

HOPPING GREEN SAMS & SMITH
PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS

JAMES S. ALVES
BRIAN H. BIBEAU
ROCHELLE A. BIRNBAUM
RICHARD S. BRIGHTMAN
KEVIN B. COVINGTON
PETER C. CUNNINGHAM
RALPH A. DeMEO
JODY L. FINKLEA
WILLIAM H. GREEN
WADE L. HOPPING
GARY K. HUNTER, JR.
JONATHAN T. JOHNSON
LEIGH H. KELLETT
ROBERT A. MANNING
FRANK E. MATTHEWS
RICHARD D. MELSON
ANGELA R. MORRISON
SHANNON L. NOVEY

123 SOUTH CALHOUN STREET
POST OFFICE BOX 6526
TALLAHASSEE, FLORIDA 32314

(850) 222-7500
FAX (850) 224-8551
FAX (850) 425-3415
www.hgss.com

ERIC T. OLSEN
GARY V. PERKO
MICHAEL P. PETROVICH
DAVID L. POWELL
JOHN K. POWELL
WILLIAM D. PRESTON
CAROLYN S. RAEPPLE
DOUGLAS S. ROBERTS
D. KENT SAFRIET
GARY P. SAMS
TIMOTHY G. SCHOENWALDER
ROBERT P. SMITH
DAN R. STENGLE
CHERYL G. STUART
W. STEVE SYKES
—
OF COUNSEL
ELIZABETH C. BOWMAN

Writer's Direct Dial No.
(850) 425-2313

January 24, 2001

BY HAND DELIVERY

Blanca Bayó
Director, Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

010099-64

Dear Ms. Bayó:

Enclosed for filing on behalf of City Gas Company of Florida are the original and fifteen copies of its Petition For Approval Of Special Gas Transportation Service Agreement.

If you have any questions regarding this filing, please call.

Very truly yours,

Richard D. Melson

Richard D. Melson

RDM/mee

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of Special)
Gas Transportation Service Agreement)
with Montenay Power Corp. by City)
Gas Company of Florida.)
_____)

Docket No. _____-GU

Filed: January 24, 2001

**PETITION FOR APPROVAL OF SPECIAL
GAS TRANSPORTATION SERVICE AGREEMENT**

Pursuant to Section 366.06, Florida Statutes and Rules 25-9.034 and 25-22.036, Florida Administrative Code, City Gas Company of Florida, a division of NUI Corporation ("NUI City Gas"), petitions the Commission for approval of a special gas transportation service agreement ("Agreement") with Montenay Power Corp. ("Montenay"). In support of this petition, NUI City Gas states:

1. The name of the petitioner and the mailing address of its principal office in Florida are:

City Gas Company of Florida
955 East 25th Street
Hialeah, FL 33013

2. The names and mailing addresses of the persons authorized to receive notices and communications with respect to this petition are:

Richard D. Melson
Hopping Green Sams & Smith, P.A.
123 South Calhoun Street
P.O. Box 6526
Tallahassee, FL 32314
(850) 425-2313

and:

Paul J. Chymiy
Senior Attorney & FERC Counsel
NUI Corporation
550 Route 202-206
P.O. Box 760
Bedminster, New Jersey 07921-0760

3. NUI City Gas is a natural gas distribution company subject to the regulatory jurisdiction of the Commission as prescribed in Chapter 366, Florida Statutes. Its substantial interests will be affected by the Commission's disposition of this Petition in that such disposition will determine whether NUI City Gas will be permitted to provide gas transportation service on terms acceptable to it and Montenay.

4. Montenay is Dade County's exclusive contractor for the operation and management of a waste recovery facility ("Facility") owned by Dade County and located in Miami, Florida.

5. The Facility currently uses propane as a supplemental fuel. Montenay and Dade County are desirous of converting the Facility to use natural gas and have requested NUI City Gas to extend its existing gas distribution system so that NUI City Gas can serve the Facility's full gas requirements. NUI City Gas is desirous of extending its distribution facilities to serve the Facility, subject to contractual provisions which require that Montenay pay for sufficient quantities of transportation to ensure that NUI City Gas will recover its investment in the extension and a reasonable return on that investment.

6. NUI City Gas and Montenay have entered into the Agreement, a copy of which is attached as Attachment I, subject to Commission approval. (Agreement, ¶ 8.d) Under the Agreement, NUI City Gas would receive up to 5,480 therms per day of

natural gas for Montenay's account at a Point of Receipt at a new gate station in Miami, Florida, transport such quantities on NUI City Gas' distribution system, and redeliver such gas to Montenay at the Facility. In order to provide service under the Agreement, NUI City Gas will construct an 8" extension of its distribution system at an estimated cost of approximately \$810,000, of which \$710,000 is attributable to service to Montenay and \$100,000 represents a system improvement.

7. Under the Agreement, Montenay will pay transportation charges at the applicable rates in NUI City Gas' Commercial Transportation Service ("CTS") rate schedule as those rates may be amended from time to time. (Agreement ¶ 2)

8. The initial term of the Agreement will end at the earlier of (a) 10 years from the date NUI City Gas is ready to place the distribution system extension to the Facility in service, or (b) when Montenay has paid for a total of 9,000,000 therms of gas transportation service at the CTS rates applicable at the time the services were rendered. (Agreement, ¶ 1) In the event Montenay terminates service under the Agreement before the end of the initial term, it is responsible to pay NUI City Gas at the then-applicable CTS tariff rate for the difference between 9,000,000 therms and the amount that has previously been transported under the Agreement. (Agreement, ¶9)

9. In addition to this "take or pay" provision in the event of early termination, the Agreement also contains a monthly "take or pay" provision under which Montenay will pay on a monthly basis for the actual amount of gas transported or for 75,000 therms, whichever is greater. (Agreement, ¶4.A)

10. Montenay will secure its obligations under the agreement by a performance bond in favor of NUI City Gas. The initial amount of the performance bond

will be \$710,406, which represents the portion of the capital cost of the extension attributable to Montenay. The amount of the bond will be reduced annually in proportion to amount of gas Montenay has transported under the Agreement compared to its total obligation to transport 9,000,000 therms over ten years.

11. Based on the CTS tariff rate of 17.847 cents/therm approved by the Commission in Docket No. 000768-GU, the take-or-pay provisions will result in annual margins to NUI City Gas of over \$160,000 per year, or over \$960,000 during the first six years of the Agreement. Since this amount exceeds the cost of the required distribution system extension, no contribution-in-aid-of-construction is required under the provisions of NUI City Gas' tariff.

12. The primary provisions of the Agreement which "are not specifically covered by [NUI City Gas'] filed regulations and standard approved rate schedules," and therefore trigger the requirement for Commission approval as a special contract under Rule 25-9.034, F.A.C., are:

(a) the provisions requiring Montenay to take or pay for a minimum of 900,000 therms per year, compared to the CTS Rate Schedule provision for a minimum annual bill based on 120,000 therms; and

(b) the provisions requiring Montenay to secure its obligations under the Agreement by a performance bond.

Approval of these provisions is in the best interest of NUI City Gas and its ratepayers, since they provide assurance that NUI City Gas will recover its full investment in the extension needed to serve Montenay.

14. Because Montenay will pay the applicable Commission-approved CTS tariff rates in effect at the time gas is transported under the Agreement, the contract will provide NUI City Gas the same margins that it would receive on service under the tariff to any similarly situated customer. Therefore the Agreement will have no adverse effect on NUI City Gas' general body of ratepayers.

15. NUI City Gas asks that the Commission approve the Agreement with Montenay as a special contract under Rule 25-9.034(1), Florida Administrative Code. Such approval will ensure that NUI City Gas is able to add this significant new gas transportation customer at fully compensatory rates and that NUI City Gas and its ratepayers will receive the benefit of the take or pay agreement and the related security provisions.

16. NUI City Gas is not aware of any disputed issues of material fact related to this Petition.

WHEREFORE, NUI City Gas requests that the Commission approve the Agreement with Montenay Power Corp.

RESPECTFULLY SUBMITTED this 24th day of January, 2001.

HOPPING GREEN SAMS & SMITH, P.A.

By: 

Richard D. Melson
P.O. Box 6526
Tallahassee, FL 32314
(850) 425-2313

and

Paul J. Chymiy
Senior Attorney & FERC Counsel
NUI Corporation
550 Route 202-206
P.O. Box 760
Bedminster, New Jersey 07921-0760

Attorneys for City Gas Company of Florida, a
division of NUI Corporation

AGREEMENT

This Agreement ("Agreement") is made this 1st day of December, 2000, by and between City Gas Company of Florida, a division of NUI Corporation, ("NUI") a New Jersey corporation, and Montenay Power Corp. ("Montenay"), a Florida corporation.

RECITALS

WHEREAS, Miami-Dade County, Florida, a political subdivision of the State of Florida, ("Dade County") and Montenay are parties to an agreement dated December 20, 1987, pursuant to which Montenay, among other things, has agreed to provide facility operations and management services to Dade County, and

WHEREAS, pursuant to said agreement Montenay is Dade County's exclusive contractor for the operation and management of a waste recovery facility owned by Dade County and located at 6990 N.W. 97th Ave., Miami, Florida ("Facility"), and

WHEREAS, the Facility is currently supplied with propane and both Montenay and Dade County are desirous of converting the Facility to use natural gas and have requested NUI to extend its existing gas distribution system so that NUI may serve the Facility's full natural gas requirements, and

WHEREAS, NUI is desirous of extending its existing distribution system in order to meet the full natural gas requirements of the Facility in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the premises and covenants set forth herein, NUI and Montenay mutually agree as follows:

1. This Agreement shall be effective as of the date first set forth above. The term of this Agreement shall begin on the date first set forth above and shall end at the earlier of (a) ten (10) years from the date that NUI is ready to place the distribution system extension to the Facility in-service, or (b) upon Montenay's having paid the Transportation Charges as set forth in NUI's Commercial Transportation Service ("CTS") Rate Schedule, or successor rate schedule, for 9,000,000 therms of gas transportation service, at the rates applicable at the time that the services were rendered. The intent of this provision is that Montenay will receive full credit for payment of the applicable Transportation Charges for service rendered, without any impact of future increases or decreases in NUI's Tariff (as defined below) rates on Montenay's total obligation pursuant to this Agreement.
2. The gas transportation service provided by NUI to Montenay hereunder is expressly subject to and governed by the terms and conditions of NUI's tariff ("Tariff") as filed with and approved by the Florida Public Service Commission ("FPSC"), as may be amended or modified from time-to-time, and which is fully incorporated herein by reference. More specifically, the service hereunder is being provided pursuant to Rate Schedule "CTS" - Commercial Transportation Service which is contained within the Tariff, as the such rate schedule may be amended or modified from time-to-time, and the terms of Exhibit A, the Transportation Service Agreement, which is attached hereto and incorporated fully herein by reference. In accordance with the terms of the CTS Rate Schedule, NUI shall provide

Montenay with the option to contract for Standby Service. In the event of a conflict among the terms of this Agreement, the CTS rate schedule, and the Tariff, the documents shall govern in the priority set forth in this sentence.

3. In accordance with the terms of this Agreement, NUI will construct an extension of its existing gas distribution system to the Facility with a capacity to provide Montenay up to 320,000 CFH of natural gas delivery under normal operating conditions. Montenay acknowledges that actual gas deliveries and system capacity will depend upon, among other things, the occurrence of unforeseen circumstances such as those described in Paragraph 10 of this Agreement and operating conditions on the system of Florida Gas Transmission Company ("FGT").

4. (A) Montenay agrees to a contract minimum annual delivery obligation of 900,000 therms of natural gas per year from NUI each contract year for the first ten (10) contract years following the date that the distribution system extension is ready to be placed into service. A "contract year" shall mean the twelve month period following the date that NUI demonstrates the distribution system is ready for service, and all successive twelve month periods thereafter. During the term of this Agreement, on a monthly basis, NUI shall invoice Montenay and Montenay shall pay NUI an amount equal to the product of (a) the greater of 75,000 therms or the actual quantity of service actually taken by Montenay, times (b) the then effective Transportation Charge under the CTS Rate Schedule, or successor rate schedule.

(B) Montenay's payment obligation to NUI shall be the monthly amount indicated in Paragraph 4A above, subject to the terms of Paragraph 4C.

(C) NUI reserves the right to require a contribution in aid of construction if unforeseen circumstances occur during construction or additional costs associated with regulatory fees, impact fees, impact studies or permit fees are incurred. Further in the event any such costs arise, Montenay's exposure to increases above the project cost of \$810,406 will be limited to \$71,041. For the purposes of this Paragraph, unforeseen circumstances shall include the events described in Paragraph 10 of this Agreement.

(D) Should NUI seek additional costs from Montenay in accordance with Paragraph 4C above, NUI shall present Montenay with documentary evidence in support of the increased costs. Notice of such costs shall be provided to Montenay within a reasonable time after they occur and Montenay will be notified of possible cost increases at soon as reasonably possible after the occurrence or start of the event giving rise to same. Montenay will not be responsible for additional costs due to acts, errors, omissions or delays caused by NUI, its subcontractors or agents.

5. Subject to the terms of Paragraphs 8 and 10 below, NUI shall complete construction of the distribution system extension and be prepared to provide natural gas to the Facility within six (6) months from the date of satisfaction of the last condition precedent set forth in Paragraph 8 of this Agreement ("completion date"). NUI shall not have any liability to Dade County or Montenay in the event construction is not completed by the completion date, provided that NUI has exercised reasonable efforts to complete construction by the completion date.

6. Montenay shall arrange and be responsible for removal from the site and disposal of all hazardous waste material encountered during the installation of the distribution service

extension in the area designated in the easement to be granted to NUI by Miami-Dade County as mentioned in Paragraph 8(c), below.

7. Montenay will assist NUI in obtaining all necessary permits and authorizations.

8. The obligations of NUI and Montenay under this Agreement are expressly subject to the satisfaction of all of the following conditions precedent within ninety (90) days of the date first set forth above:

- a. NUI entering into a binding agreement, on terms and conditions acceptable to NUI, for the purchase of the property necessary for the construction of a new interconnection ("gate station") with the facilities of FGT.
- b. NUI determining, to its sole satisfaction, that no geologic or environmental impediments exist with respect to the construction of the distribution system extension in the location selected. In the event an impediment is identified, NUI agrees to investigate alternative routing.
- c. NUI acquiring all necessary easements and right-of-way or other property rights for the construction of the distribution system extension on terms acceptable to NUI, in its sole discretion, including, but not limited to, the necessary easement from Miami-Dade County for consideration not to exceed \$2,197.00.
- d. NUI obtaining any and all governmental and regulatory approvals of this Agreement including, but not limited to, the approval of this Agreement by the FPSC, and of the service to be provided hereunder, and for the construction of the distribution system extension, all in form and substance acceptable to NUI in its sole discretion, and Montenay providing NUI with active support in any proceedings concerning such approvals.
- e. FGT obtaining all property or property rights and governmental permits and obtaining and accepting all regulatory approvals, including but not limited to any and all approvals required to be issued by the Federal Energy Regulatory Commission, for the construction of the gate station and the rendering of service to NUI.
- f. The payment by Montenay of any contribution in aid of construction required pursuant to Paragraph 4(C) of this Agreement.
- g. Montenay providing NUI with the performance bond described in Paragraph 13 of this Agreement.

In the event that upon the expiration of the ninety (90) day period set forth above, any of the foregoing conditions precedent are not satisfied, or if the satisfaction thereof is not extended by mutual written agreement of NUI and Montenay, or if the unsatisfied condition or conditions are not waived in writing by the party responsible for satisfying them (with the understanding that with respect to condition 8(e) above, neither party hereto is to be considered responsible for the satisfaction of such condition), this Agreement shall

terminate and no party shall have any liability to any other party hereunder. However, the parties further agree that, in the event the project can not proceed due to failure to meet one or more of the above conditions, at costs anticipated by the initial NUI estimate, the parties shall work together in efforts to identify alternative routes, easements and proposals.

- 9 Montenay agrees that it, and its successors and assigns shall not obtain the delivery of natural gas to the Facility from any party other than NUI during the 10 year term of this Agreement. However, if Montenay or its successors or assigns terminate the service under this Agreement for any reason, Montenay or its successors or assigns will be responsible to fulfill the remaining commitments on this Agreement, including but not limited to the payment to NUI of an amount equal to the product of (i) the difference of 9,000,000 therms less the quantity actually transported by Montenay up to and including the date of termination, times (ii) the then effective Transportation Charge under the CTS Rate Schedule, or successor rate schedule, which amount shall be due and payable immediately upon termination, without the necessity of notice by NUI.
- 10 Neither party to this Agreement shall be liable to the other party hereto for any delay in the performance of its obligations under this Agreement or for damages to such other party for any act, omission, or circumstance occasioned by or in consequence of any acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of rulers and people, civil disturbances, explosions, breakage or accident to machinery, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable means, inability to obtain easements, rights-of-way or other property rights on terms acceptable to the party responsible for acquisition, failure to obtain necessary governmental or regulatory authorizations, approvals, or permits in a timely manner or on terms acceptable to party seeking same, the acts of subcontractors and other third parties, and any other cause, whether of the kind herein enumerated or otherwise, not within the control of the party claiming suspension and which by exercise of due diligence such party is unable to prevent or overcome. However, the existence of such causes or contingencies shall not relieve any party of its obligation to make payments of any amounts due hereunder.

11. EXCEPT AS PROVIDED IN PARAGRAPH 9 OF THIS AGREEMENT, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY HERETO BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, SPECIAL, OR PUNITIVE DAMAGES INCLUDING (WITHOUT LIMITATION) DAMAGES FOR LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS (INCLUDING, WITHOUT LIMITATION, COVER), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY OR TORT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TERMS OF THIS PARAGRAPH 11 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

12. Each party (in this context, the "Indemnifying Party") agrees that it shall protect indemnify and forever hold harmless the other party (in this context, the "Indemnified Party"), and its respective directors, officers, employees and agents from and against all liabilities, claims, demands, judgments, losses, costs, expenses, suits and actions, including without limitation reasonable attorneys' fees and other costs associated with such actions,

and shall defend the Indemnified Party in any suit, regulatory proceeding, administrative proceeding, or other action, including appeals, whether based in tort, contract or other law or equity, arising out of or in connection with the Indemnifying Party's performance or non-performance of its obligations under this Agreement, including but not limited to personal injury to, or death of, any person or persons, or loss or damage to property, to the extent and in the proportion caused by the Indemnifying Party.

13. During the term of this Agreement, Montenay shall procure and maintain in full force and effect a performance bond, in form and substance acceptable to NUI, in favor of NUI guaranteeing Montenay's obligations to NUI under this Agreement. Such bond shall be issued by a party acceptable to NUI. The amount of the initial performance bond shall be equal to \$710,406. At the beginning of each contract year, the amount of the bond may be reduced such that the amount payable on the bond in such contract year is equal to the product of (a) \$710,406 times (b) 1 minus the quotient of the gas transported by Montenay in all prior contract years, divided by 9,000,000 therms. As a contribution to the annual cost of such bond, NUI agrees to reimburse Montenay an amount equal to the lesser of (a) fifty percent (50%) of the actual cost of the bond, or (b) \$ 5,500.

14. All notices under this Agreement may be sent by facsimile, a nationally recognized overnight courier service, first class mail, or hand delivered, to the parties at the addresses and facsimile numbers set forth below:

To NUI:

Mr. Edward Liberty
NUI Corporation
550 Route 202-206
P.O. Box 760
Bedminster, NJ 07921
Phone: 908-470-4624
Facsimile: 908-470-9520

To Montenay:

The Facility Manager
Montenay Power Corp.
6990 N.W. 97th Avenue
Miami, FL 33178
Phone: 305-593-7000
Facsimile: 305-593-7114

Notice shall be given when received on a business day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission, if the day on which such facsimile is received is not a business day or is after five p.m. on a business day, then such facsimile shall be deemed to have been received on the next following business day. Notice by overnight mail or courier shall be deemed to have been received on the next business day after it was sent or such earlier time as is confirmed by the receiving party.

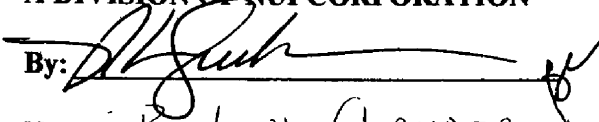
15. a. This Agreement, together with all documents incorporated herein by reference, constitutes the entire agreement between the parties hereto, and supersedes all previous agreements and understandings, whether oral or written, relating to the subject matter

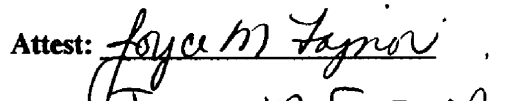
hereof. No modification or waiver of this Agreement shall bind either party unless such modification or waiver is in writing and signed by an officer of each party.

- b. There are no third party beneficiaries to this Agreement.
- c. This Agreement shall be governed by and construed under the laws of the State of Florida, without giving effect to its conflicts of laws principles.
- d. If this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular party and particular breach so waived and shall not be deemed to waive any other breach hereunder.
- e. No assignment of this Agreement, in whole or in part, will be made without the prior written consent of the non-assigning party, which consent will not be unreasonably withheld or delayed; provided, however, that either party may, without the consent of the other party transfer or assign this Agreement to an affiliate of such party which affiliate's creditworthiness is comparable to or higher than that of such party.
- f. Should any provision of this Agreement become unenforceable, invalid, or be declared illegal, then that provision shall be considered severed from the rest of this Agreement and shall not affect the validity of the remainder of this Agreement

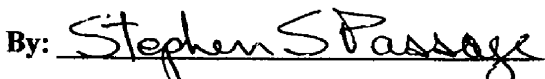
IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first written above.

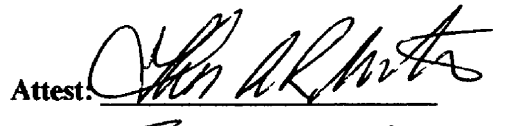
**CITY GAS COMPANY OF FLORIDA,
A DIVISION OF NUI CORPORATION**

By: 
Name: RICHARD GRUBER
Title: VP Marketing

Attest: 
Name: JOYCE M. FAJNOR
Title: ASSISTANT SECRETARY

MONTENAY POWER CORP.

By: 
Name: STEPHEN S. PASSAGE
Title: PRESIDENT

Attest: 
Name: THOMAS A.R. MORTON
Title: VP

(Signature page of Agreement between City Gas Company of Florida, a division of NUI Corporation and Montenay Power Corp. dated December 1, 2000)

EXHIBIT A

TRANSPORTATION SERVICE AGREEMENT

Montenay ("Customer") and NUI ("Company") agree as follows:

ARTICLE I

POINTS OF RECEIPT AND DELIVERY

1. Customer shall arrange for the delivery of all gas to be transported by Company hereunder to take place at the following interconnection between Company and Florida Gas Transmission Company (FGT): a proposed interconnection at or near 7301-7321 N. W. 61st Street, Miami Florida (Point of Receipt). All such gas received by Company shall be redelivered to Customer at the interconnection between the distribution system of Company and the Facility (Point of Delivery).

ARTICLE II

OBLIGATIONS AND REPRESENTATIONS OF CUSTOMER

1. Customer warrants that it will, at the time of delivery of gas to Company for transportation hereunder, have good and merchantable title to the gas free and clear of all liens, encumbrances and adverse claims; and Customer agrees to hold harmless, indemnify and defend Company from and against any suits, actions, claims, losses, and/or expenses suffered by Company as a direct or indirect result of an adverse claim by any third party with respect to the gas. Customer agrees to provide Company with any documentation which may be requested in writing by Company to evidence Customer's title to the gas transported. Company reserves the right, without penalty or liability, to refuse transportation of any gas in the event Customer fails to provide such documentation upon Company's written request.

2. Customer warrants that to the best of its knowledge all gas delivered to Company for transportation hereunder shall be of a merchantable quality and shall conform to the quality requirements set forth in the tariff of FGT as filed with and approved by the Federal Energy Regulatory Commission.

ARTICLE III

QUANTITY

1. The maximum daily contract quantity of gas (MDCQ) Customer may have delivered to Company at the Point of Receipt for transportation by Company hereunder shall be 5,480 therms. Customer may increase the MDCQ and/or the maximum deliveries designated herein for the Point of Receipt only with the prior consent of the Company, and only upon such prior notice as the Company may require under the circumstances.

ARTICLE IV
PARAMETERS OF SERVICE

1. Company does not warrant that transportation service will be available hereunder at all times and under all conditions.

2. Transportation service shall be subject to the terms and conditions governing interruption or curtailment of service, as delineated in the CTS Rate Schedule.

3. Customer shall be subject to the procedures for removing imbalances set forth in the CTS Rate Schedule. Customer does ___ or does not X wish to participate with other customers served under the CTS Rate Schedule in the "book out" procedures described in the Rate Schedule. Customer acknowledges that by electing to participate in the "book out" procedure Customer consents to have Company notify other customers served under the CTS Rate Schedule, through individual contact or by means of an electronic bulletin-board, of any imbalance Customer may experience in a given month. These book-out procedures are designed only to resolve imbalances as to transportation capacity. They do not purport to apply to the disposition of the commodity purchased, which remains the responsibility of the Customers.

ARTICLE V
RATES AND CHARGES FOR SERVICE

1. Customer shall pay Company each month as invoiced for services in accordance with the terms of the Agreement between Company and Customer to which this Transportation Agreement is an exhibit.

ARTICLE VI
MEASUREMENT

1. Quantities of gas delivered to the Company's distribution system at the Point of Receipt for the account of Customer shall be measured by FGT. All charges billed to Customer hereunder shall be based on the measurement made at the Point of Delivery. Customer may, with the prior written consent of Company, which shall not be unreasonably withheld, and at no cost to Company, install check measuring devices at the Point of Delivery.

ARTICLE VII
FACILITIES

All facilities required to provide service shall be designed, constructed, installed, operated, and owned by Company. In accordance with the Tariff, prior to the commencement of additional service hereunder, Customer shall reimburse Company in the amount of \$825.00 per meter.

ARTICLE VIII
NOMINATIONS AND NOTICE

1. Customer, or its agent as defined in the CTS Rate Schedule, shall make all nominations for service on Company's system hereunder on the appropriate form provided by Company, in accordance with the CTS Rate Schedule. Customer, or its agent, shall submit any new nomination for service a minimum of ten working days prior to the commencement of the transportation service, and shall submit a request for a change to an existing nomination a minimum of three working days prior to the date the change is to become effective.

2. Customer, not the Company, shall be responsible for making all transportation agreements and nominations to all third parties upstream of the Point of Receipt. Customer may use a Third Party Supplier (TPS) for this purpose and shall nominate a TPS in accordance with Appendix A. If Customer utilizes a TPS to make such transportation arrangements and nominations on the interstate system that is upstream of Company's system, Customer shall identify the TPS at the time the nomination is made.

3. All nominations and adjustments to nominations shall be directed to:

Manager, Gas Control
NUI/Elizabethtown Gas Company
One Elizabethtown Plaza
Union, NJ 07083
Fax: (908) 527-9478

Any service inquiries or correspondence regarding the administration of nominations shall be directed to:

Carlos Zerpa
Key Accounts Manager
NUI/City Gas Company of Florida
955 East 25th Street
Hialeah, Florida 33013-3498
Phone / Fax: (305) 380-1080 / (305) 380-7222
Or
Isabel Losada
NUI/City Gas - Marketing
One Elizabethtown Plaza
Union, NJ 07083
Phone / Fax: (888) 840-4455 / (908) 289-1370

All payments shall be directed to:

NUI/City Gas Company of Florida

955 East 25th Street
Hialeah, Florida 33013-3498

4. All customer invoices shall be directed to:

Montenay Power Corp.
6990 N.W. 97th Avenue
Miami, FL 33178

Attn: Mr. Tony Guillen
Phone: (305)593-7125
Fax: (305)593-7220

Agreed to and accepted by:

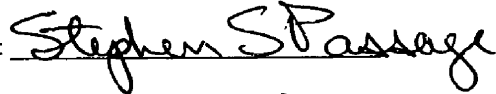
NUI Corporation

By: 

Name: Richard Gruber

Title: VP, Marketing


Montenay Power Corp.

By: 

Name: Stephen S. Passage

Title: President

Attest:


THOMAS A. R. MORTON
VP,