

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Miami-Dade County through  
The Miami-Dade Water and Sewer Department  
for Approval of Special Gas Transportation  
Service Agreement with Florida City Gas

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Docket No. 090539-GU

**REBUTTAL TESTIMONY**

**OF**

**JACK LANGER**

**ON BEHALF OF MIAMI-DADE COUNTY WATER AND SEWER  
DEPARTMENT**

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**REBUTTAL TESTIMONY OF JACK LANGER ON BEHALF OF  
MIAMI-DADE WATER AND SEWER DEPARTMENT**

1 **Q: ARE YOU THE SAME JACK LANGER WHO SUBMITTED DIRECT**  
2 **TESTIMONY ON BEHALF OF MIAMI-DADE COUNTY IN THIS**  
3 **PROCEEDING?**

4 A. Yes, I am.

5 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

6 A. FCG's witnesses Williams and Bermudez request that the Commission excuse  
7 the numerous acts of FCG mismanagement and incompetence which they  
8 identify in their testimony by rejecting the 2008 Agreement. These FCG acts  
9 and admissions are identified specifically by Miami-Dade's witness Ruiz so I  
10 will not re-list them in this testimony. However, I wish to provide the  
11 Commission with an exhibit that I prepared, Exhibit \_\_\_\_ (JL-11) under cover  
12 page titled "FCG and AGL Employees and Representatives Who Have  
13 Participated in Negotiations, Review and Proceedings Regarding the 2008  
14 Agreement." This exhibit identifies the many employees and lawyers for AGL  
15 and FCG, including FCG's President, who had some part in the negotiation,  
16 review and signing of the 2008 Agreement and the First Amendment to the 2008  
17 Agreement.

18 As the former President of FCG's predecessor, with decades of experience as an  
19 officer of a utility regulated by this Commission, I cannot believe the  
20 Commission would even consider rejecting the 2008 Agreement in view of  
21 FCG's admissions of mismanagement. These two companies, FCG and AGL,  
22 have been in the natural gas distribution business for a combined total of over  
23 160 years and are considered undisputed leaders in the industry for decades.  
24 For either of them to use mismanagement as an excuse to break a signed (legal)  
25 agreement (previously in place for a period of ten years) negotiated in good faith

**REBUTTAL TESTIMONY OF JACK LANGER ON BEHALF OF  
MIAMI-DADE WATER AND SEWER DEPARTMENT**

1 and reviewed by their employees for almost one (1) year is unconscionable,  
2 ignoble and stretches ones credulity. To grant FCG's request would establish an  
3 unheard of and, frankly, horrible precedent for the Commission.

4 **Q. I SHOW YOU EXHIBIT \_\_\_ (JL-12) UNDER COVER PAGE TITLED,**  
5 **"MIAMI-DADE BY-PASS COSTS." WAS THIS EXHIBIT PREPARED**  
6 **BY YOU OR UNDER YOUR DIRECTION AND SUPERVISION?**

7 A. Yes, it was. This exhibit includes copies of two reports which I have recently  
8 prepared for Miami-Dade to provide bypass cost information which I have  
9 obtained to date. This exhibit confirms the viability of bypass of FCG's pipes to  
10 transport natural gas to Miami-Dade's Orr and Hialeah plants.

11 At this time, I must state that Miami-Dade disagrees with FCG's attempt to get  
12 this Commission to believe that the 2008 Agreement could be rejected if the  
13 rates in the Agreement had been substantially lower than Miami-Dade's bypass  
14 cost alternative.

15 The 2008 Agreement is a binding contract. In my decades of experience with a  
16 regulated utility, I have never witnessed a utility suggest that upon a  
17 Commission finding of utility mismanagement, the utility should be absolved of  
18 any adverse implications from its mismanagement and be given authority to  
19 collect higher rates/more money from the customer-victim of the utility's  
20 admitted mismanagement and incompetence. In my experience, the utility and  
21 its management, as well as shareholders, are typically held accountable for acts  
22 of mismanagement and incompetence. In this proceeding, the Commission  
23 should approve the 2008 Agreement signed by FCG's President; obligate FCG  
24 to fulfill its obligations and order FCG to refund to Miami-Dade any excess  
25 charges previously paid by Miami-Dade to FCG.

**REBUTTAL TESTIMONY OF JACK LANGER ON BEHALF OF  
MIAMI-DADE WATER AND SEWER DEPARTMENT**

1 FCG did not even request bypass cost information from Miami-Dade until after  
2 FCG had signed the 2008 Agreement and submitted it to the Commission. Then  
3 Staff signaled to FCG that the Commission would not approve the 2008  
4 Agreement based upon FCG's alleged incremental costs to serve Miami-Dade.  
5 Since Miami-Dade had a signed agreement and, in our opinion, FCG was  
6 ethically and legally bound to assist Miami-Dade in having the Agreement  
7 approved and complied with, Miami-Dade did not pursue bypass information.  
8 Once it became clear that FCG was acting unconscionably by attempting to  
9 have the Commission reject the 2008 Agreement, I was tasked with securing  
10 "real" bypass cost information which I formalized in the reports in Exhibit \_\_\_\_  
11 (JL-12) and which Miami-Dade presented to the Commission upon their being  
12 finalized.

13 **Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?**

14 **A.** Yes, it does.

**DOCKET NO. 090539-GU**  
**FCG AND AGL EMPLOYEES AND REPRESENTATIVES**  
**WHO HAVE PARTICIPATED IN NEGOTIATIONS,**  
**REVIEW AND PROCEEDINGS REGARDING THE 2008 AGREEMENT**  
**EXHIBIT \_\_\_\_\_ (JL-11)**

**Docket No. 090539-GU**  
**FCG and AGL Employees and Representatives Who**  
**Have Participated In Negotiations, Review and**  
**Proceedings Regarding the 2008 Agreement**  
**Exhibit \_\_\_\_\_ (JL-11), Page 1 of 1**

<b>Name</b>	<b>Position</b>
Henry Lingenfelter	AGL Resources' Exec. Vice President and President of Pivotal Utility Holdings, Inc. D/B/A Florida City Gas
Melvin Williams	General Manager, FCG
Eddie Delgado (terminated)	FCG's Major Accounts Representative
Errol West	FCG's Manager, Market Development
Carolyn Bermudez	Director, Strategic Business and Financial Planning, AGL Services Company (Ms. Bermudez works at FCG office)
Donna Peeples	Vice President and Chief Marketing Officer, AGL Resources
Corey Minshew	Managing Director Market Development, AGL Resources
Ramiro Sicre (terminated)	FCG's Sales Manager
Joanne Abrams	AGL Resources Legal
Elizabeth Wade	AGL Resources Legal
Lila Jaber	AGL Resources Legal
Matthew Feil, Esq.	Outside Legal Counsel
Beth Keating, Esq.	Outside Legal Counsel
Floyd Self, Esq.	Outside Legal Counsel

**DOCKET NO. 090539-GU**  
**MIAMI-DADE BY-PASS COSTS**  
**EXHIBIT \_\_\_\_\_ (JL-12)**

**Executive Summary for**  
**Alexander Orr Water Treatment Plant**  
**Natural Gas Conversion**

**Current Situation**

The Miami/Dade County water department has two water treatment plants that have their natural gas supplied by the local natural gas distribution company. Each location has a dedicated gas metering and pressure regulating station near the point of natural gas consumption. Each location is equipped with a Maxon emergency shut off valve with flow rate and delivery pressure communicated to the control rooms.

The Alexander Orr water treatment plant has a large rotating dryer located on the south side of the complex that consumes approximately 38,000 standard cubic feet per hour (scf/hr) with a delivery pressure of 30 psig. Located on the north side of the complex are a number of natural gas fueled engines that consume approximately 15,000 scf/hr of natural gas at a delivery pressure of 50 psig. Future plans call for the installation of additional engine(s) that will increase the consumption to an estimated 20,000 scf/hr.

**Direction Connection to Transmission Supplier (By Pass of LDC)**

Langer Energy Consulting, Inc. contacted James Tenney (T&T Pipeline, Inc.) to determine if the direct connection to the area transmission supplier is practical. T&T Pipeline has been constructing natural gas facilities throughout Florida for nearly 25 years. Mr. Tenney contacted Richard Firebaugh (Southeast Diversified Services Company, Inc.) to put together a design, procurement, build, and commission proposal. Richard Firebaugh has served as an engineer, senior manager and project manager for more than 35 years. During the past ten years, Mr. Firebaugh has designed and served as project manager on 15 customer owned metering and regulating stations within Florida. All of these facilities are served by Florida Gas Transmission Company, Inc. (FGTC). Mr. Tenney and Mr. Firebaugh have toured both plants and developed the design/procurement/build cost estimate.



**Alexander Orr Water Treatment Plant**

Florida Gas Transmission Company (FGTC) has a 24" transmission pipeline located within the west right of way of SW 87<sup>th</sup> Avenue. Approximately 200 feet south of the plant entrance, FGTC has an above ground pipeline blow down assembly. We propose to work with FGTC to install a connection to this pipeline near the blow down assembly.



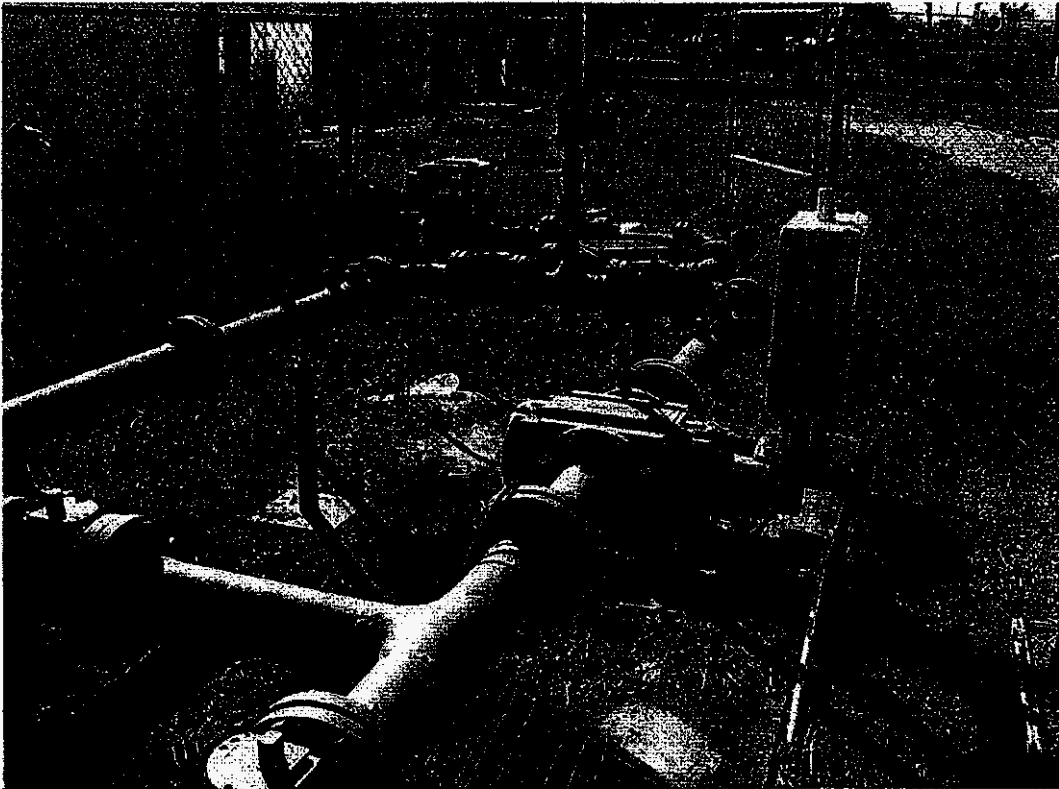
Approximately 50 feet of pipe would be extended from the tap to a new county owned FGTC metering and regulating station. The station will be approximately 30 feet by 40 feet and would be located in the southwest corner of the plant in the area of the silver van shown below. The station will be equipped with a custody transfer meter that can be monitored in a control room if desired.



Service to the Engine Driven Pumps

A 4 inch natural gas pipeline will exit the FGTC M&R station and extend north along 87<sup>th</sup> Avenue within the plant property to just south of SW 64<sup>th</sup> Street. The pipeline will then extend to the west and terminate near the existing LDC meter site. Construction along this route will require extensive horizontal directional drill as well as hand digging due to the extensive underground facilities and wells in the area.

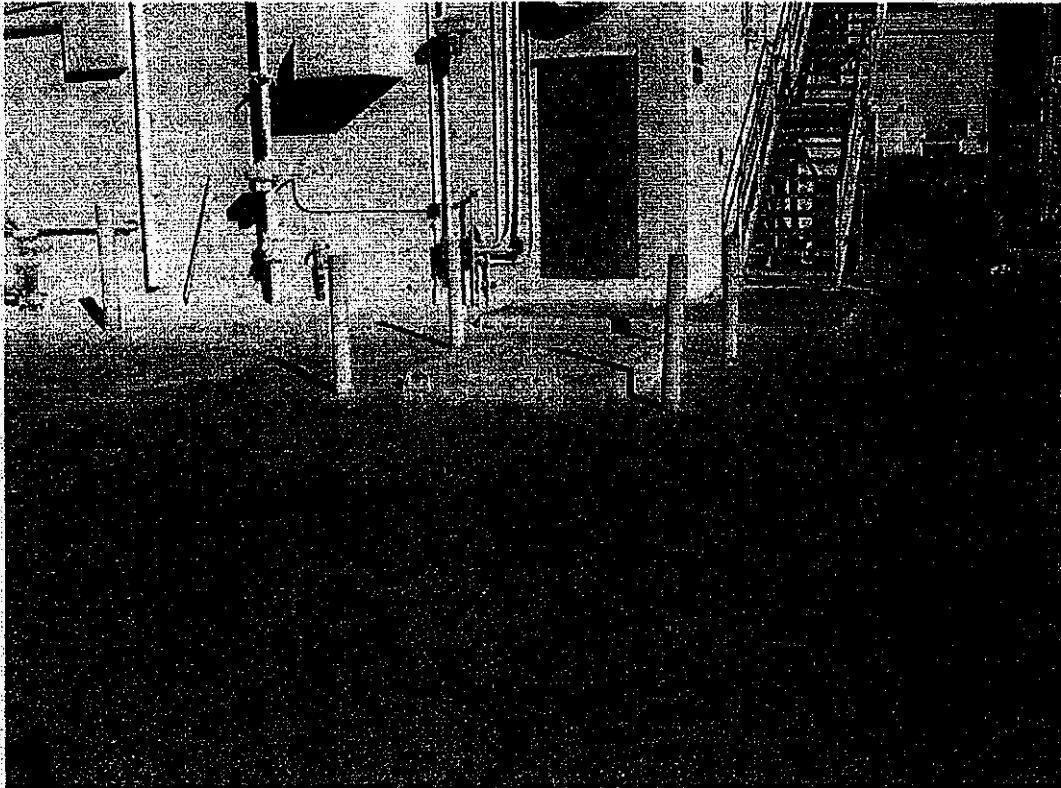
The alignment is planned adjacent to an existing underground power conduit system that may be within an easement granted to FP&L.



A new commercial meter and pressure regulator would be located east of the existing LDC station and a tie in will be made near the Maxon emergency shut off valve (yellow box). Flow and pressure information will be communicated to the control room using existing conduit and cables. If desired, the tie in will be made to allow both the new and existing supplier the ability to serve the engines.

Service to the Rotary Dryer

A second 4 inch natural gas pipeline will exit the FGTC M&R station and extend north along the south property line, then west across the two railroad tracks to the dryer building. A permit will need to be obtained from CSX Railroad for a bore and jack of the spur. We anticipate extensive hand digging in some areas due to the numerous underground facilities. All pavements will be restored to as good as or better condition. The pipeline will terminate at the dryer building wall near the existing gas riser with Maxon emergency shut off valve (vertical white pipe with yellow decal).



FGTC will support the project by installing the pipeline tap and installing flow measurement equipment. The cost of FGTC support must be negotiated by the owner.

If allowed by FGTC, we can provide the pipeline tap for an estimated \$ 32,000.

We are prepared to design, engineer, furnish materials and install the new FGTC M&R station, connecting pipelines and tie in at the engines/dryer for \$ 610,000.

**Executive Summary for**  
**Hialeah Water Treatment Plant**  
**Natural Gas Conversion**

**Current Situation**

The Miami/Dade County water department has two water treatment plants that have their natural gas supplied by the local natural gas distribution company. Each location has a dedicated gas metering and pressure regulating station near the point of natural gas consumption. Each location is equipped with a Maxon emergency shut off valve with flow rate and delivery pressure communicated to the control rooms.

The Hialeah water treatment plant has a large rotating dryer located on the southwest corner of the complex that consumes approximately 30,000 standard cubic feet per hour (scf/hr) with a delivery pressure of 30 psig.

**Direction Connection to Transmission Supplier (By Pass of LDC)**

Langer Energy Consulting, Inc. contacted James Tenney (T&T Pipeline, Inc.) to determine if the direct connection to the area transmission supplier is practical. T&T Pipeline has been constructing natural gas facilities throughout Florida for nearly 25 years. Mr. Tenney contacted Richard Firebaugh (Southeast Diversified Services Company, Inc.) to put together a design, procurement, build, and commission proposal. Richard Firebaugh has served as an engineer, senior manager and project manager for more than 35 years. During the past ten years, Mr. Firebaugh has designed and served as project manager on 15 customer owned metering and regulating stations within Florida. All of these facilities are served by Florida Gas Transmission Company, Inc. (FGTC). Mr. Tenney and Mr. Firebaugh have toured both plants and developed the design/procurement/build cost estimate.

Florida Gas Transmission Company (FGTC) has a 12" transmission pipeline located within the south right of way of Perimeter Road on the south side of NW 36<sup>th</sup> Street near the Miami International Airport. The 12" pipeline would be tapped between NW 59<sup>th</sup> Avenue and NW 62<sup>nd</sup> Avenue. Approximately 50 feet of pipe would be extended from the tap south under the existing airport wall to a new county owned FGTC metering and regulating station on airport property. The station will be approximately 30 feet by 40 feet and would be located in an area negotiated with the airport authority. The station will be equipped with a custody transfer meter that can be monitored in a control room, if desired.

Service to the Rotary Dryer

A 4 inch natural gas pipeline will be horizontally directional drilled under Perimeter Road and NW 36<sup>th</sup> Street to the north side of the 36<sup>th</sup> Street right of way. Approximately 12,000 feet of 4 inch natural gas pipeline will be installed along NW 36<sup>th</sup> Street, NW 62<sup>nd</sup> Avenue, Hunting Lodge Drive, Lenape Drive, Nightingale Avenue, Shadow Way, Quail Avenue and North Royal Poinciana Blvd to a canal crossing at W 3<sup>rd</sup> Avenue at the southwest corner of the Hialeah plant site.

The pipeline will terminate at the dryer building wall near the existing gas riser with Maxon emergency shut off valve (yellow box).



FGTC will support the project by installing the pipeline tap and installing flow measurement equipment. The cost of FGTC support must be negotiated by the owner.

If allowed by FGTC, we can provide the pipeline tap for an estimated \$ 32,000.

We are prepared to design, engineer, furnish materials and install the new FGTC M&R station, connecting pipelines and tie in at the engines/dryer for \$ 1,145,000 assuming the owner obtains all right of way permits and other use agreements from the appropriate agencies.



SERVE • CONSERVE

*Miami-Dade*  
1/12/99

January 8, 1999

Mr. Kim T. Verran  
Territory Manager  
NUI/City Gas Company  
One Elizabethtown Plaza  
P. O. Box 3175  
Union, N.J. 07083-1975

Re: Transportation Service Agreement between City Gas Company of Florida and Miami-Dade County

Dear Mr. Verran:

Enclosed is our redraft of the Transportation Service Agreement which implements our understanding reached last summer regarding rates, construction of a new access main, and exclusive dealings.

Please contact me immediately if you have any problems with this. Otherwise, please see that the four originals are properly executed and returned. After much delay, we want to put this on a Board of County Commissioners agenda for approval as soon as possible. Only after this process is complete can we move forward with construction.

Sincerely,

William M. Brant, P.E.  
Director

WMB:CAA:jd  
Enclosures  
c: Jack Langer

*cc: Dick Austin*

**NATURAL GAS  
TRANSPORTATION SERVICE AGREEMENT**

Account Nos. 211-0756225-011, 211-0756239-011,  
211-0754412-011

THIS AGREEMENT made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 19\_\_ by and between NUI Corporation, a New Jersey Corporation, hereinafter referred to as "Company" and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "Customer".

**WITNESSETH:**

WHEREAS, Company's Natural Gas Tariff (Tariff) establishes Transportation Service to be provided pursuant to Rate Schedule having certain specific terms of applicability; and

WHEREAS, Customer has requested that Company render natural gas transportation service to Customer in accordance with the terms and conditions of this Agreement and Company has agreed to transport Customer's gas,

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements set forth herein, the parties agree as follows:

ARTICLE 1

TERM OF AGREEMENT

1. Subject to all other provisions, conditions, and limitations hereof, this Agreement shall become effective as of \_\_\_\_\_, and shall continue in full force and effect for ten (10) years, at which time the Agreement shall terminate. Company agrees, upon written request from Customer received by Company not less than 90 days prior to the termination date of this Agreement, to review the terms and conditions of the Agreement for the purpose of renewal for a like term. The renewal is contingent upon the Company and Customer mutually agreeing in writing to the terms and conditions for the renewal term. This Agreement supersedes and renders null and void that certain ~~Transportation Service Agreement~~ between the Company and Customer made and entered into as of November 1, 1997.

ARTICLE II

APPLICABILITY OF TARIFF

1. Based upon governing applicability provisions, the parties hereby confirm that Customer qualifies for the Contract Interruptible Large Volume Transportation Service (CI-LVT) Rate Schedule.

2. Pursuant to the Affidavits of Alternate Fuel Price attached hereto, the rates for transportation of natural gas to Customer's listed facilities shall be as set forth in Article VII of this Agreement.



ARTICLE III

POINTS OF RECEIPT AND DELIVERY

Customer shall arrange for the delivery of all gas to be transported by Company hereunder to take place at those interconnections between Company and Florida Gas Transmission Company (FGT) heretofore determined (Point(s) of Receipt). All such gas received by Company shall be redelivered to Customer at those interconnections between the distribution system of Company and the facilities of Customer heretofore determined (Point(s) of Delivery).

ARTICLE IV

OBLIGATIONS AND REPRESENTATIONS OF CUSTOMER

1. Customer represents that it meets all qualifications for Contract Interruptible Large Volume Transportation Service .
2. Customer agrees to comply with all terms and conditions of this Agreement and applicable regulations of the Florida Public Service Commission, which terms and conditions are incorporated by reference.
3. 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. 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.

4. Company understands that Customer warrants only its title to the natural gas at the Points of Receipt. Customer's contracted supplier of natural gas is responsible to warrant that 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 V

QUANTITY

1. Customer and Company agree that as of the Effective Date of this Agreement, the initial maximum annual quantity of gas (MACQ) that the company is obligated to deliver to Customer under this Agreement is in any contract year is:

- A. Alexander Orr Water Treatment Plant  
6800 S.W. 87 Ave. Miami, FL 33173  
  
4,200,000 therms
- B. Hialeah Lime Recalcination Facility  
700 W. 2nd Avenue,  
Hialeah, FL 33010  
  
3,300,000 therms
- C. South District Wastewater Treatment Plant  
8950 S.W. 232 Street, Miami, FL 33170  
  
400,000 therms

2. Company may, from time to time, make deliveries to Customer in excess of the above stated MACQ's. However, if Customer desires to increase the MACQ for any facility, Customer will

provide Company with a written request. Within ninety (90) days of the date of such request, Company shall provide Customer with proposed terms and conditions under which Company will be willing to increase MACQ. Such terms shall include, but not be limited to, Customer's willingness to pay an appropriate contribution to the cost of construction of additional facilities.

3. Customer hereby agrees to tender for transportation on the Company's system during each annual period a volume of gas equal to or greater than the minimum annual volume of 1,250,000 therms per year.

4. The maximum daily contract quantity of gas (MDCQ) Customer may have delivered to Company at the Points of Receipt, in the aggregate, for transportation by Company hereunder shall be 24,500 therms. During the term of this Agreement, Customer may increase the MDCQ and/or the maximum deliveries designated herein for each 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 VI

### PARAMETERS OF SERVICE

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

ARTICLE VII

RATES AND CHARGES FOR SERVICE

1. For the term of this Agreement, Customer shall pay Company each month the following transportation charges for services rendered under this Agreement:

<u>Facility</u>	<u>Rate per Therm</u>	<u>MACQ</u>
Alexander Orr Water Treatment Plant	\$ 0.010	4,200,000
Hialeah Water Treatment	\$ 0.030	3,300,000
South District Wastewater Treatment Plant	\$ 0.030	400,000

2. There shall be no charge for each therm transported to each facility in excess of the maximum annual quantity of gas (MACQ) as set forth in paragraph 1 of this Article in any contract year, provided that any transportation service in excess of the MACQ figures set forth above in any contract year do not require Company to construct additional facilities to provide such service to Customer. The terms and conditions with respect to any increase in the initial MACQ and construction of associated additional facilities are subject to the terms of Paragraph 2 of Article V of this Agreement.

ARTICLE VIII

MEASUREMENT

1. Company agrees to install and maintain facilities necessary to deliver and accurately measure the gas to Customer at the Points of Delivery.

2. Quantities of gas delivered to the Company's distribution system at the Points of

Receipt for the account of Customer shall be measured by FGT. All charges billed to Customer hereunder shall be based on the measurements made at the Points of Delivery. Measurement shall include temperature correcting devices installed and maintained by Company to ensure proper billing of gas, corrected to 60 degrees Fahrenheit, at no cost to Customer.

3. 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 Points of Delivery.

#### ARTICLE IX

#### FULL REQUIREMENTS

It is understood and agreed that Company's rendering of gas transportation service under the terms and conditions of this Service Agreement is in consideration of Customer's agreement to utilize exclusively such services for all FGT- pipeline-transported natural gas consumed at the Customer's facilities located as listed in Article V herein, from the Effective Date hereof and during the Term of this Agreement and any renewals hereof. Accordingly, Customer agrees that Customer will not, for the term of this Agreement and any renewals hereof, displace any service provided under this Agreement with service from any third party.

#### ARTICLE X

#### FACILITIES

1. All facilities required to provide service under this Agreement shall be designed, constructed, installed, operated, maintained, and owned by Company.

2. Customer agrees to pay Company a one time "Aid to Construction" charge of

\$300,000 for Company to design, construct, own, maintain, and operate natural gas service to Miami-Dade South District Wastewater Treatment Plant, 8950 S.W. 232 Street, Miami, FL 33170, sufficient in size to meet Customer-specified demand of 400,000 therms maximum annual quantity (MACQ). Company agrees to run gas line(s) to point(s) of use within this plant as determined by Customer, which shall constitute Point(s) of Delivery. Customer shall reimburse Company, prior to the commencement of service, in the amount of \$825.00 per meter for any telemetry equipment required to be installed at this plant.

## ARTICLE XI

### NOMINATIONS AND NOTICE

1. Customer, or its agent supplier, shall make all nominations for service (advice regarding the next month's anticipated consumption) on Company's system hereunder on the appropriate form provided by Company. 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 or its agent, not the Company, shall be responsible for making all transportation agreements and nominations to all third parties upstream of Company's Points of Receipt. Customer may use a broker for this purpose. If Customer utilizes a broker to make such transportation arrangements and nominations on the interstate system that is upstream of Company's system, Customer shall identify the broker initially and upon any change.

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

Manager, Gas Control  
NUI Corporation  
One Elizabethtown Plaza  
Union, NJ 07083  
FAX: (908) 527-9478

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

Kim T. Verran  
Territory Manager  
NUI/City Gas Company of Florida  
One Elizabethtown Plaza  
Union, NJ 07083  
Phone/Fax: (908) 289-5000 Ext. 5705/ (908) 289-1370

OR

Denise MacQuirk  
NUI/City Gas Company of Florida  
One Elizabethtown Plaza  
Union, NJ 07083  
Phone/Fax: (908)289-5000 Ext. 5705 / (908) 289-1370

4. All payments shall be directed to:

NUI/City Gas Company of Florida  
955 East 25th Street  
Hialeah, FL 33013-3498

5. All customer invoices and notices shall be directed to:

Miami-Dade Water and Sewer Department  
Mr. Tom Segars, Superintendent  
Water Production Division  
P. O. Box 110006  
Hialeah, FL 33011  
Phone: (305)888-2522  
FAX: (305)889-0156

ARTICLE XII

FORCE MAJEURE

Neither Gas Company, nor Customer or its agents, shall be liable for damages to the other 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, temporary failure of gas supply, temporary failure of firm transportation arrangements, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, acts of third parties, or any other cause, whether of the kind herein enumerated or otherwise, not within the control of the party, and which by the exercise of due diligence such party is unable to prevent or overcome.

Such cause or contingencies affecting the performance by Gas Company, Third Party Supplier, or Customer, however, shall not relieve Company or Customer of liability in the event of its concurrent negligence, or in the event of its failure to use due diligence to remedy the situation and remove the cause in an adequate manner and with all reasonable dispatch. In any event, the liability of Customer for damages shall be limited as provided in Section 768.28, Florida Statutes.

ARTICLE XIII

MISCELLANEOUS

1. The captions in this Agreement are for the convenience of the parties in identification of the provisions hereof and shall not constitute a part of the Agreement, nor be considered interpretive thereof.



2. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties; provided, however, neither party may make an assignment hereunder without having first obtained the prior written consent of the other party. Such consent shall not be unreasonably withheld. If either party does not provide such consent within sixty (60) days after receipt of the other party's notification of assignment, failure to reply shall be deemed as consent. Any notification of assignment or consent to assignment shall be made by registered mail.

3. The interpretation and performance of this Agreement shall be governed by the laws of the State of Florida. Venue for any civil action arising out of this Agreement shall be Miami-Dade County, Florida.

4. This Agreement shall be subject to all of the rules and regulations of any duly constituted federal or state regulatory authorities having jurisdiction hereof. Company and Customer shall comply at all times with applicable federal, state, municipal, and other laws, ordinances and regulations.

5. This Agreement contains the entire understanding of the parties with respect to the matters contained herein and may be modified only in a writing duly executed by authorized representatives of the parties.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the COUNTY and CITY GAS COMPANY OF FLORIDA have  
executed this Agreement as of the day and year first above written.

Attest:

CITY GAS COMPANY OF FLORIDA  
A Division of NUI Corporation

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

By: \_\_\_\_\_  
President ( S E A L )

IN WITNESS WHEREOF, the Miami-Dade County has caused these presents to be executed  
in its name, by its proper officers thereunto duly authorized, the day and year first above written.

Attest:

MIAMI-DADE COUNTY, FLORIDA

HARVEY RUVIN  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Merrett R. Stierheim  
County Manager

Approved as to form and  
legal sufficiency.

By: \_\_\_\_\_  
Assistant County Attorney

**RATE SCHEDULE CI-LVT**  
**Contract Interruptible - Large Volume Transportation Service**  
**Affidavit of Alternate Fuel Price**

To: **CITY GAS COMPANY OF FLORIDA**  
955 East 25th Street  
Hialeah, FL 33013-3498

Attention:

The facilities of Miami-Dade Water and Sewer Department ("MDWASD") Alexander Orr Water Treatment Plant are located approximately 50 feet from Florida Gas Transmission Company's natural gas transmission pipeline.

I hereby certify that Miami-Dade Water and Sewer Department has the ability to install its own natural gas distribution facilities in order to accept delivery of natural gas directly from Florida Gas Transmission Company's natural gas transmission pipeline. If Miami-Dade Water and Sewer Department installed its own natural gas distribution facilities, its cost for distribution of natural gas, including capital expenditures for distribution facilities, would be less than the cost per therm for transportation provided in City Gas Rate Schedule CI-LVT, over a five year life cycle.

I hereby certify that Miami-Dade Water and Sewer Department will cease transporting gas from City Gas pipelines unless such gas is priced at \$0.010 per therm as provided in the transportation service agreement between Miami-Dade County and City Gas Company of Florida.

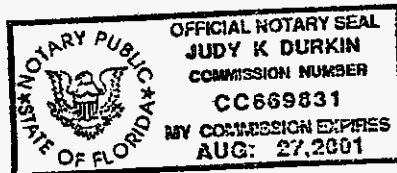


William M. Brant, Director  
Miami-Dade Water and Sewer Department

State of Florida  
County of Miami-Dade

Sworn to and subscribed before this 12 day of January, 1999, who is personally known to me, or who has produced \_\_\_\_\_ as identification.

My Commission Expires:



  
Notary Public  
State of Florida at Large

**RATE SCHEDULE CI-LVT**  
**Contract Interruptible - Large Volume Transportation Service**  
**Affidavit of Alternate Fuel Price**

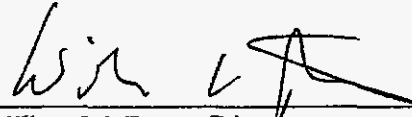
To: CITY GAS COMPANY OF FLORIDA  
955 East 25th Street  
Hialeah, FL 33013-3498

Attention:

The facilities of Miami-Dade Water and Sewer Department ("MDWASD") Hialeah Water Treatment Plant are located approximately two miles from Florida Gas Transmission Company's natural gas transmission pipeline.

I hereby certify that Miami-Dade Water and Sewer Department has the ability to install its own natural gas distribution facilities in order to accept delivery of natural gas directly from Florida Gas Transmission Company's natural gas transmission pipeline. If Miami-Dade Water and Sewer Department installed its own natural gas distribution facilities, its cost for distribution of natural gas, including capital expenditures for distribution facilities, would be less than the cost per therm for transportation provided in City Gas Rate Schedule CI-LVT, over a five year life cycle.

I hereby certify that Miami-Dade Water and Sewer Department will cease transporting gas from City Gas pipelines unless such gas is priced at \$0.030 per therm as provided in the transportation service agreement between Miami-Dade County and City Gas Company of Florida.

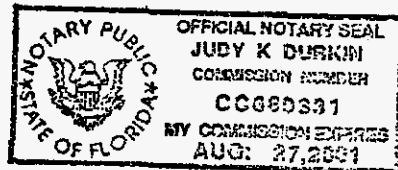


William M. Brant, Director  
Miami-Dade Water and Sewer Department

State of Florida  
County of Miami-Dade

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**RATE SCHEDULE CI-LVT**  
**Contract Interruptible - Large Volume Transportation Service**  
**Affidavit of Alternate Fuel Price**

To: **CITY GAS COMPANY OF FLORIDA**  
955 East 25th Street  
Hialeah, FL 33013-3498

Attention:

The facilities of Miami-Dade Water and Sewer Department ("MDWASD") South District Wastewater Treatment Plant are located adjacent to Florida Gas Transmission Company's natural gas transmission pipeline.

I hereby certify that Miami-Dade Water and Sewer Department has the ability to install its own natural gas distribution facilities in order to accept delivery of natural gas directly from Florida Gas Transmission Company's natural gas transmission pipeline. If Miami-Dade Water and Sewer Department installed its own natural gas distribution facilities, its cost for distribution of natural gas, including capital expenditures for distribution facilities, would be less than the cost per therm for transportation provided in City Gas Rate Schedule CI-LVT, over a five year life cycle.

I hereby certify that Miami-Dade Water and Sewer Department will cease transporting gas from City Gas pipelines unless such gas is priced at \$0.030 per therm as provided in the transportation service agreement between Miami-Dade County and City Gas Company of Florida.

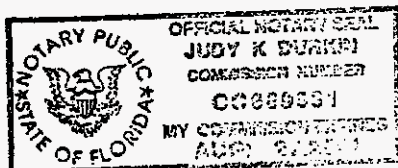


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