

9960 Corporate Campus Drive
Suite 2000
Louisville, Kentucky 40223
502.426.4500
502.426.8800 Fax
www.newenergy.com



Constellation
NewEnergy®
Gas Division

August 17, 2007

Ms. Kathleen Gargano
The Village of Wilmette
1200 Wilmette Avenue
Wilmette, IL 60091

RE: Natural Gas Agency Agreement – BES070242

Dear Ms. Gargano:

Enclosed is a fully executed copy of the above referenced contract. If you have any questions regarding this document, please feel free to contact Carolee Schoen at 262-506-6630 or by fax at 262-506-6611.

Sincerely,

A handwritten signature in cursive script, reading "Andréa Williams-Halsell".

Andréa Williams-Halsell
Contract Administration II

Enclosure

Natural Gas Agency Agreement "Series I"

This Natural Gas Agency Agreement ("Agreement") is made and entered into as of September, 1, 2007, ("Effective Date") by and between The Village of Wilmette ("Customer") and Blackhawk Energy Services, LLC d/b/a Constellation NewEnergy - Gas Division Illinois, LLC, ("CNE Gas").

- I. **CNE Gas' Authority:** Customer appoints CNE Gas as agent to contract and purchase Customer's natural gas requirements, receive Customer account information, to make rate and tariff selections, and to manage storage accounts. Monthly Customer volume orders or nominations are required, and may be made either by 1) Customer providing usage nomination for the subsequent month by the 20th of the month preceding delivery, or 2) monthly load profiles based on the previous two (2) year average consumption and initially attached to this Agreement as Attachment A. In the absence of 1 or 2 above, CNE Gas will set a monthly nomination. Portfolio election is as contained in Attachment A. Service accounts are as provided in Attachment B.
- II. **Price:** Customer agrees to pay for gas delivered to the utility city gate. CNE Gas monthly deliveries will be priced at the Natural Gas Intelligence (NGI) Chicago Citygate Index Plus \$0.0300 per therm and will apply to monthly nominations (as defined above). CNE Gas pricing does not include the cost of local distribution or other utility imposed charges, including utility bulletin board charges, which shall be billed to and directly paid by Customer, unless otherwise agreed upon in writing. Variations in usage above or below the monthly nomination will be injected to or withdrawn from Customer's storage account (Managed Portfolio) or charged (or credited) based on the Gas Daily Daily Chicago Index plus \$0.0300 per therm at the time of purchase (Limited Portfolio). Customer may, by separate written Rider, modify pricing arrangements upon mutual acceptance, which Rider shall incorporate the provisions of this Agreement other than the term hereof.
- III. **Billing, Taxes and Payment:** CNE Gas shall send (by facsimile and mail) a monthly invoice, on or about the sixth (6th) day (for Managed Portfolio) or eighth (8th) day (for Limited Portfolio) of the month following delivery showing the nominated quantity, usage variance (if applicable), and price of gas delivered to Customer during the prior month. Such invoice shall also reflect any charges incurred by CNE Gas in fulfilling its obligations under this Agreement and any adjustments attributable to prior billing periods. Customer agrees to pay CNE Gas all billed amounts by the twenty-third (23rd) day of the month following delivery. Customer shall remit the invoiced amount to a bank cash collateral account, established by CNE Gas, by check, wire transfer, or other CNE Gas approved electronic method to CNE Gas, at U.S. Bank Lock Box c/o CNE Gas, Dept 59530, Milwaukee, WI 53259-0530.

In the event that payment of invoiced amount is not received when due, CNE Gas shall have the right to take any action deemed appropriate, including, but not limited to, the right to impose late charges and interest (as hereinafter specified), remove the Customer from CNE Gas balancing and storage pools, apply any storage balance at prevailing market prices as an offset against the amount owed CNE Gas by Customer, liquidate financial hedges of the Customer under a Rider, and/or terminate this Agreement upon written notice. Payment obligations of Customer shall survive the termination of this Agreement. CNE Gas' late payment charge shall be 2% of the outstanding invoice amount and interest shall be at 2% above the prime lending rate charged by CNE Gas' bank, compounded monthly, until such amount due is paid. For past due accounts exceeding 30 days, Customer shall be obligated to pay any reasonable attorney's fees and other costs associated with the collection of amounts due CNE Gas. If any taxing authority determines that the natural gas covered by this Agreement is, or has been, subject to any taxes that CNE Gas is obligated to pay or remit to any applicable governmental authority, Customer shall reimburse CNE Gas for such taxes and related cost, regardless of whether this Agreement is then in effect.

- IV. **Financial Responsibility:** For the purpose of determining Customer's ability to meet its payment obligations, CNE Gas requires a satisfactory credit review and verification of Customer's business and payment practices, which may include vendor payment history, bank and trade references, reports prepared by Dun and Bradstreet, and a review of Customer's financial statements. Customer hereby agrees to provide such information as requested by CNE Gas from time to time to facilitate such review and represents and warrants that all information provided is and will be complete and accurate. CNE Gas shall treat all such information confidentially. When CNE Gas deems itself reasonably insecure, it may invoice Customer in advance based on monthly nominations during the delivery month, and may require additional assurance of payment (such as a parental guarantee, a letter of credit, or a deposit in a form and amount acceptable to CNE Gas). In the event that Customer: 1) makes an assignment or any general arrangement for the benefit of creditors, 2) defaults in the payment or performance of any obligation under this agreement or any related Riders, 3) files a petition (or is the subject of an involuntary petition) for bankruptcy or reorganization, or 4) fails to provide assurance reasonably acceptable to CNE Gas (of Customer's ability to perform its obligations under this Agreement) within twenty four (24) hours following a request from CNE Gas, then CNE Gas shall have the right to suspend performance or terminate this Agreement, without prior notice, in addition to any and all other remedies available hereunder or pursuant to law. Payment obligations of Customer for rendered services shall survive the termination of this Agreement.
- V. **Term:** The term of this Agreement shall extend until the end of the 12th complete calendar month following the Effective Date, and shall automatically renew for subsequent twelve-month periods unless either party provides written notice to the other at least sixty (60) days prior to the end of the term then in effect. Specific price or optional service Riders or special provisions contained in Attachment A shall not apply to any automatic renewal of this Agreement unless otherwise provided in writing with the renewal. To the extent Customer and CNE Gas enter into financial natural gas transactions prior to the Effective Date, all applicable provisions of this Agreement shall govern such transactions as if they were entered into after the Effective Date.

VI. Obligations and Indemnification between the Parties:

- a. CNE-Gas will provide gas volume requirements, equal to Customer's MDCQ (Maximum Daily Contract Quantity) on any gas day utilizing both flowing and storage gas deliveries so long as Customer's annually elected utility storage capacity is at least 28 times Customer's MDCQ and such storage balance is maintained on a consistent basis in an amount between 8% and 92% of storage capacity. CNE-Gas's obligation shall be further subject to Customer 1) providing CNE-Gas reasonable advance notice of any daily or monthly material changes in gas requirements, defined as a 10% or greater change in daily or monthly usage, 2) installing and maintaining phone lines required to receive daily meter readings, 3) providing access to utility electronic daily meter readings, or if such information is not available, providing weekly meter readings and a faxed copy of each monthly utility gas bill within five days of such bill receipt by Customer, and 4) remaining current in Customer's payment obligations to CNE-Gas. Delivery volumes shall be subject to market pricing on an industry defined best efforts basis when attributable to: 1) out-of-balance storage percentages, 2) events when customer is non-current in its payments to CNE-Gas, 3) delivery of critical day volumes greater than Customer's average daily nomination plus the allowable daily storage withdrawal, 4) daily volumes greater than Customer's MDCQ, or 5) force majeure events described below.
- b. Both parties shall indemnify each other for any losses, damages, or costs that result from failure to comply with the terms of this Agreement or as a result of any negligence on the part of such party, however such losses or damages shall be limited to reasonable replacement gas costs, including spot commodity costs and interstate transportation costs to deliver such gas to Customer's utility.
- c. Notwithstanding anything to the contrary in this Agreement, in no event shall CNE Gas be liable to Customer for any special, indirect, or consequential damage of any kind arising out of, or in any way related to, performance or non-performance of CNE Gas' obligations under this Agreement and any liability shall in no event exceed the amount of any margin previously obtained by CNE Gas under this Agreement..
- d. CNE Gas' obligations shall be subject to interruption for acts of God or events of force majeure while affecting the producing wells, the transporting pipelines, or the local distribution companies, including (without limitation) the following events: acts of civil or military authority; interruption or curtailment of pipeline services; strikes, lockouts, or other industrial disturbances; weather affecting broad geographic areas; and the inability of the local gas utility to deliver Customer owned gas in storage (Managed Portfolio), or CNE Gas' usage of contracted Customer storage capacity (Limited Portfolio). CNE Gas and Customer shall make reasonable efforts to mitigate the adverse impacts of such events. CNE Gas shall have no liability to Customer for such interruptions affecting CNE Gas' performance or cost of delivered gas.
- e. CNE Gas does not assume any responsibility or obligation for governmental rules or authorizations that may affect the availability or economics of open access transportation, or for changes in utility rates or tariffs that adversely affect CNE Gas' ability or cost to perform under this Agreement.

VII. Other Terms and Conditions:

- a. The term "Agreement" constitutes the entire agreement between the Parties, including any attachments and related Riders signed by the parties which are hereby incorporated by reference. This Agreement may not be altered without the prior written consent of the party to be bound thereby. This Agreement shall be governed by, construed, and enforced in accordance with the internal substantive laws of CNE Gas' state of incorporation. Any waiver of any terms of this Agreement shall not diminish the future enforceability of this Agreement as written.
- b. Customer and CNE Gas agree that the information contained herein, resulting from, or relied upon in the execution or operation of this Agreement or related Riders shall not be released by CNE Gas or Customer to any third party not directly involved with the performance of such party's obligations.
- c. This Agreement shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto. CNE Gas shall have the right to approve or disapprove Customer's substituted party's creditworthiness.
- d. Any dispute arising under or related to this Agreement or any default shall be finally settled and resolved by binding arbitration with a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon such award may be entered in any court of competent jurisdiction.

VIII. Notices: Any correspondence provided for in this Agreement, or any notice which a Party may give to the other, shall be in writing and considered duly delivered if sent by facsimile, courier, overnight delivery service, or first class mail to the other Party at the following address.

AGENT

Blackhawk Energy Services, LLC d/b/a Constellation
 NewEnergy - Gas Division Illinois, LLC
 N21 W23340 Ridgeview Pkwy., P.O. Box 2226
 Waukesha, WI 53187-2226

CUSTOMER

The Village of Wilmette
 1200 Wilmette Avenue
 Wilmette, IL 60091

In Witness Whereof, this Agreement is executed and delivered as of the Effective Date specified above.

By: Brian Franz
 Print Name: Brian Franz
 Title: VP - Gas Operations
 Date: 8-17-07

Signature: Michael J. Earl
 Print Name: MICHAEL J. EARL
 Title: Village Manager
 Date: 8/13/07

ATTACHMENT "A"

PROGRAM ELECTION AND NATURAL GAS MONTHLY LOAD PROFILE

Attached to and made part of that certain Natural Gas Agency Agreement between Blackhawk Energy Services, LLC d/b/a Constellation NewEnergy - Gas Division Illinois, LLC ("CNE Gas"), and The Village of Wilmette ("Customer"), dated this 1st day of September, 2007.

Customer elects CNE Gas' Managed Portfolio Program. The monthly load profiles (usages), as set forth below, will be purchased by CNE Gas plus or minus any planned storage injections or withdrawals (Managed Portfolio Program). *Customer has the right to modify monthly load profiles provided such modifications are received in writing by the 20th of the month preceding the delivery month.*

| Month | Volume (therms) | Month | Volume (therms) |
|----------|-----------------|-----------|-----------------|
| January | 7,972 | July | 4,124 |
| February | 8,951 | August | 3,514 |
| March | 9,442 | September | 3,209 |
| April | 7,133 | October | 2,242 |
| May | 5,284 | November | 3,754 |
| June | 2,416 | December | 8,501 |

PREPARED BY: cs /awh
REVIEWED BY: N/a
APPROVED BY: PCB via email

ATTACHMENT "B"

NATURAL GAS SERVICE ACCOUNTS

Attached to and made part of that certain Natural Gas Agency Agreement between **Blackhawk Energy Services, LLC d/b/a Constellation NewEnergy - Gas Division Illinois, LLC** ("CNE Gas"), and **The Village of Wilmette** ("Customer"), dated this 1st day of September, 2007.

| | <u>Utility</u> | <u>Utility Account No.</u> | <u>Service Address</u> |
|------------|----------------|----------------------------|---|
| Account #1 | NICOR | 34-92-45-0000 | 1200 Wilmette Avenue Wilmette, IL 60091-2721 |
| Account #2 | NICOR | 63-29-35-0000 | 200 Lake Avenue Wilmette, IL 60091-1925 |