

OFFICE OF FOSSIL ENERGY
NATURAL GAS DIVISION
DOCKET INDEX

FE DOCKET NO.: 96-50-NG

APPLICANT(S): COASTAL GAS MARKETING COMPANY

ITEM	PREPARED OR FILED BY	FILING TYPE	DESCRIPTION OF DOCUMENT	DATED	DATE FILED OR ISSUED
1 ✓	COASTAL GAS MARKETING COMPANY	APPLICATION	Application for Long-Term Authority to Import Natural Gas from Canada	96-07-15	96-07-15
2 ✓	DOE/FE	ORDER	Order 1201 Granting Long-Term Authority to Import Natural Gas from Canada	96-09-18	96-09-18



Coastal
The Energy People

96-50-NG
1996 JUL 15 P 12:47

July 15, 1996

REC'D DOE/FE
OFFICE OF REGULATORY AFFAIRS

Mr. John Glynn
U.S. Department of Energy
Office of Fuels Programs
Natural Gas Import/Export Authorizations
1000 Independence Avenue, S.W.
FE-53, Room 3H-087
Washington, D.C. 20587

Dear Mr. Glynn:

Pursuant to 10 C.F.R. §590.103(a), enclosed are an original and fifteen (15) copies of the Application of Coastal Gas Marketing Company for an Order Authorizing the Long-Term Importation of Natural Gas from Canada to serve markets off Viking Gas Transmission Company. Also enclosed are three (3) additional copies to be date stamped and returned, and a check in the amount of \$50.00 to cover the filing fee.

If you have any questions regarding the enclosed application, please contact me at (202) 331-4665.

Sincerely,

Susan W. Ginsberg

Susan W. Ginsberg
Manager, Regulatory Affairs

Enclosures

Coastal Gas Marketing Company

A SUBSIDIARY OF THE COASTAL CORPORATION
2000 M ST NW • SUITE 300 • WASHINGTON DC 20035 • 202-466-7430

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

ORIGINAL

Coastal Gas Marketing Company)

Docket No. FE96-18-NG

APPLICATION OF COASTAL GAS MARKETING COMPANY
FOR AN ORDER AUTHORIZING
THE LONG-TERM IMPORTATION
OF NATURAL GAS FROM CANADA

REC'D
DOE/FE
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Pursuant to Section 3 of the Natural Gas Act (15 U.S.C. & 717b), as amended by Section 201 of the Energy Policy Act of 1992 (P.L. 102-486), the rules and procedures of 10 C.F.R. Part 590, and DOE Delegation Order Nos. 0204-111 and 0204-127, Coastal Gas Marketing Company ("CGM", or "Applicant") submits this application for an order authorizing CGM to import natural gas from Canada to supply new markets in Minnesota and North Dakota. CGM requests that this authorization be granted for a term of eleven years, commencing November 1, 1996. In support hereof, CGM submits the following:

I.

The exact legal name of Applicant is Coastal Gas Marketing Company. CGM, a wholly-owned subsidiary of The Coastal Corporation, is a corporation organized and existing under the laws of the State of Delaware. Its principal place of business is at 9 Greenway Plaza, Houston, Texas 77046. CGM is engaged in the business of buying and selling natural gas.

II.

All communications concerning this Application should be addressed to:

W.O. Strong III, Esquire
Coastal Gas Marketing Company
9 Greenway Plaza
Houston, Texas 77046-0995

Attorney for Coastal Gas
Marketing Company

Tel: (713) 877-1400
Fax: (713) 877-6714

Susan W. Ginsberg
Manager, Regulatory Affairs
Coastal Gas Marketing Company
2000 M Street, N.W.
Suite 300
Washington, D.C. 20036

Tel: (202) 331-4665
Fax: (202) 331-4617

III.

CGM requests authorization from the Office of Fuels Programs, Fossil Energy to import up to 18.1 MMcf per day of Canadian natural gas for a period of eleven years, commencing on November 1, 1996. The imported gas will be used to supply two new customers located in the states of Minnesota, American Crystal Sugar ("ACS"), and North Dakota, ProGold LLC ("ProGold").

IV.

The gas to be imported will be produced in the Province of Alberta, Canada and supplied by Petro-Canada (11.1 MMcf/day) and Morrison Petroleum Ltd. (7 MMcf/day). The gas will be received into the NOVA Gas Transmission Ltd. ("NOVA") pipeline system and transported by the respective producers to Empress, Alberta, and NOVA's interconnect with TransCanada Pipelines Limited ("TCPL"). TCPL will transport the gas to the Canada-U.S. border, near Emerson, Manitoba, where the gas will move on a proposed expansion of Viking Gas Transmission Company ("Viking"). CGM will hold capacity in its name to the U.S. border on TCPL. The capacity on Viking is being contracted for by ACS and ProGold. The primary delivery points on Viking will be located at Wahpeton, Minnesota (ProGold), and at East Grand Forks, Crookston, and Moorhead,

Minnesota (ACS). Further transportation will be provided by local distribution companies to the ACS plants and ProGold plant.

While Emerson will be the primary import point for the Petro-Canada and Morrison gas, CGM wishes to retain the flexibility to import at other import points should this become desirable from time to time.

V.

The natural gas to be imported under the subject long-term authorization will be used by CGM primarily to serve sugar refineries owned by ACS and a wet corn milling plant owned by ProGold.

VI.

The Energy Policy Act states that the importation and exportation of natural gas from or to "a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for importation and exportation shall be granted without modification or delay." Because CGM's application is for the importation of natural gas from Canada, with which the United States has in effect a free trade agreement, CGM submits that its application meets the public interest.

VII.

CGM confirms its obligation to file with the Office of Fuels Program, Fossil Energy, within thirty (30) days following each calendar quarter, quarterly reports indicating the volumes sold and sales price at the International Border of any imports made.

CGM submits the following Exhibits in support of this application:

- Exhibit A: Opinion of Counsel
- Exhibit B: Canadian Gas Supply Contract between Petro-Canada and CGM, dated March 5, 1996
- Exhibit C: Canadian Gas Supply Contract between Morrison Petroleum Ltd. and CGM, dated March 15, 1996

WHEREFORE, CGM submits that, for the reasons set forth above, its Application for authorization to import natural gas from Canada is consistent with the public interest, CGM respectfully requests authorization from the Department of Energy to import natural gas from Canada on Viking pursuant to the terms and conditions stipulated herein for a period of eleven (11) years commencing on November 1, 1996.

Respectfully submitted,
COASTAL GAS MARKETING COMPANY

W.O. Strong III *W.O.*
W.O. Strong III, Esquire
Attorney for Coastal Gas
Marketing Company
9 Greenway Plaza
Houston, Texas 77046-0995
Tel: (713) 877-1400

Dated at Houston, Texas,
this 11th day of July, 1996

EXHIBIT A:
Opinion of Counsel



Coastal
The Energy People

W. O. STRONG III
SENIOR STATE ATTORNEY
COASTAL GAS SERVICES COMPANY

July 11, 1996

Mr. Clifford Tomaszewski
U.S. Department of Energy
Office of Fossil Fuels
1000 Independence Avenue, S.W.
Room 3H087
Washington, D.C. 20001

Re: Long-Term Importation of Natural Gas from Canada by
Coastal Gas Marketing Company, Docket No. FE96-__-NG

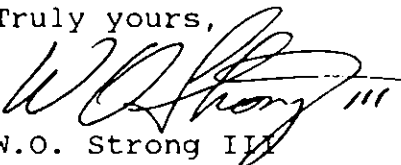
Dear Mr. Tomaszewski:

As counsel for Coastal Gas Marketing Company ("CGM"), Applicant in the above-referenced proceeding, I have reviewed the Certificate of Incorporation and Bylaws of CGM, and such other documents as I have deemed necessary in order to advise you that:

1. CGM is a corporation duly incorporated and validly existing in good standing under the laws of the State of Delaware, and has all requisite corporate power and authority to own and operate its properties and to carry on its business; and

2. CGM has the requisite corporate authority to import natural gas from Canada.

Truly yours,



W.O. Strong III

Attorney for Coastal Gas
Marketing Company

Coastal Gas Services Company

A SUBSIDIARY OF THE COASTAL CORPORATION
COASTAL TOWER • NINE GREENWAY PLAZA • HOUSTON TX 77046-0995 • 713.877.1400

EXHIBIT B:

Canadian Gas Supply Contract between
Petro-Canada and CGM, dated March 5, 1996

March 1, 1996

Petro-Canada
150 - 6th Avenue S.W.
Calgary, Alberta
T2P 3Y7

Attention: Mr. Dave Scratch

**RE: GAS PURCHASE AGREEMENT FOR THE U.S. MIDWEST MARKET AREA OFF OF
TRANSCANADA PIPELINES LIMITED ("TCPL") BETWEEN COASTAL GAS
MARKETING COMPANY ("Buyer") AND PETRO-CANADA ("Seller")**

To confirm our recent agreement, this letter ("Letter") outlines the general terms and conditions to which our companies (the "Parties" hereto) have agreed with respect to the subject netback purchase arrangement. The overall nature of the arrangement is that Buyer shall market certain volumes of Seller's gas, under a netback price arrangement, in the U.S. Midwest to various existing and potential customers of Buyer, including, affiliates of Buyer ("Buyer's Customers").

Among Buyer's potential customers, Buyer has secured a long term market for the period from November 1, 1996 through to October 31, 2007 ("Term Market"). The Term Market is responsible for and is in the process of obtaining the necessary firm transport capacity downstream of the Resale Point provided in this Letter.

Buyer is in the process of obtaining, for subsequent assignment to Seller, firm transportation capacity for the gas subject to this Letter from TransCanada PipeLines Limited ("TCPL") for firm transportation service from Empress, the NOVA Corporation ("NOVA") interconnect with TCPL, to Emerson, Manitoba for the term provided hereinafter ("TCPL Service"). The Parties acknowledge that the subject TCPL Service will be part of TCPL's facilities application for expansion of facilities for an in-service date estimated to be November 1, 1997 ("TCPL 1997 Expansion Facilities") and an estimated expiry of October 31, 2007. The Parties further acknowledge that Buyer has requested an early in-service transportation date with TCPL of November 1, 1996 for the subject TCPL Service, and that TCPL may be able to provide such early transportation service for all or a portion of the period between November 1, 1996 and TCPL's anticipated in-service date for the 1997 expansion facilities on such interim basis as Buyer and TCPL may agree. Of such TCPL Service, including any interim service, Buyer will allocate to Seller $313.5 \times 10^3 \text{M}^3$ per day, which corresponds to the volume of transportation required for the MDQ hereunder ("Seller's Allocated Transport Capacity"). Such volume of transportation is based on TCPL's projection of energy content at Emerson of 1.010 MMBtu/Mcf (ie: $11,178 \text{ MMBtu}/1.010 \text{ MMBtu/Mcf} * .02832784 \times 10^3 \text{m}^3/\text{Mcf} = 313.5 \times 10^3 \text{m}^3$).

1. **Conditions Precedent**

- (a) Buyer and Seller shall have obtained all regulatory licenses (short term is acceptable if long term is not required by the Natural Energy Board of Canada), removal permits (short term is acceptable if a long term permit is not required by regulators), U.S. import authorizations (including state and local authorization as applicable), necessary in Buyer's sole opinion to complete this transaction all collectively referred to as the "**Regulatory Authorizations**".
- (b) Buyer shall have obtained sufficient TCPL Service for the MDQ hereunder, and TCPL shall have commenced such service.
- (c) Buyer's Term Market shall have obtained the applicable firm transport service downstream of Emerson, Manitoba to receive the gas thereunder associated with Seller's Allocated Transport Capacity.
- (d) In the event that Buyer and Seller have not satisfied or mutually waived all conditions precedent prior to November 1, 1997, then either Buyer or Seller may give notice to terminate this Letter by giving the other Party thirty days prior written notice of termination. Such termination shall be conditional on these conditions precedent not being satisfied prior to the subject termination date.

2. **Term**

- (a) This Letter shall be effective as of the date executed by Seller, with delivery and purchase obligations estimated to commence November 1, 1996. Subject to Section 14, this Letter shall remain in effect for a primary "**Term**" of approximately eleven (11) years extending through to the termination date of the TCPL Service, which is expected to be October 31, 2007.
- (b) Buyer is participating in TCPL's 1997 firm transportation service open season but has requested early startup of the TCPL Service with an in-service date of November 1, 1996. In the event TCPL is unable to provide TCPL Service on November 1, 1996, the commencement of the delivery and purchase obligations hereunder shall be delayed to coincide with the satisfaction of all conditions precedent under Section 1. The delivery and purchase obligations hereunder shall commence with the actual in-service date for the TCPL Service hereunder.
- (c) The "**Contract Year(s)**" shall be from November 1st of a calendar year through the following calendar year's October 31st. The first Contract Year shall commence with the in-service date of the TCPL Service and end on the first date of October 31 thereafter.

3. Acknowledgment of the TCPL Service Contractual Structures.

- (a) It is understood that the necessary TCPL Service is expected to be provided through at least two (2) arrangements, one being a short term Firm Transportation Service Contract commencing November 1, 1996 ("TCPL-ST Agreement") and terminating on or about April 1, 1997, and the second being a long term Firm Transportation Service Contract ("TCPL-LT Agreement"), commencing with the later of approval by applicable regulatory authorities or the installation and completion of needed facilities. The TCPL LT Agreement is expected to commence coincident with the expiry of the TCPL-ST Agreement. In the event such commencement is delayed, TCPL is expected to use its reasonable efforts to extend the TCPL-ST Agreement or provide interim service (including interruptible service) until the TCPL-LT Agreement commences. In any event commencement of the TCPL-LT Agreement is expected to commence no later than November 1, 1997.
- (b) In the event the TCPL-ST Agreement expires prior to the commencement of the TCPL-LT Agreement, then subject to subsections (c) and (d) below, both Parties' obligations, as contemplated herein, to deliver, market, sell and pay for gas hereunder will be suspended until the necessary transportation service to Buyer under the TCPL-LT Agreement (or any interim service provided by TCPL as referred to in (c) below) is available.
- (c) Buyer and Seller agree, that during any interruption of transportation service between the TCPL-ST Agreement and the TCPL-LT Agreement, both Parties will use all commercially reasonable efforts to facilitate the resumption of such interrupted transportation service by obtaining and utilizing TCPL interruptible transportation, or such other interim firm TCPL transportation that Buyer or Seller are able to obtain for the gas hereunder. Furthermore, Buyer at the request of Seller shall use all reasonable efforts during any such interruptions to market Seller's gas at Empress on such terms as Buyer and Seller may agree.
- (d) The Parties acknowledge that Buyer's obligation to the Term Market may continue despite such interruption or suspension of TCPL Service between November 1, 1996 and October 31, 1997. Subject to the Parties using all commercially reasonable efforts to find alternative transport on TCPL to transport gas hereunder, Buyer shall have total discretion as to how it may serve or handle its Term Market during such periods.

4. Early Termination if Long Term TCPL Service is Not Obtained

- (a) If for any reason Buyer and Seller agree to commence the delivery, sale and purchase of gas under this Letter before the TCPL-LT Agreement has been obtained and TCPL and/or the N.E.B. elects in their sole opinion to abandon, modify or reject the long term portion of the TCPL Service, then this Letter shall terminate on ten days prior notice from Buyer to Seller, but in any event shall terminate no later than January 31, 1998.

- (b) Similarly, if any Regulatory Authorizations cannot be maintained for the period beyond December 31, 1997, then either Buyer or Seller, on prior written notice given no later than January 31, 1998, may terminate this Letter effective January 31, 1998.

5. Volume

- (a) The Maximum Daily Quantity ("MDQ") shall be 11,178 MMBtu per day (11,788.5 GJ/d) PLUS associated fuel, line loss and shrinkage on TCPL ("Fuel Gas").
- (b) Subject to Buyer's minimum annual obligations as outlined in Schedule 11, gas volumes hereunder shall be requested and purchased by Buyer as either:
- (i) "Term Market Gas" which is defined as gas requested by Buyer which is to be priced under the terms of Section 8 (c); or as
 - (ii) "Spot Gas" which shall be deemed to be all volumes which Buyer does not request as Term Market Gas, and shall be priced pursuant to Section 8(d).

6. Delivery Point

The "Delivery Point" shall be at NOVA's Empress border delivery station at the inlet to TCPL.

7. Resale Point

The "Resale Point" shall be the interconnection of TCPL's facilities and the facilities of Viking Gas Transmission Company ("Viking") at Emerson, Manitoba.

8. Netback Revenues

- (a) Buyer shall pay Seller by cheque or wire transfer (as directed by Seller) on or before the 25th day (or the next business day if the 25th is not a banking business day) of each month succeeding the month of gas delivery, "Netback Revenues" associated with gas sold at the Resale Point determined by Buyer from the following calculation:

The Netback Revenues shall be calculated by Buyer by using the volume weighted average price per MMBtu of both Spot Gas and Term Market Gas deliveries during the preceding month ("Resale Price") MINUS (i) all TCPL tariff transportation costs from the Delivery Point through the Resale Point of any nature that are incurred by Buyer for the redelivery of Seller's gas as either Spot Gas or Term Market Gas (or both), including, without limitation, fixed and variable charges, penalties (if caused by Seller), fees and taxes; MINUS (ii) all reasonable third party expenses incurred by Buyer, which

would have been incurred by Seller if Seller were operating the TCPL Service, to deliver or cause to be delivered gas including without limitation TCPL financial guarantees, transaction costs and financial guarantees associated with financial derivatives agreed to by Seller, costs imposed by a government or regulatory authority; and MINUS (iii) any costs associated with Replacement Gas (as outlined in Section 10) obtained to replace gas not available from Seller, for any reason other than those excused by Force Majeure, necessary to meet the Spot Gas or Term Market Gas obligations at the Resale Point.

- (b) In the event that Seller desires to hedge its price utilizing financial derivative products, then upon such notification to Buyer, the Parties shall endeavor to (but shall not be obligated to) mutually agree upon such derivatives pricing as it applies to the Resale Point. Upon mutual agreement and provided that Buyer can secure contracts or swap transactions to hedge such price, the hedged price shall be used in the Netback Revenue calculation.
- (c) The price for Term Market Gas until November 1, 2001 shall be the monthly Ventura Index price for gas delivered at the pipeline interconnect between Northern Border and Northern Natural Gas Co. as published in Inside F.E.R.C.'s Gas Market Report MINUS U.S.\$[a]/MMBtu. The U.S.\$[a]/MMBtu shall be increased on a compounded basis at the commencement of each contract Year beginning November 1, 1997 at the annual Canadian Consumer Price Index (C.P.I. for the previous calendar year), but subject to a cap of U.S.\$[b]/MMBtu. The Parties acknowledge that the price for Term Market Gas must be renegotiated by the Buyer and the Term Market and in turn between Buyer and Seller hereunder for the period, post November 1, 2001 as provided in Section 14.
- (d) The price for Spot Gas shall be the average price available to Buyer for spot gas transactions at the interconnect between TCPL and Great Lakes/Viking at Emerson for daily sales or monthly sales as applicable.
- (e) For a period starting November 1, 1996 and ending two (2) years after termination of this agreement, Seller shall have audit rights to review those records of Buyer's business as are necessary to review Buyer's calculation of the Netback Revenues. No adjustment in any payment made will be made or allowed unless such claim is brought within twenty-four (24) months of the date of payment was due.

9. Transportation

- (a) Buyer and Seller shall operate this netback arrangement utilizing firm transportation to the Delivery Point and from the Delivery Point to the Resale Point. Seller shall obtain, hold and operate all NOVA transportation necessary to the Delivery Point. Buyer shall obtain, hold and operate the Seller's Allocated Transport Capacity pursuant to the assignment provisions herein.
[a] & [b] represents the Ventura/Emerson basis differential which is commercial sensitive

The Parties shall do all things necessary to maintain the subject NOVA transportation and Seller's Allocated Transport Capacity in good standing for the Term hereunder.

- (b) Buyer shall arrange for the TCPL Service, a portion (Seller's Allocated Transport Capacity) of which is on behalf of Seller. Buyer shall then permanently assign Seller's Allocated Transport Capacity to Seller (and Seller shall accept such permanent assignment), and thus Seller shall become the primary shipper of record with TCPL. The permanent assignment of Seller's Allocated Transport Capacity shall be effected by the Parties immediately on Buyer's receipt of the TCPL Service executing TCPL's standard assignment and novation agreement for Seller's Allocated Transport Capacity in accordance with TCPL's standard procedures.

In the event that Buyer is unable for any reason to make the permanent assignment or Seller fails to take or qualify for such permanent assignment, for any reason, then Buyer shall hold the Seller's Allocated Transport Capacity on behalf of Seller; and pursuant to the terms and conditions of this Letter, Seller shall indemnify and hold Buyer harmless for all costs and charges which are associated with the obligations assumed by Buyer for Seller's Allocated Transport Capacity.

- (c) Seller shall be responsible for, and do all things necessary to satisfy TCPL's credit requirements for Seller's Allocated Transport Capacity. In the event Seller is unable to satisfy TCPL's credit requirements, Buyer shall provide creditworthiness in such form as Buyer determines appropriate and deduct the actual cost of such credit arrangements from the Netback Revenues.
- (d) Upon Seller executing a precedent agreement or a transportation service agreement or taking permanent assignment of Seller's Allocated Transport Capacity, Seller shall make "Temporary Transport Capacity Assignment" of Seller's Allocated Transport Capacity, subject to the other terms of this Letter, for the term of the TCPL Service. Such temporary assignment shall be effected by the Parties forthwith executing TCPL's standard temporary assignment agreement. The terms and conditions of the Temporary Transportation Capacity Assignments shall be as per the TCPL "Pipeline Transportation Contract Temporary Assignment" (generic copy attached).
- (e) In the event that this Letter is terminated pursuant to the terms hereunder or if Seller is not continuing to supply Term Market Gas as per subsections 14(d) or 14(e), then the Temporary Transport Capacity Assignment shall also terminate and Seller's Allocated Transport Capacity shall be permanently assigned to Buyer or Buyer's designate (as directed by Buyer), which designate is expected to be the Term Market. Upon permanent assignment of the Transport Capacity to Buyer or Buyer's designate, Seller shall have no further obligations for Seller's Allocated Transport Capacity and Buyer shall indemnify and hold Seller harmless for all costs associated with the permanent assignment of Seller's Allocated Transport Capacity other than

Buyer's and Seller's obligations existing prior to such assignment to pay any amounts owed to each other and to TCPL.

- (f) In the event Buyer wishes to temporarily divert the TCPL Service delivery point downstream of Emerson *[description of short term diversion mechanism for spot gas and related commercially sensitive sharing of resulting proceeds]*. _____

_____ Such diversion and sales arrangements shall not in any way compromise or frustrate Buyer's right to request Term Market Gas.

10. Seller's Supply Assurances

- (a) Seller, subject to relief for Seller due to Force Majeure, shall deliver each day at the Delivery Point the quantity of gas requested by Buyer up to the MDQ.
- (b) In the event Seller fails to deliver the quantity requested by Buyer (a "Delivery Default"), Seller shall indemnify Buyer for all reasonable costs in acquiring replacement volumes attributable to such Delivery Default ("**Replacement Gas**") and delivery of same to Buyer's Customers. Such costs shall include incremental gas costs for Replacement Gas and transportation demand charges and transportation penalties attributable to the Delivery Default. Furthermore, Seller shall indemnify Buyer for any reasonable costs incurred by Buyer for indemnifying the Term Market in the event that Buyer hereunder does not source Replacement Gas for the Term Market and the Term Market obtains replacement fuel on its own behalf. Buyer and Seller shall cooperate and use all commercially reasonable efforts to mitigate any unutilized transportation and minimize any such costs associated with such Delivery Default.
- (c) Seller shall actively facilitate and support regulatory applications and demonstrate sufficient supply as may be necessary to obtain all Regulatory Authorizations, including: (i) Seller obtaining a Long Term Alberta Removal Permit; (ii) TCPL obtaining N.E.B. approval of its facilities expansion application; and (iii) Buyer obtaining a Long Term Export License.
- (d) Seller shall be responsible for all costs for evaluating and testifying to Seller's reserves, deliverability and supply as required in connection with Buyer or Seller obtaining and maintaining the Seller's Allocated Transport Capacity and the Regulatory Authorizations.

11. Buyer's Take Commitment

- (a) In addition to Buyer's indemnification of Seller pursuant to subsection 11(d), with respect to Term Market Gas, subject to relief for Buyer due to Force Majeure, Buyer shall request, and purchase if available, a *[commercially sensitive explanation of 85% load factor on Term Market Gas with indemnification of replacement market for failure]* _____

- (b) The intent hereunder is for Buyer to request gas hereunder at a load factor as close to one hundred percent (for Term Gas and Spot Gas combined) as is operationally practical.
- (c) As per subsection 5 (b) (ii), all volumes not requested as Term Market Gas shall be deemed to be Spot Gas. Unless otherwise requested by Seller, all volumes not requested by Buyer as Term Market Gas shall be requested, and purchased if available, as Spot Gas.
- (d) In the event that Buyer fails to request, and purchase if available, all Spot Gas _____ associated with upstream and downstream nomination deadlines and the energy variations associated with the heat content of commingled gas at the Resale Point), then Buyer shall indemnify Seller _____ [description of commercially sensitive standard of performance and indemnification for failure to meet standard]
- (e) Subject to the terms hereunder, including Buyer's right to purchase Replacement Gas in the event of a Delivery Default, Seller has the right on each day to exclusively supply Seller's Prorata Term Market Share

WHERE:

the "Seller's Prorata Term Market Share" means the daily quantities of gas which are, subject to reasonable monthly operating tolerances, Seller's percentage share of a nomination made by the Term Market to Buyer, which share is derived by dividing the then current MDQ hereunder by the Maximum Term Market Volume;

the "Maximum Term Market Volume" means the maximum daily nomination which could be made by the Term Market to Buyer (18,278 MMBtu/day) at the Resale Point PLUS associated TCPL fuel gas.

12. Force Majeure

- (a) Events beyond the reasonable control of either Party and shall constitute "Force Majeure". Without limiting the generality of the foregoing, but subject to subsection (c) within this Force Majeure section, Force Majeure shall specifically include curtailments of the TCPL Service

hereunder, curtailments of transportation service downstream of the Resale Point affecting the gas hereunder, and events of Force Majeure declared by Buyer's Term Market or Spot Gas markets not within the reasonable control of Buyer hereunder.

- (b) In the event of Force Majeure, pursuant to the nature of this netback arrangement, Seller shall indemnify Buyer for all costs associated with any unutilized capacity, or the mitigation thereof, from the Delivery Point to the Resale Point associated with Seller's Allocated Transport Capacity. In the event of Force Majeure declared by Seller, Seller shall provide Buyer with a prorata share of Seller's Alberta gas supply (excluding specific reserves which are contractually dedicated to third parties), unless there is curtailment of firm service by NOVA at the Empress Border in which case Seller shall provide Buyer with a prorata share of Seller's deliveries at Empress. In the event of Force Majeure declared by Buyer, then Buyer, shall use commercially reasonable efforts to provide Seller with Spot Gas markets. Lack of funds or inability to pay shall not constitute an event of Force Majeure.
- (c) Notwithstanding the generality of subsection (a) above of this force majeure section, if TCPL Service is curtailed or suspended or unavailable pursuant to the provisions of section 3 hereunder, then such TCPL Service reduction shall not be an event of Force Majeure and subsection 3(b) and 3(c) shall apply.

13. Arbitration

In the event that (a) there is a dispute between the Parties with respect to the calculation of the Netback Revenues; or (b) there is a material change in government regulations such that the purposes of this Letter are frustrated; or the Parties are unable to agree on a replacement for a price index that is no longer available pursuant to Section 16, then such matter shall be subject to binding arbitration. Upon written notice of a request for arbitration by either Buyer or Seller, the Parties shall use the British Columbia Commercial Arbitration Act and the services of the British Columbia Arbitration Center to select a single independent arbitrator. The arbitration shall be "baseball" arbitration wherein the arbitrator shall select either the Seller's or the Buyer's final offer. The arbitrator shall select the offer which best reflects the netback arrangement contemplated by the Parties; i.e. a price for Term Market Gas as described hereunder and a price for Spot Gas as described hereunder net of all costs, expenses and fees from the Delivery Point to the Resale Point.

14. Renegotiation of Prices and the Potential Termination of Buyer's Contract with Term Market Prior to Expiry of the Primary Term Hereunder

- (a) The Parties acknowledge that Buyer's contract with the Term Market is open for price renegotiation for the period beyond October 31, 2001 and that it may or may not be successfully renegotiated, extended or renewed beyond October 31, 2001.

- (b) Prior to, or simultaneously with, any such renewal or extension negotiations with the Term Market, Buyer shall negotiate in good faith with Seller to agree on terms and conditions between the Parties hereto related to the renegotiation, extension or renewal of Buyer's contract with the Term Market. For greater certainty, Buyer shall not enter into any other supply arrangements which would displace Seller's gas hereunder until Seller has declined to participate in the potential continuation of Buyer's Term Market. In the event that Seller declines to continue the supply arrangement hereunder or if Seller rejects the terms and conditions outlined by Buyer for a continuation of this Letter beyond October 31, 2001 or if the Parties hereto have failed to reach agreement by August 31, 2001 on the terms and conditions for a continuation of this Letter beyond October 31, 2001, then Buyer shall be free to enter into other supply arrangements which would effectively displace Seller's gas hereunder so long as the terms and conditions agreed to with such alternative supplier are not materially different than the terms and conditions proposed by Buyer to Seller hereunder during the subject negotiations.
- (c) In the event that Buyer's contract with the Term Market is successfully renegotiated, extended or renewed, and the Parties hereto have agreed on associated terms and conditions for delivering the gas hereunder to Buyer's Term Market, then this Letter shall be correspondingly amended.
- (d) In the event that Buyer's contract with the Term Market is successfully renegotiated, extended or renewed, but the Parties hereto can not come to agreement pursuant to subsection (c) above, then Seller's Allocated Transport Capacity shall be assigned, effective with the termination of Seller's supply to the Term Market, to Buyer pursuant to the permanent assignment provisions in subsection 9(e).

Irrespective of such assignment, at the request of Seller, Buyer shall use all reasonable efforts to obtain firm TCPL replacement capacity from Empress to Emerson in an amount equal to Seller's Allocated Transport Capacity for the benefit of Seller. For greater certainty, there shall be no obligation for Buyer to actually succeed in obtaining such replacement capacity.

- (e) In the event that Buyer's contract with the Term Market is not successfully renegotiated, extended or renewed, then Seller's Allocated Transport Capacity shall be assigned, effective with the termination of Buyer's contract with the Term Market, to Buyer pursuant to the permanent assignment provisions in subsection 9(e).

Irrespective of such assignment, at the request of Seller, Buyer shall use all reasonable efforts to obtain firm TCPL replacement capacity from Empress to Emerson in an amount equal to Seller's Allocated Transport Capacity for the benefit of Seller. For greater certainty, there shall be no obligation for Buyer to actually succeed in obtaining such replacement capacity.

- (f) In any event, notwithstanding the fact that TCPL replacement capacity for Seller's Allocated Transport Capacity may be obtained pursuant to (d) or (e) above, if the Parties hereto do not mutually agree to terms and conditions associated with Buyer marketing the gas hereunder for Seller for the period beyond October 31, 2001, then either Party may terminate this Letter effective October 31, 2001 by giving sixty (60) days prior written notice.

15. Seller's Right to a Third Party Purchaser

- (a) In the event Buyer is unable to sell Seller's Spot Gas at the Resale Point, then subject to Buyer's consent which consent shall not be unreasonably withheld, Seller may direct Buyer to resell Seller's gas to a "Third Party Purchaser" at the Resale Point. In such event, such sale to a Third Purchaser shall not compromise or frustrate Buyer's right to request Term Market Gas. Revenue received by Buyer for such sale to the Third Party Purchaser shall be deemed to be a Spot Gas sale.
- (b) Furthermore, in the event that Seller, acting reasonably, is not satisfied with the commercial terms of a potential Spot Gas sale, then Seller may veto Buyer's right to make such Spot Gas sale and direct Buyer to resell Seller's gas to a Third Party Purchaser, as outlined in subsection (a) above.

16. Replacement of Price Indexes if Indexes are No Longer Published or Available

In the event the monthly price index references agreed to hereunder cease to exist or are no longer published, the Parties will meet within twenty (20) days of a written request by either Party to determine a replacement price index for the specific index which must be replaced. If agreement on a new monthly price index is not reached within sixty (60) days then the matter will be submitted to Arbitration in accordance with Section 13. Any change shall be effective as of date the subject monthly price index reference was no longer available.

17. Sole Remedy and Limitation on Damages

The remedies outlined hereunder for Buyer and/or Seller's failure to perform their respective delivery and receipt obligations are Buyer's and Seller's sole remedies. Furthermore, neither Buyer nor Seller shall be liable to the other for any consequential, incidental or punitive damages resulting from a breach of this Letter.

18. Parental Guarantees

Buyer shall provide a "Parental Guarantee", in favour of Seller, from The Coastal Corporation. The form of the Parental Guarantee is attached hereto and shall be executed concurrently with execution of this Letter.

19. Regulatory Authorizations

- (a) Each Party shall be responsible for its own third party expenses associated with obtaining the Regulatory Authorizations, subject to the following:
- (i) Seller shall be responsible for all costs associated with evaluating the testifying to matters pertaining to its supply;
 - (ii) Buyer shall be responsible for all costs associated with describing and testifying to matters pertaining to the downstream transportation and end-use of the gas hereunder;
 - (iii) Buyer shall be responsible for all costs associated with obtaining the U.S. Import Authorizations;
 - (iv) Seller shall be responsible for all costs associated with obtaining the A.E.U.B. Removal Permit;
 - (v) Buyer shall determine Seller's prorata Term Market share of common third party costs associated with the N.E.B. processes for both the TCPL facilities expansion and the long term Export Licence (for the TCPL Service hereunder). Seller shall then forthwith reimburse Buyer for _____ [c] of such of the common third party costs. [c] equals commercially sensitive sharing percentage
- (b) The Parties shall do all things necessary to obtain and maintain all Regulatory Authorizations for the Term hereunder.

20. Seller's Right to Suspend Delivery and Then Terminate in the Event of Failure To Pay

If the failure to pay an undisputed amount continues for five (5) consecutive business days after the day payment is due and such late payment is not the fault of Seller, then Seller, in addition to any other remedy hereunder, may immediately suspend further deliveries of gas under this Letter, until the overdue amount inclusive of interest is fully paid. If failure to pay continues for an additional five (5) business days after the suspension is in effect, then Seller may terminate this Letter immediately. In the event of such termination, Seller's Allocated Transport Capacity shall be permanently assigned to Buyer as per subsection 9 (e).

21. Buyer's Right to Suspend Purchases and Then Terminate in the Event of a Sustained Failure to Deliver

If a Delivery Default is experienced for more than ten (10) consecutive days or fifteen days in aggregate during a Contract Year, then Buyer, in addition to any other remedy hereunder, may

suspend purchases from Seller hereunder until further notice, in which case Seller shall indemnify Buyer for incremental costs associated with obtaining Replacement Gas for the duration of such suspension. Alternatively, at Buyer's sole discretion, Buyer may terminate this Letter at any time during such period of suspension.


22. Other

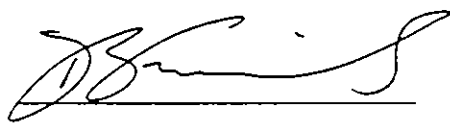
- (a) This Letter outlines the general terms of our agreement. The Parties agree to replace this Letter with a more comprehensive agreement (the "Formal Contract"). The Formal Contract will contain other standard terms and conditions commonly found in long term gas supply arrangements.
- (b) Until this Letter is replaced with the Formal Contract, this Letter shall be the contract between the Parties.

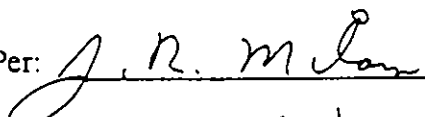
Agreed to by Petro-Canada this 5 day of March, 1996.

COASTAL GAS MARKETING COMPANY

PETRO-CANADA

Per: 
Name: Mike Broadfoot
Vice President
Title: _____

Per: 
Name: D.B. FENWICK
Title: V.P. NATURAL GAS

Per: 
Name: J.R. Milan
Title: Vice President

Per: _____
Name: _____
Title: _____

EXHIBIT C:

Canadian Gas Supply Contract between
Morrison Petroleum and CGM, dated March 15, 1996

March 14, 1996

Morrison Petroleum Ltd.
3000, 400 - 3rd Avenue SW
Calgary, AB
T2P 4H2

Attention: Mr. Ken Woolner

**RE: GAS PURCHASE AGREEMENT FOR THE U.S. MIDWEST MARKET AREA
BETWEEN COASTAL GAS MARKETING COMPANY ("Buyer") AND
MORRISON PETROLEUMS LTD. ("Seller")**

To confirm our recent agreement, this letter ("Letter") outlines the general terms and conditions to which our companies (the "Parties") have agreed with respect to the subject sale and purchase arrangement.

It is Buyer's intention that the gas purchased hereunder from Seller will be resold to a particular downstream customer ("Term Market Customer"). The identity of the Term Market Customer and the specific facilities ("Term Market Facilities") to be served with the gas hereunder shall be provided by Buyer to Seller after the execution of this Letter by both Parties.

Seller will be attempting to obtain transportation capacity from NOVA Gas Transmission Ltd. ("NGTL") which will allow it to have firm delivery capacity on NGTL to the point of interconnection of the facilities of NGTL and TransCanada PipeLines Limited ("TCPL") near Empress, Alberta ("Empress").

Buyer is in the process of obtaining, for subsequent reassignment to Seller, transportation capacity from TCPL for firm transportation service from Empress to the Delivery Point. The new facilities required to provide this capacity will be part of TCPL's facilities application for expansion of facilities with an in-service date estimated to be November 1, 1997 ("TCPL 1997 Expansion Facilities"). Buyer is requesting an early in-service date for such TCPL service of November 1, 1996 and TCPL has confirmed that it will likely be able to provide such early transportation service for all or a portion of the period between November 1, 1996 and November 1, 1997.

Buyer or the Term Market Customer will be attempting to obtain transportation capacity from Viking Gas Transmission Company ("Viking") which will allow for the firm transportation of gas from the Delivery Point.

Buyer and Seller will also require certain regulatory authorizations in order to both commence and continue their respective obligations to sell and purchase gas hereunder.

1. Definitions

Any word or term defined anywhere in this Letter has the meaning ascribed thereto and the following words and terms have the following meanings:

- a. "Contract Year" means the twelve-month period commencing on a November 1 and ending at the end of the next following October 31; provided that, the First Contract Year shall commence on the Date of First Delivery and end at the end of the next following October 31;
- b. "MDQ" means $199.1 \times 10^3 \text{ m}^3/\text{d}$ and has been selected, based on TCPL's projection of energy content at the Delivery Point (1.010 MMBtu/Mcf), to match 7,100 MMBtu/d;
- c. "NGTL Delivery Arrangement" means the transportation contract, or volumetric portion thereof, that is in place from time to time between Seller and NGTL in respect to the NGTL Transportation Volume;
- d. "NGTL Transportation Volume" means $205.1 \times 10^3 \text{ m}^3/\text{d}$ and has been selected based on TCPL's projection of fuel gas requirements between Empress and the Delivery Point;
- e. "Seller's Prorata Share" means 38.845% being Seller's percentage share of the Term Market Customer's first 17,920 MMBtu/d of gas requirements at the Term Market Facilities. The 38.845% share is calculated as 7,100 MMBtu/d divided by 18,278 MMBtu/day. The 7,100 MMBtu/d is the energy approximation of the MDQ and 18,278 MMBtu/d is the quantity of gas required by Buyer for the Term Market Facilities (17,920 MMBtu/d) grossed up for fuel gas requirements on Viking;
- f. "TCPL Arrangement" means the transportation contract, or volumetric portion thereof, that is in place from time to time between Seller or Buyer as the case may be and TCPL in respect to the MDQ;
- g. "Viking Arrangement" means the transportation contract, or volumetric portion thereof, that is in place from time to time between the Term Market Customer (or Buyer if the subject capacity is assigned or released to Buyer) and Viking in respect to the Viking Transportation Quantity;
and
- h. "Viking Transportation Quantity" means 6,961 MMBtu/d (before fuel requirements).

2. Condition Precedent

- a. All obligations of Seller and Buyer under this Letter are conditional on Seller first obtaining approval from its Board of Directors of the terms set out in this Letter prior to March 15, 1996. Seller shall forthwith provide Buyer with written notice if Seller's Board of Directors should reject any of the terms set out in this Letter. If Seller provides such notice prior to 12:00 noon on March 15, 1996 then this Letter shall terminate immediately upon Buyer's receipt of such notice and the Parties shall have no further obligations hereunder. If Seller does not provide such notice prior to 12:00 noon on March 15, 1996 then the aforesaid condition shall be deemed to have been satisfied. Seller may at any time elect to waive the aforesaid condition, which is intended for its sole benefit, by providing notice of such waiver to Buyer.
- b. All obligations of Seller and Buyer under this Letter are conditional on Buyer first providing Seller with an executed copy of this Letter within ten (10) calendar days of the date on which Buyer receives such executed copy of this Letter from Seller. If Buyer does not provide such copy by such date then at any time prior to its receipt of an executed copy of this Letter from Buyer Seller may elect to terminate this Letter by providing notice to Buyer and this Letter shall terminate effective as of the date of such notice.
- c. All obligations of Seller and Buyer under this Letter are conditional on Buyer first providing Seller with an executed copy of the Parental Guarantee pursuant to section 22 prior to April 15, 1996. If Buyer does not provide such copy by such date then at any time prior to its receipt of an executed copy of the Parental Guarantee from The Coastal Corporation Seller may elect to terminate this Letter by providing notice to Buyer and this Letter shall terminate effective as of the date of such notice.

3. Date of First Delivery

The "Date of First Delivery" shall be the earlier of:

- a. the Interim Period Commencement Date; and
- b. the Long Term Commencement Date.

4. Interim Period

The "Interim Period Commencement Date" shall be the latter of:

- a. November 1, 1996; and
- b. the first day of the month immediately following the month in which the last of the following conditions is satisfied;
 - i. Seller has obtained authorization from the Alberta Energy and Utilities Board ("EUB") to remove from Empress, Alberta a daily volume of gas at least equal to the NGTL Transportation Volume for a period of time extending through at least the end of December 31, 1997;
 - ii. Buyer has obtained authorization from the National Energy Board ("NEB") to export from Canada a daily volume of gas at least equal to the MDQ for a period of time extending through at least the end of December 31, 1997;
 - iii. Buyer has obtained authorization from the United States Department of Energy, Office of Fossil Energy ("DOE") to import into the United States a daily quantity of gas at least equal to 7,100 MMBtu/d for a period of time extending through at least the end of December 31, 1997;
 - iv. Seller has obtained firm NGTL Empress delivery transportation capacity for a daily volume of gas at least equal to the NGTL Transportation Volume for a period of time extending through at least the end of October 31, 1997;
 - v. either Buyer or the Term Market Customer has obtained firm Viking transportation capacity which will allow for the transportation from the Delivery Point of a daily quantity of gas at least equal to the Viking Transportation Quantity for a period of time extending through at least the end of October 31, 1997;
 - vi. Buyer has obtained on behalf of Seller firm TCPL transportation capacity which will allow for the transportation from Empress to the Delivery Point of a daily volume of gas at least equal to the MDQ for a period of time extending through at least the end of March 31, 1997; and
 - vii. Buyer has obtained on behalf of Seller either Semi Firm TCPL or firm TCPL transportation capacity which will allow for the transportation from Empress to the Delivery Point of a daily volume of gas at least equal to the MDQ for the period of time from April 1, 1997 through to the end of October 31, 1997; where "Semi Firm TCPL" is a transportation service provided by TCPL which has a daily priority above TCPL's standard interruptible service.

The "Interim Period" shall commence on the Interim Period Commencement Date and end on the earlier of the Long Term Commencement Date and January 1, 1998; provided that, if the Interim Period Commencement Date has not occurred by October 1, 1997 there shall be no Interim Period.

5. Sale and Purchase Obligations During the Interim Period

- a. The Parties recognize that during certain months of the Interim Period sales of gas by Seller and purchases of gas by Buyer will be subject to the availability of or the reliability of the transportation service.
- b. In the case of TCPL transportation, if on any day during the months of April, 1997 through December, 1997 Seller or Buyer, as the case may be, is unable to obtain the necessary firm TCPL or Semi Firm TCPL transportation service required on such day, then Seller's sales and Buyer's purchase obligations on such day shall be reduced by the amount of such transportation capacity which TCPL was unable to supply on such day.
- c. In the case of NGTL and Viking transportation, if on any day during the months of November, 1997 and December, 1997 any of Seller, Buyer or the Term Market Customer, as the case may be, is unable to obtain the necessary firm transportation service required on such day, then Seller's sales and Buyer's purchase obligations on such day shall be reduced by the amount of firm transportation capacity which the relevant pipeline company was unable to supply Seller, Buyer or the Term Market Customer, as the case may be, on such day.
- d. On any such day when transportation service is unavailable pursuant to either subsection 5(b) or subsection 5(c), Buyer shall use all reasonable commercial efforts to market Seller's gas on such terms as Seller may specify (such efforts shall not require Buyer to purchase any such gas), and the Parties shall use all commercially reasonable efforts to mitigate the costs and expenses of any related transportation capacity which would otherwise be unutilized as a result of such transportation service being unavailable.

6. Long Term Period

The "Long Term Commencement Date" shall be the latter of:

- a. November 1, 1997; and
- b. the first day of the month immediately following the month in which the last of the following conditions is satisfied:

- i. Seller has entered into a Rate Schedule FS service agreement with NGTL which will allow for the firm transportation to Empress of a daily volume of gas at least equal to the NGTL Transportation Volume for a period of time extending through at least the end of October 31, 1998;
- ii. either Buyer or the Term Market Customer has entered into a Firm Transportation Service (FT-A) agreement with Viking which will allow for the firm transportation from the Delivery Point of a daily quantity of gas at least equal to the Viking Transportation Quantity for a period of time extending through at least the end of October 31, 2007;
- iii. Buyer, a portion of which is on behalf of Seller, has entered into a Firm Transportation Service Contract with TCPL which will allow for the firm transportation by or on behalf of Seller from Empress to the Delivery Point of a daily volume of gas at least equal to the MDQ for a period of time extending through at least the end of October 31, 2007;
- iv. Seller has obtained either a short term or a long term authorization from the EUB to remove from Empress, Alberta a daily volume of gas at least equal to the NGTL Transportation Volume for a period of time extending through at least the end of October 31, 1998;
- v. Buyer has obtained either a short term or a long term authorization from the NEB to export from Canada a daily volume of gas at least equal to the MDQ for a period of time extending through at least the end of October 31, 1998; and
- vi. Buyer has obtained either a short term or a long term authorization from the DOE to import into the United States a daily quantity of gas at least equal to 7,100 MMBtu/d for a period of time extending through at least the end of October 31, 1998.

The "Long Term Period" shall commence on the Long Term Commencement Date and subject to any termination provisions hereof shall end at the end of October 31, 2007; provided that, if the Long Term Commencement Date has not occurred by January 1, 1998 then this Letter shall terminate as of January 1, 1998. If, at any time prior to January 1, 1998 the Parties mutually agree that the Long Term Commencement Date will not occur by January 1, 1998 then either Party may elect to terminate this Letter by providing the other Party with written notice of its election to terminate this Letter and this Letter shall terminate effective the later of November 1, 1997 or the first day of the month immediately following the month in which such termination notice is provided.

7. Term

This Letter shall be effective as of the date hereof with sale and purchase commencing on the Date of First Delivery. Subject to the specific termination set out herein, this Letter shall remain in effect until the end of October 31,

8. Sale and Purchase Obligations

On each day from and after the Date of First Delivery Seller will sell and deliver the volume of gas which Buyer requests Seller to deliver on such day at the price except if Seller cannot make such deliveries as a result of a claim of an Event of Force Majeure by Seller or if during the Interim Period the provisions of the Letter shall be applicable; provided that, the volume nominated by Buyer on any day shall not exceed the MDQ. Buyer agrees to purchase and receive the volumes delivered by Seller and that, such volumes do not exceed the volume requested by Buyer on such day.

9. Delivery Point

The "Delivery Point" means that point on the international border where the TCPL interconnect with the facilities of Viking near Emerson, Manitoba.

10. Payment and Price

- a. The "Ventura Index Price" means, for any month, the price, expressed in U.S.\$ per MMBtu, under the column "Index" for deliveries of spot gas by the Natural Gas Co. at Ventura, Iowa as reported in the table entitled "Natural Gas Delivered to Pipelines" in the first edition of the Inside Energy Market Report published by The McGraw-Hill Companies Inc. in the delivery month. The "Average Emerson Price" means, for any month, the price expressed in U.S.\$ per MMBtu, for Canadian gas in the row "Emerson (GL)" under the column "Index" for the delivery month, as reported in the table entitled "Monthly Contract Index" in the first edition of the Gas Daily published by Pasha Publications Inc in the delivery month. The "Term Market Price" for any month, the Ventura Index Price for such month less _____ [commercially sensitive Ventura to Emerson Basis]. The "Operations Fee" means, for any month, an amount equal to the product obtained by multiplying the total quantity of gas delivered hereunder during such month by _____ [commercially sensitive ma
- b. The amount due to Seller for all gas delivered hereunder during any month shall be the sum of the Term Market Quantity multiplied by the Term Market Price plus the Spot Market Quantity multiplied by the Average Emerson Price less the Operations Fee. Buyer is entitled to set off pursuant to subsection 10(c). The

Quantity and the Spot Market Quantity for such month shall be determined in accordance with subsection 14(c).

- c. Buyer shall be entitled to set off the following amounts from the amount otherwise due to Seller hereunder:
- i. the Operations Fee;
 - ii. any amounts paid by Buyer to TCPL pursuant to subsection 12(b) or on Seller's behalf pursuant to subsection 12(g) in respect to the TCPL Arrangement;
 - iii. any reasonable third party expenses incurred by Buyer in respect to any TCPL financial guarantees provided by Buyer in accordance with subsection 12(c);
 - iv. any hedging losses (including transaction costs) incurred as a result of subsection 10(e);
 - v. any tax or levy imposed by a Canadian government or Canadian regulatory agency on the sale of gas hereunder; and
 - vi. any costs incurred by Buyer associated with a Seller's Delivery Default pursuant to subsection 13(a) or subsection 13(b).
- d. The Parties agree that the price to be paid for gas delivered hereunder pursuant to subsection 10(b) and the amount of the Operations Fee are open for renegotiation for the period commencing November 1, 2001. The Parties acknowledge that Buyer's contract with the Term Market Customer is also open for price renegotiation at the same time. Prior to, or simultaneously with Buyer's negotiations with the Term Market Customer the Parties shall attempt to agree on the price of gas to be delivered hereunder during the period commencing on November 1, 2001 and ending at the end of October 31, 2007 and the amount of the Operations Fee during such period. If the Parties are unable to reach agreement by August 31, 2001 on such price or the amount of the Operations Fee then this Letter shall terminate effective at the end of October 31, 2001.
- e. If Seller desires to hedge its revenues hereunder by utilizing financial derivative products, then upon such notification to Buyer, the Parties shall endeavour to (but shall not be obligated to) mutually agree upon such derivatives. Upon mutual agreement and provided that Buyer can secure futures contracts or swap

transactions to implement such hedge, the resulting monthly hedging gain and/or loss shall be accounted for in this Letter.

- f. The "Netback Revenues" for any month shall be the sum of the amount due to Seller pursuant to subsection 10(b), any hedging gains (less transaction costs) incurred as a result of subsection 10(e), any payment required pursuant to subsection 14(e), any payment required pursuant to section 15, and less the amount of Buyer's setoffs pursuant to subsection 10(c). The Netback Revenues shall be expressed in and paid in U.S. dollars. If any conversions between U.S. dollars and Canadian dollars is required the daily spot exchange rate, applicable to the exchange of Canadian dollars for U.S. dollars, in effect at noon Calgary time on the tenth day of the month (or the next business day thereafter if the tenth day is not a banking business day) following the delivery month as quoted by The Royal Bank of Canada, Main Branch, Calgary, Alberta shall be utilized.
- g. Buyer shall pay Seller by cheque or wire transfer (as directed by Seller) on or before the twenty-fifth day of each month (or the next business day thereafter if the twenty-fifth day is not a banking business day) an amount equal to the Netback Revenues associated with the gas delivered hereunder during the immediately preceding month.
- h. For the period starting on November 1, 1996 and ending two years after any termination of this Letter, Seller shall have audit rights to review those records of Buyer's business as are necessary to review Buyer's calculation of the Netback Revenues. No adjustment in any payment made will be made or allowed unless a claim in respect of same is brought within two years of the date payment was due.
- i. Any payments due hereunder, which are not paid by the applicable due date shall accrue interest at the prime lending rate of The Royal Bank of Canada, Main Branch, Calgary, Alberta plus two percent both before and after any termination of this Letter.

11. Replacement of Information Used to Determine the Ventura Index Price or the Average Emerson Price

If either publisher ceases to publish the information used to determine the Ventura Index Price or the Average Emerson Price as the case may be, or if the basis of determination of either such reference is changed in any material way then the Parties agree to promptly and in good faith negotiate a mutually satisfactory replacement reference failing which the matter will be resolved by baseball arbitration carried out in accordance with section 17. Until a replacement reference is determined the last available Ventura Index Price or Average Emerson Price as the case may be shall continue in effect. Upon the determination of a replacement reference the Ventura Index Price or the Average Emerson

Price will be retroactively adjusted utilizing the selected replacement reference; provided that, there shall be no adjustment made for any interest.

12. **Transportation and TCPL Agency**

- a. Buyer shall arrange to initially obtain the TCPL Arrangement. Buyer shall then permanently assign any TCPL Arrangement to Seller and Seller shall accept such permanent assignment and thus Seller shall become the primary shipper of record with TCPL. The permanent assignment of any TCPL Arrangement shall be effective immediately on Buyer's receipt of such TCPL Arrangement and the Parties shall execute TCPL's standard assignment and novation agreement in respect of any such TCPL Arrangement in accordance with TCPL's standard procedures. From and after the Date of First Delivery Seller shall maintain the TCPL Arrangement on a firm or "semi firm" basis (as outlined in subsections 4(b)(vi) and 4(b)(vii)) until the end of October 31, 1997 and on a firm basis throughout the Long Term Period.
- b. Subject to subsection 12(d), if Buyer is unable for any reason to make the permanent assignment of any TCPL Arrangement or if Seller fails to take or qualify for such permanent assignment, for any reason, then Buyer shall hold the TCPL Arrangement on behalf of Seller and Seller shall indemnify and hold Buyer harmless for all costs and charges which are associated with either the obligations assumed by Buyer under such TCPL Arrangement or any financial guarantees associated with same and Buyer may set off such costs from any amounts due Seller hereunder. In such event, from and after the Date of First Delivery Buyer shall maintain the TCPL Arrangement on a firm or "semi firm" basis (as outlined in subsections 4(b)(vi) and 4(b)(vii)) until the end of October 31, 1997 and on a firm basis throughout the Long Term Period. The provisions of this subsection 12(b) shall survive the termination of this Letter.
- c. Seller shall be responsible for, and do all things necessary to satisfy TCPL's credit requirements under any TCPL Arrangement. If Seller is unable to satisfy TCPL's credit requirements Buyer shall provide creditworthiness in such form as Buyer and TCPL may determine to be appropriate and Buyer may set off the actual cost of any such credit arrangements from any amounts due Seller hereunder.
- d. If this Letter terminates prior to October 31, 2007 for any reason _____ [commercially sensitive exception] Seller shall permanently assign to Buyer (or an affiliate of Buyer) the TCPL Arrangement and the NGTL Delivery Arrangement effective as of the effective date of the termination of this Letter. The Parties shall execute TCPL's and NGTL's standard assignment and novation agreements in accordance with TCPL's and NGTL's standard procedures. Buyer shall be responsible for and do all things necessary to satisfy TCPL's and NGTL's credit requirements in order

that Seller will be completely released from all obligations under the assigned arrangements from and after the effective date of the termination of this Letter. If Seller is unable for any reason to make any such assignment or if Buyer fails to take or qualify for any such assignment, for any reason, then Seller shall hold such arrangements on behalf of Buyer and Buyer shall indemnify and hold Seller harmless for all costs and charges which are associated with either the obligations under the arrangements to be assigned from and after the effective date of the termination of this Letter or any financial guarantees associated with same. Notwithstanding the foregoing Seller shall not be required to make any assignment of the TCPL Arrangement and the NGTL Delivery Arrangement if Seller desires to retain same and Buyer does not require such capacity to meet the requirements of the Term Market Customer. The provisions of this subsection 12(d) shall survive the termination of this Letter.

(e) [commercially sensitive clause on TCPL Arrangement and NGTL Arrangement]

(d) [commercially sensitive clause on TCPL Arrangement and NGTL Arrangement]

g. Upon Seller executing any TCPL Arrangement, Seller shall appoint Buyer as agent to operate such TCPL Arrangement ("TCPL Agency"). Such TCPL Agency shall be effected by the Parties forthwith after the execution of any TCPL Arrangement by Seller sending a letter to TCPL in the form attached hereto as Schedule "A". Such TCPL Agency shall appoint Buyer as Seller's agent to operate such TCPL Arrangement. In its role as Seller's agent Buyer shall not have any entitlement to any TCPL capacity which may not be required to effect deliveries hereunder and Buyer shall act on Seller's instructions in respect to such capacity. In its capacity as Seller's agent, Buyer shall place all nominations, manage fuel and inventory accounts and associated imbalances, receive all pipeline statements including invoices, and make all payments to TCPL, all on Seller's behalf. Subject to any early termination of this Letter, the Parties shall do all things necessary to ensure that such TCPL Agency is maintained with TCPL for the term hereof.

- h. Subject to subsection 5(c) from and after the Date of First Delivery Seller shall maintain, hold and operate the NGTL Delivery Arrangement on a firm basis and maintain all other NGTL transportation arrangements necessary to deliver gas hereunder on a firm basis throughout the term hereof.
- i. Subject to subsection 5(c) from and after the Date of First Delivery Buyer shall maintain, hold and operate or ensure the Term Market Customer maintains, holds and operates, the Viking Arrangement on a firm basis throughout the term hereof.

13. **Seller's Delivery Default**

- a. If, on any day, from and after the Date of First Delivery, Seller fails to deliver the volume of gas requested by Buyer for such day for reasons other than as a result of a claim of an Event of Force Majeure by Seller or because the provisions of section 5 or section 19 are applicable ("Seller's Delivery Default") then Buyer shall have the right to purchase the shortfall in deliveries of gas or portion thereof ("Deficiency Volume") from other sources. If Buyer obtains gas from other sources to replace any portion of the Deficiency Volume then Seller shall pay Buyer as liquidated damages an amount equal to the positive difference, if any, obtained when the amount Buyer would have paid Seller for the replacement quantity hereunder but for Seller's Delivery Default, assuming the price Buyer would have paid Seller would have been the lesser of (i) the Term Market Price and (ii) the Average Emerson Price for the month in which the Seller's Delivery Default occurred, is subtracted from the net amount actually paid by Buyer for any replacement supply (inclusive of any incremental transportation costs), calculated at the Delivery Point, in an incremental, arms' length purchase from a third party. Buyer shall use all reasonable efforts to obtain any replacement gas at the lowest cost considering all circumstances. The Parties shall cooperate and use all reasonable efforts to utilize any transportation capacity held by either Party in connection with the sale hereunder which would otherwise be unutilized as a result of any Seller's Delivery Default.
- b. If there is a Seller's Delivery Default and Buyer does not obtain gas from other sources to replace the Deficiency Volume pursuant to subsection 13(a) because either Buyer was unable to obtain replacement gas despite using all reasonable efforts to do so or the Term Market Customer had more economic alternatives to obtain replacement fuel, then to the extent that Buyer is required to indemnify the Term Market Customer, Seller shall pay Buyer an amount as liquidated damages as a result of such Seller's Delivery Default. The amount of the liquidated damages shall be limited to the amount by which the costs Buyer may incur as a result of its indemnity to the Term Market Customer are over and above the costs Buyer would have incurred in supplying the Term Market Customer with an equivalent amount

of gas which would have been delivered hereunder assuming that Buyer would have paid Seller would have been the lesser of (i) the Term Market Price and (ii) the Average Emerson Price for the month in which the Seller's Delivery Default occurred. Buyer shall ensure that the Term Market Customer makes reasonable efforts to obtain replacement fuel at the lowest cost under the circumstances.

c. Buyer shall be entitled to utilize the NGTL Delivery Arrangement in order that Buyer may transport any replacement gas in the event of a Seller's Delivery Default. Buyer shall reimburse Seller for the cost associated with any capacity so utilized with any demand tolls being applied at a 100% load factor equivalent rate and applied to the capacity so utilized.

d. If Seller's Delivery Defaults results in Seller's failure to deliver a volume of gas which is at least 85% of the volume nominated by Buyer for either:

- i. a period of ten consecutive days; or
- ii. a cumulative fifteen days during any Contract Year;

then Buyer may, by providing at least thirty days' notice to Seller, terminate this Letter effective as of the end of such notice period; such notice is given by Buyer within thirty days of the last day of a Contract Year of Seller.

14. Buyer's Take Commitment

a. Buyer hereby represents and warrants to Seller that under Buyer's contract with the Term Market Customer:

- i. the Term Market Customer is required to nominate and purchase from Buyer on each day under such contract all gas required by the Term Market Customer's Facilities on such day up to 17,920 MMBtu/d; and
- ii. there are no provisions in such contract which allow for the Term Market Customer to terminate that contract prior to November 1, 2001 except for the non-performance of their respective obligations thereunder.

b. The intent hereunder is for Buyer to nominate hereunder a volume of gas equal to the MDQ on each day during the term hereof.

c. Each month Buyer shall allocate its total purchases hereunder on the first day of the previous month into two categories, the term market category and the spot market category.

category. The allocation to the term market category for any day shall be determined by Buyer, but in any event shall not be less than Seller's Prorata Share of the quantity of gas requested from Buyer by the Term Market Customer for use at the Term Market Facilities (grossed up for Viking fuel gas requirements) for such day. The balance of the purchases hereunder on such day shall be allocated to the spot gas category. The "Term Market Quantity" for any month shall be the sum of the daily allocations to the term market category for such month. The "Spot Gas Quantity" for any month shall be the sum of the daily allocations to the spot gas category for such month.

- d. The "Minimum Monthly Purchase Volume" means, for any month, the volume, expressed in 10^3m^3 , determined in accordance with the following formula:

$$\text{Minimum Monthly Purchase Volume} = A - B - C - D$$

- where
- A = the sum of the MDQ's which were in effect on each day of such month;
 - B = any volume, expressed in 10^3m^3 , which Buyer requested Seller to deliver on such day and which Seller failed to deliver for any reason including as a result of a claim of an Event of Force Majeure by Seller;
 - C = any volume, expressed in 10^3m^3 , which Buyer did not request Seller to deliver on such day as a direct result of a claim of an Event of Force Majeure by Buyer; provided that, such amount shall be limited to the amount which Buyer would have otherwise bona fide nominated for that day; and
 - D = any volume, expressed in 10^3m^3 , which Buyer did not request Seller to deliver on such day due to any energy imbalance because the quantity of energy on such day in the MDQ exceeded the aggregate of the Viking Transportation Quantity and associated Viking fuel gas requirements.

The "Monthly Shortfall Volume" means, for any month, the volume, expressed in 10^3m^3 , obtained by subtracting the total volume of gas which Buyer purchased hereunder during such month from the Minimum Monthly Purchase Volume for such month. The "Cumulative Monthly Shortfall Volume" means for any month, the sum of the Monthly Shortfall Volumes for each month from the commencement of the Contract Year to the end of such month.

- e. If in any month there is a Monthly Shortfall Volume and the Cumulative Monthly Shortfall Volume exceeds [X] 10^3m^3 then Buyer shall pay Seller as liquidated damages an amount equal to the positive difference, if any, obtained when the net amount which Seller actually received in connection with the sale of the Monthly Shortfall Volume, calculated at the Delivery Point, in an incremental, arms' length sale to a third party is subtracted from the product of the Average Emerson Price for such month and the Monthly Shortfall Volume; provided that, if the month is the first month in the Contract Year in which the Cumulative Monthly Shortfall Volume exceeds [X] 10^3m^3 the Monthly Shortfall Volume for such month shall be reduced by the amount by which the Cumulative Monthly Shortfall Volume as of the end of the immediately preceding month was less than [X] 10^3m^3 . Seller shall use all reasonable efforts to maximize the net amount to be received by it in connection with the sale of the Monthly Shortfall Volume considering all circumstances.
- f. If Buyer does not, except as a result of a claim of an Event of Force Majeure by Buyer, request Seller to deliver a volume of gas which is at least 50% of the MDQ for either:
- i. a period of ten consecutive days; or
 - ii. a cumulative fifteen days during any Contract Year;

then Seller may, by providing at least thirty days' notice to Buyer elect to terminate this Letter effective as of the end of such notice period; provided that, such notice is given by Seller within thirty days of the last day of any such failure of Buyer.

15. Buyer's Term Quantity Default

[commercially sensitive load factor obligations and indemnification of Seller by Buyer if Buyer does not achieve an 85% load factor for gas priced as Term Market Gas]

16. Force Majeure

- a. For the purposes of this Letter:
 - i. "Event of Force Majeure" means:

- (A) any interruption, curtailment, suspension, termination, non-performance or proration of firm transportation service by NGTL affecting the NGTL Delivery Arrangement or TCPL affecting the TCPL Arrangement in the case of Seller or by Viking affecting the Viking Arrangement in the case of Buyer whether or not the transporter is claiming an event of force majeure under the applicable transportation agreement,
- (B) the coming into force or the application of any legislative, regulatory, administrative or judicial enactment, order, directive, restraint or action, or
- (C) the failure or refusal of any regulatory or administrative agency to act or to provide an authorization which allows Seller to remove gas from the Province of Alberta. Buyer to export gas from Canada or Buyer to import gas into the United States;

if such event or occurrence prevents a Party from performing its obligation to deliver or take delivery of gas hereunder, either in whole or in part;

ii. an event or occurrence of the kind contemplated by subsection 16(a)(i) shall be considered to prevent a Party from performing its obligation to deliver or take delivery of gas hereunder if:

- (A) in the case of Seller, such event or occurrence prevents Seller from meeting all of its firm gas delivery obligations subsisting at that time without having to purchase gas from others, and
- (B) in the case of Buyer, such event or occurrence prevents Buyer or the Term Market Customer from transporting gas from the Delivery Point under the Viking Arrangement,

but shall not be considered to prevent a Party from performing its obligation to deliver or take delivery of gas hereunder, and shall accordingly not be considered to be an Event of Force Majeure, if and to the extent that:

- (C) the occurrence or subsistence thereof is attributable to or results from the failure or financial inability of such Party to pay any amount which a prudent and financially sound entity in similar circumstances would reasonably be expected to pay to avoid or discontinue such event or occurrence,

- iii. forthwith upon the occurrence of any significant development in the process of attempting to discontinue and minimize the effect of the Event of Force Majeure, notify the other Party thereof.
- d. Buyer shall throughout the course of any Event of Force Majeure claimed by it:
- i. discontinue all of its interruptible gas sales and purchases to the extent that such action will alleviate the curtailment of takes hereunder;
 - ii. refrain from entering into new gas sales or purchase arrangements requiring deliveries that would be affected by the Event of Force Majeure; and
 - iii. allocate its and attempt to have the Term Market Customer allocated its Viking pipeline capacity on a pro rata basis among all of the firm gas sales and purchase obligations that it or the Term Market Customer normally satisfies utilizing such firm Viking transportation service including obligations under this Letter to the extent that such prorationing allows the Term Market Facilities to receive more gas.
- e. Seller shall throughout the course of any Event of Force Majeure claimed by it:
- i. discontinue all of its interruptible gas sales involving deliveries that are affected by the Event of Force Majeure;
 - ii. refrain from entering into new gas sales agreements requiring deliveries that would be affected by the Event of Force Majeure;
 - iii. allocate its gas supply available at Empress on a pro rata basis among all of the firm gas delivery obligations that it normally satisfies utilizing such firm NGTL transportation service, including its obligations under this Letter; and
 - iv. allocate its gas supply available at Emerson on a pro rata basis among all of the firm gas delivery obligations that it normally satisfies utilizing such firm TCPL transportation service, including its obligations under this Letter.

17. Arbitration

Any unresolved disputes, controversies, differences or questions that arise between the Parties in respect to this Letter shall be resolved by arbitration including without limitation the selection of an alternate reference pursuant to section 11. Upon the written request for arbitration by either Party the arbitration shall commence utilizing a single arbitrator selected by the services of the British Columbia International Commercial Arbitration

Centre ("BCICAC") if the Parties cannot agree on a selection. The place of any arbitration hearing shall be Calgary, Alberta. The provisions of the *Arbitration Act* (Alberta) and the Rules of Procedure of the BCICAC for domestic arbitrations in effect from time to time shall apply to all arbitrations carried out hereunder. Each Party shall bear the expenses of prosecuting its own case. The compensation of the arbitrator and all administration costs of the arbitration shall be paid in equal portions by the Parties. Any arbitration in respect to the selection of an alternate reference pursuant to section 11 shall be a baseball form of arbitration where the arbitrator will only have the authority to select either Seller's or Buyer's final offer.

18. Sole Remedy and Limitation on Damages

The remedies outlined hereunder for Buyer and/or Seller's failure to perform their respective sale and purchase obligations are Buyer's and Seller's sole remedies. Furthermore, neither Party shall be liable to the other Party for any consequential, incidental or punitive damages resulting from a breach of the provisions of this Letter.

19. Seller's Right to Suspend Delivery and Terminate in the Event of Failure to Pay

If the failure to pay any undisputed amount continues for five consecutive business days after the day payment is due and such late payment is not the fault of Seller, then Seller, in addition to any other remedy hereunder, may immediately suspend further deliveries of gas under this Letter, until the overdue amount inclusive of interest is fully paid. If failure to pay continues for an additional five business days after the suspension is in effect, then Seller may, by providing at least ten days' notice to Buyer elect to terminate this Letter effective as of the end of such notice period.

20. Regulatory Authorizations

- a. Seller shall apply for and use all commercially reasonable efforts to obtain the following authorizations:
 - i. the short term authorization from the EUB referred to in subsection 4(b)(i);
 - ii. a long term authorization from the EUB authorizing Seller to remove from Empress, Alberta a daily volume of gas at least equal to the NGTL Transportation Volume for a period of time extending throughout the Long Term Period; and
 - iii. all short term authorizations as may be required from time to time during the Long Term Period from the EUB which will authorize Seller to remove from Empress, Alberta a daily volume of gas at least equal to the NGTL

Transportation Volume if the long term authorization referred to in subsection 20(a)(ii) cannot be obtained.

Buyer shall apply for and use all commercially reasonable efforts to obtain the following authorizations;

- iv. the short term authorization from the NEB referred to in subsection 4(b)(ii);
 - v. a long term authorization from the NEB authorizing Buyer to export from Canada a daily volume of gas at least equal to the MDQ for a period of time extending throughout the Long Term Period;
 - vi. all short term authorizations as may be required from time to time during the Long Term Period from the NEB which will authorize Buyer to export from Canada a daily volume of gas at least equal to the MDQ if the long term authorization referred to in subsection 20(a)(v) cannot be obtained;
 - vii. the short term authorization from the DOE referred in subsection 4(b)(iii);
 - viii. a long term authorization from the DOE authorizing Buyer to import into the United States a daily quantity of gas at least equal to 7,100 MMBtu for a period of time extending throughout the Long Term Period ; and
 - ix. all short term authorizations as may be required from time to time during the Long Term Period from the DOE which will authorize Buyer to import into the United States a daily quantity of gas at least equal to 7,100 MMBtu if the long term authorization referred to in subsection 20(a)(viii) cannot be obtained.
- b. Seller shall be responsible for all costs associated with obtaining any authorization from the EUB. Buyer shall be responsible for all costs associated with obtaining any authorization from the DOE and any short term authorization from the NEB. In respect of any long term authorization required from the NEB and any hearing respecting the TCPL 1997 Expansion Facilities:
- i. Seller will be responsible for all costs associated with evaluating and testifying to matters pertaining to its gas supply;
 - ii. Buyer shall be responsible for all costs associated with describing and testifying to matters pertaining to the downstream transportation and end use of the gas hereunder:

- iii. Seller will reimburse Buyer for Seller's Prorata Share of the third party expenses (including without limitation outside regulatory counsel) incurred by Buyer in respect of all matters other than those set out in subsections 20(b)(i) and 20(b)(ii) up to a maximum of [commercially sensitive amount].
- c. Each Party shall use all commercially reasonable efforts, at their own expense (subject to 20(b)), to assist the other Party in obtaining and maintaining any regulatory or governmental authorizations which such other Party may require relative to this Letter, any provisions hereof or any transaction contemplated hereby.
- d. If either Seller or Buyer, as the case may be, is unable to obtain the long term regulatory authorizations described in any of subsections 20(a)(ii), 20(a)(v) or 20(a)(viii) then on or before each September 1 commencing with September 1, 1997:
 - i. Seller may provide Buyer with a notice that despite its commercially reasonable efforts to obtain same it has not obtained a short term authorization from the EUB to remove from Empress, Alberta a daily volume of gas at least equal to the NGTL Transportation Volume for a period of time extending through at least the twelve month period commencing on the immediately following November 1;
 - ii. Buyer may provide Seller with a notice that despite its commercially reasonable efforts to obtain same it has not obtained a short term authorization from the NEB to export from Canada a daily volume of gas at least equal to the MDQ for a period of time extending through at least the twelve month period commencing on the immediately following November 1; or
 - iii. Buyer may provide Seller with a notice that despite its commercially reasonable efforts to obtain same it has not obtained a short term authorization from the DOE to import into the United States a daily quantity of gas at least equal to 7,100 MMBtu for a period of time extending through at least the twelve month period commencing on the immediately following November 1.

If either Seller or Buyer provides a notice pursuant to any of subsections 20(d)(i), 20(d)(ii) or 20(d)(iii) then either Party may on or before the immediately following September 30, or such later date as may be agreed to by the Parties, elect to terminate this Letter effective at the end of the immediately following October 31 by providing the other Party with written notice of its election to terminate this Letter.

21. **Termination of Buyer's Term Market**

Buyer shall do all things commercially reasonable to maintain its contract with the Term Market Customer for the term hereof. For greater certainty, Buyer warrants that it shall not terminate its contract with the Term Market Customer prior to the end of October 31, 2001 in order to resume supplying the Term Market Customer under a new or replacement contract. However, if Buyer's contract with the Term Market Customer is terminated, then this Letter shall terminate effective as of the termination date of Buyer's contract with the Term Market Customer.

22. **Parental Guarantee**

Buyer shall provide a guarantee in respect of all payment obligations under this Letter ("Parental Guarantee"), in favour of Seller, from The Coastal Corporation in respect of payment obligations of Buyer under the Letter. The form of the Parental Guarantee is attached hereto as Schedule "B" and shall be executed shortly after execution of this Letter in accordance with section 2.

23. **Formal Contract**

- a. The Letter outlines the general terms of our agreement. The Parties agree to replace the Letter with a more comprehensive agreement ("Formal Contract"). The Formal Contract will contain other standard terms and conditions commonly found in long term gas sales arrangements.
- b. The Parties shall use all reasonable efforts to have the Formal Contract in place by June 1, 1996.
- c. In any event, until this Letter is replaced with the Formal Contract, this Letter shall be the contract between the Parties.
- d. Buyer shall provide a guarantee in respect of all payment obligations under the Formal Contract, in favour of Seller, from The Coastal Corporation. The form of such guarantee shall be identical to the form of the Parental Guarantee except that all references to the Letter therein shall be replaced with a reference to the Formal Contract. The guarantee in respect to the Formal Contract shall be provided at the same time as the Formal Contract is executed by the Parties.

24. **Quality**

The gas to be delivered hereunder will be delivered at the Delivery Point in a common stream and shall meet or exceed the minimum and not exceed any maximum, quality, heating value, delivery pressure and temperature standards and specifications required by

TCPL and set out in TCPL's tariff, in effect from time to time. If the gas offered for delivery by Seller shall fail at any time to conform to the requirements of TCPL, it shall be considered that Seller has failed to deliver to Buyer and Buyer may elect to refuse to purchase such gas pending correction by Seller.

25. **Measurement**

All gas to be delivered hereunder shall be measured as to volume, quality and heating value by TCPL in accordance with the provisions set out in TCPL's tariff, in effect from time to time, at the meters installed, operated and maintained by TCPL at the Delivery Point and the heating value of the delivered gas shall be determined by instruments operated by TCPL. The measurements and all other volume, quality and heating value measurements as made by TCPL shall be accepted by the Parties and utilized for all purposes of this Letter.

26. **Measurement Standards**

The standards of measurement and the meter testing procedures shall be those of TCPL as set out in TCPL's tariff from time to time.

27. **Conversions**

All conversions to be done for or in relation to this Letter from Imperial units of measurement to metric units or vice versa shall be done utilizing the conversions utilized by TCPL from time to time at the Delivery Point.

28. **GST**

If either Party is obliged to pay an amount, forfeit an amount or reduce or extinguish without payment all or part of the amount of a debt or obligation (a "**Forfeiture Amount**") to or for the benefit of the other Party as a consequence of the breach, modification or termination of this Letter, the first Party shall pay to the other Party an amount in addition to the Forfeiture Amount (the total of both amounts referred to as the "**Gross Amount**") such that the other Party will be entitled to the benefit of the Forfeiture Amount, after taking into account the payment of the GST it is obligated to remit to the Crown in respect of the Gross Amount pursuant to section 182 of the *Excise Tax Act* (Canada).

29. **Event of Default**

The term "Event of Default" means either Party:

- a. becoming an insolvent person within the meaning of the *Bankruptcy Act* (Canada);

- b. making an assignment in bankruptcy or any general arrangement for the protection of creditors;
- c. receiving a petition or an order in bankruptcy with same not being dismissed, stayed or withdrawn within thirty days after its filing;
- d. filing a petition or otherwise commencing, authorizing or acquiescing in the commencement of a proceeding under any bankruptcy or similar legislation for the protection of creditors;
- e. having any proceeding being commenced against such Party for any relief under any bankruptcy or similar legislation or any laws relating to the winding-up of such Party in any jurisdiction with same not being dismissed, stayed or withdrawn within thirty days after its filing; or
- f. having a receiver or agent appointed in respect of such Party for any reason.

If either Party shall experience an Event of Default then the other Party may by giving at least ten days' notice to the other Party elect to terminate this Letter effective the end of such notice period.

30. **General**

- a. Neither Party shall have the right to assign this Letter nor any of its rights, benefits, duties and obligations hereunder without the prior written consent of the other Party which consent shall not be unreasonably withheld.
- b. This Letter and all matters arising herein or therefrom including the capacity, form, essentials and performance of this Letter shall be governed by and construed in accordance with the laws of Alberta and the laws of Canada applicable therein.
- c. Each of the Parties by the execution and delivery of this Letter irrevocably and unconditionally with respect to any matter or thing arising out of or pertaining directly or indirectly to this Letter attorns and submits to and accepts for itself and in respect of its assets the exclusive jurisdiction of the courts of Alberta.
- d. This Letter and the rights and obligations of the Parties hereunder are subject to all applicable present and future valid laws, regulations, orders, directives, and rules of any governmental or regulatory authority having jurisdiction over the parties or the subject matter of this Letter.
- e. Time shall be of the essence in this Letter.

- f. No amendment nor variation of the provisions of this Letter shall be effective or binding upon the Parties unless it is set forth in writing and has been duly executed by each of the Parties by its respective proper officers or authorized representatives in that behalf.
- g. This Letter constitutes the entire agreement between the Parties relative to the matters herein provided or contemplated and there are no other written, verbal, express or implied representations, warranties, conditions or covenants in respect thereto. This Letter supersedes all prior or contemporaneous discussions, negotiations, representations or agreements relating to the subject matter of this Letter.
- h. Each of the Parties shall from time to time and at all times after the date of this Letter, on 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 fully perform and to more effectively implement and carry out the terms of this Letter.

Agreed to by Morrison Petroleum Ltd. this 15th day of March, 1996.

COASTAL GAS MARKETING COMPANY

MORRISON PETROLEUMS LTD.

Per: [Signature]
 Name: Vice President
 Title: Mike Broadfoot

Per: [Signature]
 Name: KEN S. GULNER, P. ENG.
 Title: VICEPRESIDENT

Per: [Signature]
 Name: J.R. Milam
 Title: Vice President

Per: [Signature]
 Name: _____
 Title: _____

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UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

SEP 18 10:00

REC'D DOE/FE

COASTAL GAS MARKETING COMPANY)

FE DOCKET NO. 96-50-NG)

ORDER GRANTING LONG-TERM AUTHORIZATION
TO IMPORT NATURAL GAS FROM CANADA

DOE/FE ORDER NO. 1201

SEPTEMBER 18 1996

I. DESCRIPTION OF REQUEST

On July 15, 1996, Coastal Gas Marketing Company (CGM) filed an application with the Office of Fossil Energy of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA)^{1/} and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting authorization to import up to 18,100 Mcf per day of natural gas from Canada. The term of the proposed authorization would be for a period of 11 years beginning November 1, 1996, and extending through October 31, 2007. CGM, a Delaware Corporation located in Houston, Texas, and a wholly-owned subsidiary of the Coastal Corporation, is in the business of buying and selling natural gas. CGM states that the imported gas would be used to supply two U.S. markets in the Midwest. Specifically, CGM's new customers are American Crystal Sugar (ACS) which owns sugar refineries in Minnesota, and ProGold LLC (ProGold) which owns a wet corn milling plant in North Dakota.

Petro-Canada would supply CGM with 11,100 Mcf (or approximately 11,178 MMBtu) per day of Canadian gas and Morrison Petroleum Ltd. (Morrison) would supply 7,000 Mcf (or approximately 7,100 MMBtu) per day from reserves produced in the Province of Alberta. This 18,100 Mcf per day of gas would be supplemented by Petro-Canada and Morrison with additional volumes of fuel gas for line loss and shrinkage during transportation. The gas would be received into the pipeline system of NOVA Gas Transmission Ltd. (NOVA) and transported by the respective producers to Empress, Alberta, where NOVA's system interconnects with the pipeline system of TransCanada PipeLines Limited (TCPL).

^{1/} 15 U.S.C. § 717b.

TCPL would transport the gas to the border of the United States and Canada near Emerson, Manitoba/Noyes, Minnesota, where the gas would be further transported on a proposed pipeline expansion of Viking Gas Transmission Company (Viking). CGM holds capacity in its name on TCPL from Empress to the U.S. border. The pipeline capacity on Viking is being contracted for by ACS and ProGold. ACS and ProGold would take title to the gas immediately after it is imported into the United States.

While Emerson, Manitoba/Noyes, Minnesota, will be the primary import point on TCPL for the Petro-Canada and Morrison gas, CGM wishes to retain the flexibility to import at other international border points should this become desirable from time to time. The primary U.S. delivery point for ProGold on Viking will be located at Wahpeton, Minnesota. East Grand Forks, Crookston, and Moorehead, Minnesota, would be ACS' primary deliver points on Viking. Additional transportation would be provided by local distribution companies to the ACS plants and ProGold plant.

CGM filed copies of both its Gas Purchase Agreements with Petro-Canada and Morrison, dated March 5, 1996, and March 15, 1996, respectively. The price CGM would pay to Petro-Canada and Morrison to import the gas at the international border would be a "netback" price. For the most part, the "netback" price to be paid by CGM to Petro-Canada during each month succeeding any month when gas is delivered to ACS and ProGold would equal the weighted average resale price received by CGM for the gas it imports during the preceding month and sells to these two

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customers, less certain expenses CGM would owe TCPL for transportation from Empress, Alberta, to Emerson, Manitoba. Until November 1, 2001, this "netback" price shall be the monthly "Ventura Index Price" expressed in U.S. dollars per MMBtu for gas delivered at the pipeline interconnect between Northern Border Pipeline Company and Northern Natural Gas Company at Ventura, Iowa, as published by the McGraw-Hill Companies Inc. in Inside F.E.R.C.'s Gas Market Report, minus a marketing fee per MMBtu. The marketing fee shall be increased on a compound basis at the beginning of each contract year commencing November 1, 1997, by the annual Canadian Consumer Price Index (for the previous calendar year), but subject to a predetermined cap. After November 1, 2001, the price shall be renegotiated.

For the most part, the "netback price" paid to Morrison would be the "Average Emerson Price", expressed in U.S. dollars per MMBtu, for Canadian gas in the row "Emerson (Viking, GL)" under the column "Index" for the delivery month, as reported in the table entitled "Monthly Contract Index" published in Gas Daily by Pasha Publications Inc, minus a marketing fee per MMBtu. Similar to the Petro-Canada Gas Purchase Agreement, CGM would be allowed to subtract certain expenses that CGM is required to pay TCPL for transportation from Empress, Alberta, to Emerson, Manitoba.

II. FINDING

The application filed by CGM has been evaluated to determine if the proposed import arrangement meets the public interest requirement of section 3 of the NGA, as amended by section 201 of

the Energy Policy Act of 1992 (Pub. L. 102-486). Under section 3(c), the importation of natural gas from 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 must be granted without modification or delay. The authorization sought by CGM to import natural gas from Canada, a nation with which a free trade agreement is in effect, meets the section 3(c) criterion and, therefore, is consistent with the public interest.

ORDER

Pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Coastal Gas Marketing Company (CGM) is authorized to import from Canada up to 18,100 Mcf per day of natural gas. The term of the authorization shall begin November 1, 1996, and continue through October 31, 2007.

B. This gas shall be imported primarily near Emerson, Manitoba/Noyes, Minnesota, (or at other points on the border of the United States and Canada should CGM deem it desirable from time to time) under the provisions of the Gas Purchase Agreements between CGM and Petro-Canada and between CGM and Morrison Petroleum Ltd. (Morrison) filed in this docket.

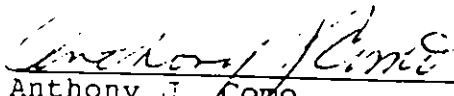
C. Within two weeks after deliveries begin, CGM shall provide written notification to the Office of Fuels Programs (OFP), Fossil Energy, Room 3F-056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date

that the first imports of natural gas authorized in Ordering Paragraph A above occurred.

D. With respect to the natural gas imports authorized by this Order, CGM shall file with OFP, within 30 days following each calendar quarter, quarterly reports showing by month the total volume (in Mcf) imported and the average purchase price per MMBtu paid at the international border. The information for a particular month shall list separately the volumes imported under the Petro-Canada and Morrison Gas Purchase Agreements. The reports also shall identify by month the volumes sold to the two customers, American Crystal Sugar and ProGold LLC. If any volumes are transported to a delivery point other than Emerson, Manitoba/Noyes, Minnesota, CGM must identify the volumes, the point(s) of delivery, and the final disposition of the supply, by state.

E. The first quarterly report required by Ordering Paragraph D of this Order is due not later than January 30, 1997, and shall cover the period from November 1, 1996, to the end of the fourth calendar quarter, December 31, 1996.

Issued in Washington, D.C., on September 18, 1996.



Anthony J. Como
Director
Office of Coal & Electricity
Office of Fuels Programs
Office of Fossil Energy



Coastal
The Energy People

Via Facsimile

January 16, 1997

Office of Fuels Programs
Fossil Energy
Room 3F-056
FE-50
Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585
Attn: Larine Moore

REC'D DOE/FE
JAN 16 1997

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*SEE CORRECTION
NEXT PAGE*

RE: DOE/FE Orders No. 1201 and 1202, FE Docket Nos. 96-50-NG and 96-52-NG

Dear Ms. Moore:

Pursuant to ordering paragraph C of the Orders Granting Long-Term Authorization to Import Natural Gas from Canada, issued in the above-referenced dockets on September 18 and 24, 1996, Coastal Gas Marketing Company hereby reports that the first imports of natural gas occurred on November 1, 1996.

Should you have any questions, please contact me at (202) 331-4665.

Truly yours,

Susan W. Ginsberg
Manager, Regulatory Affairs

Coastal Gas Marketing Company

A SUBSIDIARY OF THE COASTAL CORPORATION
2000 M ST NW • SUITE 300 • WASHINGTON DC 20036 • 202-466-7430