moore:

We have enclosed for informational purposes, pursuant to 10 C.F.R. § 590.407, a copy of letter of acknowledgement dated July 13, 2007 and executed in connection with the contracts underlying the above-referenced authorization. The letter is an acknowledgement by the parties to those contracts that Consolidated Edison Company of New York, Inc. ("Con Edison") has been and will be acting under the agreements for itself and as agent for Orange and Rockland Utilities, Inc. This acknowledgement does not concern a matter that is contrary to, or not permitted by, Con Edison's existing import authority and thus this informational filing requires no specific action by OFE.

If you have any questions about this matter, please contact me. Thank you for your attention.

Very truly yours,



Joan M. Darby
Counsel
Dickstein Shapiro LLP
Attorneys for Alberta Northeast Gas Limited,
acting as agent for Consolidated Edison
Company of New York, Inc.



Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York NY 10003
www.conEd.com

July 13, 2007

TO: Signatories to the March 13, 2006 (i) Long Haul Term Gas Supply Agreement (Nexen Marketing ("Nexen") and Alberta Northeast Gas Limited ("ANE")); (ii) Back to Back Agreement (ANE and Con Edison); and (iii) Assignment and Consent Agreement (ANE, Nexen and Con Edison)

FROM: Consolidated Edison Company of New York, Inc. ("Con Edison")

Subject: Acknowledgement of Name Change in Above-Stated Agreements

Con Edison requests your assistance in executing an acknowledgment relating to the above-named agreements to which your firm is a party. In July 1999, Con Edison's parent, CEI, acquired Orange and Rockland Utilities, Inc. ("O&R") and, with the approval of the New York Public Service Commission, established a joint portfolio with Con Edison designated as its administrator (with authorization to execute gas purchase contracts on O&R's behalf). From that point forward, Con Edison sought to execute all new gas supply agreements in the names of both companies as joint purchasers. Through an administrative oversight, when Con Edison entered into the above-described agreements we neglected to include O&R's name as a joint purchaser with Con Edison.

Therefore, for the sake of good order, would you kindly have the appropriate person in your firm sign and return to me one copy of this letter acknowledging and agreeing that Con Edison has been and will be acting under each of the three agreements described above as of March 13, 2006 for itself and as agent for O&R. Specifically, in each place where Con Edison's name appears, it is acknowledged to mean: Consolidated Edison Company of New York, Inc., for itself and as agent for Orange and Rockland Utilities, Inc.

Con Edison requests that you kindly address this matter at your earliest convenience. If you have any questions, please call either Paul A. Olmsted, Director-Gas Supply, at (212) 460-4898, or Jeff Futter, our counsel, at (212) 460-3933. Thank you very much for your prompt attention to this.

Sincerely,

Joseph P. Oates
Vice President-Energy Management

Acknowledge and agree:

Nexen Marketing
Alberta Northeast Gas Limited

Kenneth S. Heywood
Assistant Secretary

BACK TO BACK AGREEMENT
ANE/NEXEN CONTRACT

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WHEREAS, Con Edison has authorized ANE to execute the Long Haul Term Gas Supply Agreement ("Nexen Contract") between ANE and Nexen Marketing, an Alberta partnership ("Nexen"); and

WHEREAS, the natural gas to be purchased by ANE pursuant to the Nexen Contract will be immediately resold by ANE to Con Edison; and

WHEREAS, Con Edison desires, as an inducement to Nexen to enter into the Nexen Contract, to support ANE's obligations under the Nexen Contract.

NOW THEREFORE, in consideration of the mutual covenants and benefits herein provided, it is hereby agreed as follows:

1. Definitions: All capitalized terms not defined herein shall have the meanings assigned to them in the Nexen Contract.

2. Nexen DCQ and TransCanada Capacity: Pursuant to the Nexen Contract, ANE has contracted for the purchase of 40,000 MMBtu of natural gas per day at the Delivery Point (the "Nexen DCQ").

3. Obligations and Rights of Parties Generally: Con Edison, by execution of this Agreement, acknowledges and agrees that all liabilities, obligations, rights and benefits of ANE under the Nexen Contract, whether or not specifically addressed in this Agreement, are matched by corresponding liabilities, obligations, rights and benefits under this Agreement. Con Edison assumes responsibility for the corresponding liabilities and obligations, and is entitled to the corresponding rights and benefits, of ANE under the Nexen Contract. The responsibilities, liabilities and obligations of Con Edison under this Agreement are those of Con Edison alone and are not joint or collective obligations with or of other parties. Con Edison hereby indemnifies and holds harmless ANE from the liabilities and obligations of ANE under the Nexen Contract. ANE shall have no obligation to Con Edison under this Agreement other than its obligation to make all of ANE's rights and benefits under the Nexen Contract available to Con Edison as provided herein.

4. Nominations; ANE's Purchase and Resale of Gas and Obligation to Make Capacity Available: Con Edison shall submit nominations for Gas subject to the Monthly Commodity Price, Daily Commodity Price and/or Alternate Commodity Price

to ANE on the Business Day immediately prior to
the Day on which ANE is required to nominate Gas for delivery by Nexen under the
Nexen Contract. Upon acceptance of delivery by Nexen on any Day, ANE shall

immediately resell to Con Edison, and Con Edison shall purchase from ANE, at the Delivery Point, the Scheduled Contract Quantity or such lesser quantity delivered as a result of *Force Majeure* or a Seller Deficiency Default.

5. Charges and Rates; Con Edison's Payment Obligations: It is understood that, pursuant to Section 7.1 of the Nexen Contract, the Contract Price to be paid by ANE to Nexen for each MMBtu of the DCQ will consist of a Demand Charge and, for each MMBtu delivered to the Delivery Point, the Transportation Commodity Charges plus a Monthly Commodity Price, a Daily Commodity Price, or an Alternate Commodity Price. Con Edison shall pay to ANE an amount equal to the amount billed to ANE by Nexen in each month as the Contract Price, fuel charges or other amounts due under the Nexen Contract. In addition, Con Edison shall pay all costs and expenses incurred by ANE in any contract month in connection with the Nexen Contract, including but not limited to all administrative and operating expenses, legal fees, taxes and duties.

6. Invoices and Payments: ANE shall render a monthly invoice to Con Edison for all amounts due pursuant to Section 5, promptly after ANE's receipt of its monthly invoice from Nexen. Payment by Con Edison of the amount due shall be made in U.S. dollars to the account specified in Attachment 1 at or before 11 a.m. Eastern Standard Time on the Payment Date. If the correct amounts are not paid by Con Edison when due, Con Edison shall pay Interest on the unpaid portion of the invoice from the date due to the date payment is made in full. If Nexen exercises its right to suspend service, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount attributable to Nexen's exercise of its right to terminate the Nexen Contract as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement. Con Edison shall have the right in good faith to dispute the amount of any invoice or part thereof rendered to it by ANE. If the dispute involves an amount that has been billed to ANE by Nexen, Con Edison shall pay to ANE such amounts as it concedes to be correct and ANE shall promptly declare a dispute to Nexen. After a final determination of the amount properly due and owing by ANE to Nexen, Con Edison shall timely pay to ANE the amount, if any, found to be due. If the dispute does not involve an amount which has been billed by Nexen to ANE, Con Edison shall pay the full amount of the invoice which is, in whole or part, subject to the dispute. Any amount later determined not to be due to ANE by Con Edison shall be reimbursed to Con Edison by ANE, together with such interest as ANE is able, using commercially reasonable efforts, to recover from third parties to whom such amounts were paid.

7. Representations and Warranties; Possession, Title, and Risk of Loss; Financial Assurances: Con Edison makes to ANE the representations and warranties made by ANE to Nexen pursuant to Section 3.1 of the Nexen Contract. Sections 6.1, 6.2 and 7.6 of the Nexen Contract are hereby incorporated in this Agreement mutatis mutandis. Should Nexen require Adequate Assurance of Performance from Con Edison pursuant to Section 7.6(a) of the Nexen Contract, such Adequate Assurance of Performance shall be furnished timely and directly to Nexen by Con Edison in accordance with Section 7.6(a) of the Nexen Contract. If Con Edison does not timely

furnish such Adequate Assurance of Performance and Nexen exercises its right to suspend service pursuant to Section 7.6(b) of the Nexen Contract, Con Edison will not have access to the DCQ. If Nexen exercises its right to terminate the Nexen Contract pursuant to Section 7.6(b) of the Nexen Contract, then ANE shall be entitled to terminate this Agreement and Con Edison shall pay to Seller the Net Settlement Amount as and when due pursuant to the Nexen Contract and any outstanding amounts due to ANE under the last sentence of Section 5 of this Agreement.

8. Term: This Agreement shall be effective from the date of execution hereof and shall remain in full force and effect for the entire term and duration of the Nexen Contract.

9.

10. Assignment: Con Edison may assign its rights, benefits, liabilities and obligations under this Agreement to a third party, subject to Nexen's consent. ANE shall, if requested by Con Edison, assign to Con Edison ANE's rights, benefits, liabilities and obligations under the Nexen Contract as long as Con Edison meets the Minimum Rating or posts Adequate Assurance of Performance. Con Edison expressly agrees that the rights conferred by this Agreement on ANE may be assigned by ANE to Nexen.

11. Miscellaneous: Sections 11, 12, 13, 14.1, 14.2, 14.3, 14.4, 14.5, 14.7, 14.8, 14.9, 14.10, 14.11 and 14.13 of the Nexen Contract are hereby incorporated in this Agreement mutatis mutandis. This Agreement sets forth all understandings and agreements among the parties respecting the subject matter hereof, and all prior agreements, understandings and representations, whether written or oral, respecting the subject matter hereof are merged into and superseded by this Agreement, with the exception of the Assignment and Consent Agreement (ANE/Con Edison/Nexen). This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an originally executed copy, and it shall not be necessary in making proof of this Agreement to produce all of such counterparts.

12. Notices: Any notice permitted or required under this Agreement shall be in writing and delivered by facsimile or email to the persons at the addresses specified in Attachment 1 hereto.

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New York, Inc.

Alberta Northeast Gas Limited

Per: 

Per: _____

Name Printed: Terry Agriss

Name Printed: _____

Title: Vice President-Energy Management

Title: _____

js 3/10/00

EXECUTION COPY

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in several counterparts by their proper officers duly authorized as of the first date hereinabove written.

Consolidated Edison Company of New
York, Inc.

Alberta Northeast Gas Limited

Per: _____

Per: Michael S. Lucy

Name Printed: _____

Name Printed: MICHAEL S. Lucy

Title: _____

Title: PRESIDENT

**ATTACHMENT 1 to BACK TO BACK AGREEMENT (ANE/NEXEN CONTRACT)
NOTICES AND COMMUNICATIONS**

NOTICES TO ANE:

Alberta Northeast Gas Limited
c/o Northeast Gas Markets, L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 10915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

PAYMENTS TO ANE:

NOTICES TO CON EDISON:

Consolidated Edison Company of New York,
Inc.
4 Irving Place
Room 1300-S
New York, New York 10003
Telephone No.: (212) 460-4898
Facsimile: (212) 538-8254

PAYMENTS TO CON EDISON:

BILLING AND ACCOUNTING MATTERS:
ANE

c/o Northeast Gas Markets L.L.C.
100 Cummings Center, Suite 457G
Beverly, Massachusetts 10915-6132
Telephone No. (978) 922-1194
Facsimile No. (978) 922-1195
E-mail: mslucy@negm.com ;
mferullo@negm.com

CONFIRMATIONS:

ANE

Facsimile No.

AFTER HOUR NOTICES:

BILLING AND ACCOUNTING MATTERS:
CON EDISON

Attn: Gas Accounting and Contract
Administration Attn. Cleon Dawes
Telephone No. (212) 460-6473
Facsimile No. (917) 534-4081
E-Mail: dawesc@coned.com ;
maurices@coned.com

CONFIRMATIONS:

CON EDISON

Facsimile No.

AFTER HOUR NOTICES:

DICKSTEINSHAPIRO_{LLP}

1825 Eye Street NW | Washington, DC 20006-5403
TEL (202) 420-2200 | FAX (202) 420-2201 | dicksteinshapiro.com

September 24, 2007

By Email and U.S. Mail

larine.moore@hq.doe.gov

Larine A. Moore
Docket Room Manager
Natural Gas Regulatory Activities
Office of Fossil Energy
(FE-34) Room 3E-042,
1000 Independence Avenue, S.W.
U.S. Department of Energy
Washington, D.C. 20585

Re: Consolidated Edison Company of New York, Inc.
DOE/FE Order No. 2282 (granting long-term authorization
to import and export natural gas from and to Canada)
FE Docket No. 06-53-NG

Dear Ms. Moore:

We have enclosed for informational purposes, pursuant to 10 C.F.R. § 590.407, a copy of letter of acknowledgement dated July 13, 2007 and executed in connection with the contracts underlying the above-referenced authorization. The letter is an acknowledgement by the parties to those contracts that Consolidated Edison Company of New York, Inc. ("Con Edison") has been and will be acting under the agreements for itself and as agent for Orange and Rockland Utilities, Inc. This acknowledgement does not concern a matter that is contrary to, or not permitted by, Con Edison's existing import authority and thus this informational filing requires no specific action by OFE.

If you have any questions about this matter, please contact me. Thank you for your attention.

Very truly yours,



Joan M. Darby
Counsel
Dickstein Shapiro LLP
Attorneys for Alberta Northeast Gas Limited,
acting as agent for Consolidated Edison
Company of New York, Inc.



Consolidated Edison Company
of New York, Inc.
4 Irving Place
New York NY 10003
www.conEd.com

July 13, 2007

TO: Signatories to the March 13, 2006 (i) Long Haul Term Gas Supply Agreement (Nexen Marketing ("Nexen") and Alberta Northeast Gas Limited ("ANE")); (ii) Back to Back Agreement (ANE and Con Edison); and (iii) Assignment and Consent Agreement (ANE, Nexen and Con Edison)

FROM: Consolidated Edison Company of New York, Inc. ("Con Edison")

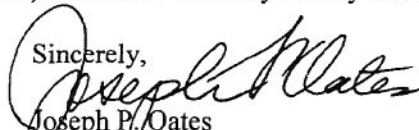
Subject: Acknowledgement of Name Change in Above-Stated Agreements

Con Edison requests your assistance in executing an acknowledgment relating to the above-named agreements to which your firm is a party. In July 1999, Con Edison's parent, CEI, acquired Orange and Rockland Utilities, Inc. ("O&R") and, with the approval of the New York Public Service Commission, established a joint portfolio with Con Edison designated as its administrator (with authorization to execute gas purchase contracts on O&R's behalf). From that point forward, Con Edison sought to execute all new gas supply agreements in the names of both companies as joint purchasers. Through an administrative oversight, when Con Edison entered into the above-described agreements we neglected to include O&R's name as a joint purchaser with Con Edison.

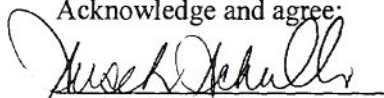
Therefore, for the sake of good order, would you kindly have the appropriate person in your firm sign and return to me one copy of this letter acknowledging and agreeing that Con Edison has been and will be acting under each of the three agreements described above as of March 13, 2006 for itself and as agent for O&R. Specifically, in each place where Con Edison's name appears, it is acknowledged to mean: Consolidated Edison Company of New York, Inc., for itself and as agent for Orange and Rockland Utilities, Inc.

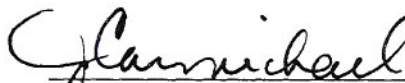
Con Edison requests that you kindly address this matter at your earliest convenience. If you have any questions, please call either Paul A. Olmsted, Director-Gas Supply, at (212) 460-4898, or Jeff Futter, our counsel, at (212) 460-3933. Thank you very much for your prompt attention to this.

Sincerely,


Joseph P. Oates
Vice President-Energy Management

Acknowledge and agree:


Nexen Marketing


Alberta Northeast Gas Limited


Kenneth S. Heywood
Assistant Secretary