

FE DOCKET NO.: 97-28-NG

APPLICANT(S): DUKE ENERGY TRADING & MARKETING, L.L.C.

ITEM	PREPARED OR FILED BY	FILING TYPE	DESCRIPTION OF DOCUMENT	DATED	DATE FILED OR ISSUED
1	PAN ENERGY TRADING AND MKTG	APPLICATION	Application for Long-Term Authorization to Import Natural Gas from Canada \$50.00	97-03-14	97-03-14
2	DOE/FE	ORDER	Order 1266 Granting Long-Term Authority to Import Natural Gas from Canada	97-03-20	97-03-20
3	DOE/FE	AMENDMENT	Correction to Order 1266 Granting Long-Term Authority to Import Natural Gas from Canada	97-03-31	97-03-31
4	DUKE ENERGY TRADING AND MARKETING,	AMENDMENT	Request to Transfer Authority to Import Gas from Canada on a Long-Term Basis from PanEnergy Trading & Marketing Services, L.L.C.	97-08-11	97-08-11
5	DOE/FE	ORDER	Order 1266A Transferring Long-Term Authority to Import Natural Gas from Canada	97-08-19	97-08-19

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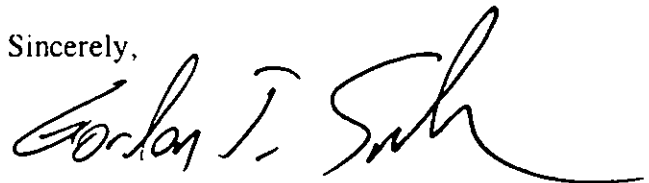
Re: *PanEnergy Trading and Market Services, L.L.C.*, FE Docket No. 97-20NG,
Application for an Order Authorizing the Long-Term Importation of
Natural Gas From Canada on a Blanket Basis

Dear Sir/Madam:

Pursuant to 10 C.F.R. § 590.103 (1996), I have enclosed for filing an original and fifteen copies of the application of PanEnergy Trading and Market Services, L.L.C. for a long-term authorization to import natural gas from Canada under Section 3 of the Natural Gas Act. In addition, I have enclosed a check in the amount of \$50.00 for the filing fee imposed by 10 C.F.R. § 590.207.

Please feel free to call me directly at (202) 429-8814 if you have any questions regarding this application.

Sincerely,



Gordon J. Smith, Esq.
Counsel for PanEnergy Trading and Market
Services, L.L.C.

Enclosures

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

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PANENERGY TRADING AND MARKET)
SERVICES, L.L.C.)

FE DOCKET NO. 97-28-NG

APPLICATION OF PANENERGY TRADING AND MARKET SERVICES, L.L.C.
FOR AUTHORIZATION TO IMPORT GAS FROM CANADA

Pursuant to Section 3 of the Natural Gas Act (NGA), 15 U.S.C. § 717(b), as amended by the Energy Policy Act of 1992 and Part 590 of the Regulation of the Department of Energy, 10 C.F.R. § 590, *et seq.*, PanEnergy Trading and Market Services, L.L.C. (PTMS) hereby applies for authority to import natural gas from Canada on a long-term, firm basis. PTMS requests authority to import up to 8,782 MMBtu per day (as adjusted from time to time for fuel, line loss, and imbalances) beginning November 1, 1997. The import authority requested herein would terminate on October 31, 2007. Deliveries under the agreement are anticipated to commence on November 1, 1997.

I.

The exact name of the Applicant is PanEnergy Trading and Market Services, L.L.C. PTMS is a Delaware limited liability company engaged in the business of marketing natural gas and electric power. PTMS buys and sells gas throughout the United States and at the international border. PTMS is owned by PTMSI Management, Inc. (PTMSI), which holds a 60% interest, and by Mobil Natural Gas, Inc. (MNGI), which holds a 40% interest.

PTMSI is a wholly-owned subsidiary of PanEnergy Corp and is primarily involved in the marketing of natural gas and electric power. MNGI, a wholly-owned subsidiary of Mobil Corporation, is a natural gas marketer.

PanEnergy Marketing Limited Partnership (PanEnergy Marketing) is a duly-constituted limited partnership existing under the laws of the province of Alberta, Canada. PanEnergy Marketing purchases and sells natural gas throughout Canada and at the U.S./Canada border.

II.

Communications and correspondence concerning this Application should be directed to:

Gordon J. Smith, Esq.
JOHN, HENGERER & ESPOSITO
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036
(202) 429-8814

John R. Orr
PANENERGY TRADING AND MARKET
SERVICES, L.L.C.
One Westchase Center, 10777 Westheimer
Suite 650
Houston, TX 77042

III.

In a sales agreement dated August 1, 1996, PTMS proposes to purchase natural gas from PanEnergy Marketing Limited Partnership under certain terms and conditions specified therein. A copy of this purchase agreement is attached hereto as Exhibit B.

The gas to be imported will be produced in the Province of Alberta. The gas will be received in the pipeline systems of NOVA Gas Transmission Ltd. and TransCanada Pipelines Ltd. (TransCanada) for transportation to the U.S./Canada border at the interconnection of the TransCanada and National Fuel Gas Supply Corporation (National Fuel) systems near Niagara Falls, Ontario. National Fuel will transport the gas under PTMS' firm transportation agreement from the border to various firm markets in the northeast United States. This firm transportation agreement obligates National Fuel to transport 8,782 Dth/day until March 31, 2008.

The gas to be imported under this long-term authorization will be used by PTMS as part of its overall corporate gas supply portfolio to markets in the northeast U.S. region, including, in

particular, several firm, long-term markets in the New York and Boston areas. PTMS has a firm corporate commitment to purchase and take on a 100% load factor basis all of the gas that will be imported under the long-term authorization sought here.

No environmental impact is anticipated as a result of this transaction. Moreover, no new facilities will be needed to effect the importation or transportation of gas under the requested authorization.

IV.

Section 3(c) of the NGA provides 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." 15 U.S.C. § 717b.

The authorization sought by PTMS to import natural gas from Canada, a nation with which a free trade agreement is in effect, meets the section 3(c) criterion and is, therefore, consistent with the public interest.

The contract between PTMS and PanEnergy Marketing provides for gas sales to PTMS using an index pricing mechanism, based upon a monthly index price for deliveries at National Fuel's Niagara interconnection with Tennessee. This pricing mechanism will ensure that the gas imported by PTMS will remain competitive over the life of the import authorization.

V.

The terms of the proposed agreement with PanEnergy Marketing provide for a volume of firm sales of 8,782 MMBtus per day beginning November 1, 1997 and continuing up to and including October 31, 2007. PTMS therefore seeks authorization for imports of 8,782 MMBtu

per day (as adjusted from time to time for fuel, line loss, and imbalances) beginning November 1, 1997 and continuing up to and including October 31, 2007.

**VI.
Exhibits and Attachments**

PTMS has included the following Exhibits and Attachments:

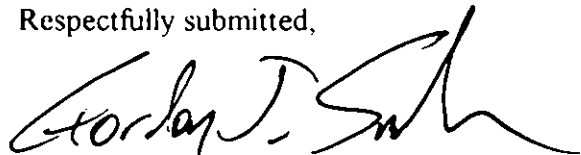
Exhibit A- Statement and Opinion of Counsel

Exhibit B- 1997 Restated Gas Sale Agreement

VII.

In conclusion, the agreement described in this application proposes natural gas imports that are fully consistent with the goals and criteria presented in United States law and regulations, and are fully consistent with the public interest. The benefits to the gas-consuming public, and to those who will be supplied by PTMS, are substantial. Therefore, PTMS requests that the authority requested herein be granted as expeditiously as possible.

Respectfully submitted,



Gordon J. Smith, Esq.
JOHN, HENGERER & ESPOSITO
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036

Counsel for PanEnergy Trading and Market
Services, L.L.C.

Dated: March 14, 1997

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Exhibit A

FE Docket No. 97- -NG

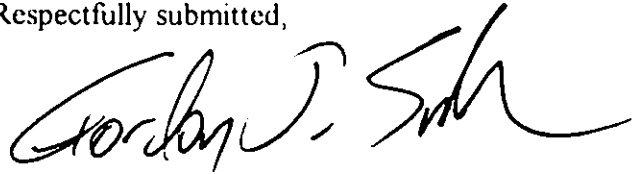
STATEMENT AND OPINION OF COUNSEL

STATEMENT AND OPINION OF COUNSEL

Pursuant to 10 C.F.R. § 590.202(c), the undersigned hereby submits the following Statement and Opinion of Counsel in connection with the "Application of PanEnergy Trading and Market Services, L.L.C. for Authorization to Import Gas from Canada" for authorization to import natural gas from Canada on a long-term basis pursuant to Section 3 of the Natural Gas Act.

- (1) I am an attorney at law, authorized to practice law in the State of Maryland and the District of Columbia.
- (23) PanEnergy Trading and Market Services, L.L.C. is a duly-organized limited liability company, validly existing and in good standing under the laws of Delaware; and
- (3) To the best of my knowledge and belief, the proposed importation of natural gas is within the powers of PanEnergy Trading and Market Services, L.L.C.; and
- (4) To the best of my knowledge and belief, PanEnergy Trading and Market Services, L.L.C. either has complied with or is in the process of complying with applicable rules and regulations of state regulatory authorities in the states in which it operates.

Respectfully submitted,



Gordon J. Smith
Counsel for PanEnergy Trading and Market
Services, L.L.C.

Dated: March 14, 1997

Exhibit B

FE Docket No. 97- -NG

**1997 RESTATED GAS SALE AGREEMENT
Between PanEnergy Marketing Limited Partnership, as Seller
and PanEnergy Trading and Market Services, L.L.C., as Buyer**

1997 RESTATED GAS SALE AGREEMENT

MADE AS OF THE 1ST DAY OF AUGUST, 1996 BETWEEN
PANENERGY MARKETING LIMITED PARTNERSHIP, AS
SELLER, AND PANENERGY TRADING AND MARKET
SERVICES, LLC, AS BUYER

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1997 RESTATED GAS SALE AGREEMENT

THIS AGREEMENT MADE AS OF THE 1ST DAY OF AUGUST, 1996

BETWEEN:

PANENERGY MARKETING LIMITED PARTNERSHIP, a limited partnership carrying on business from its head office in the City of Calgary, Alberta (hereinafter called "Seller")

OF THE FIRST PART

AND:

PANENERGY TRADING AND MARKET SERVICES, LLC, a body corporate carrying on business from its major operating centre in the City of Houston, Texas, U.S.A. (hereinafter called "Buyer")

OF THE SECOND PART

WHEREAS PanEnergy Marketing, a division of PanEnergy Services Canada, Ltd. ("PM/PSC") which was formerly known as Associated Energy Marketing, a division of Associated Energy Services Ltd., as the seller, and PanEnergy Gas Services, Inc. ("PGS") formerly known as Associated Gas Services Inc., as the buyer, were the parties to a Master Natural Gas Sales and Purchase Agreement made the 30th day of March, 1996 (the "Master Agreement");

AND WHEREAS pursuant to the terms of the Master Agreement the parties thereto entered into a Deal Confirmation Sheet dated as of April 25, 1996 for the sale at Niagara Falls of 8,782.0 decatherms of natural gas over the period from November 1, 1997 to November 1, 2007 (the said Deal Confirmation Sheet together

with the Master Agreement being hereinafter referred to as the "Previous Gas Sale Agreement");

AND WHEREAS PM/PSC, as part of a total reorganization of its business in Canada, assigned its entire right and interest in and to the Previous Gas Sale Agreement to Seller effective as of August 1, 1996;

AND WHEREAS PGS, as part of a total reorganization of its business in the United States, assigned its entire right and interest in and to the Previous Gas Sale Agreement to Buyer effective as of August 1, 1996;

AND WHEREAS the parties hereto have agreed that in light of the said two assignments of the entire rights and interests in and to the Previous Gas Sale Agreement, the parties hereto, as the assignees of those rights and interests, should restate and replace the Previous Gas Sale Agreement as hereinafter set forth.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the terms and conditions hereinafter set forth, the parties hereto have agreed as follows.

ARTICLE 1 - INTERPRETATION

1.1 Definitions

The following words and phrases wherever used in this Agreement, including the recitals hereto, shall have the meanings set forth below unless the context hereof otherwise requires.

- (a) "business day" means each day of the week other than Saturdays, Sundays and statutory holidays in the City of Calgary, Alberta and/or the City of Houston, Texas.
- (b) "Canadian Regulatory Approvals" means an Alberta removal permit (including approval thereof by the Lieutenant Governor in Council of Alberta) on terms and conditions reasonably acceptable to Seller to allow the removal of gas to be purchased hereunder from the Province of Alberta and an export licence (including approval thereof by the Governor in Council) on terms and conditions reasonably acceptable to Seller to allow the export from Canada of the gas which is the subject of this Agreement.
- (c) "Commencement Date" has the meaning set forth in Section 3.1.
- (d) "Contract Year" means a period of twelve (12) consecutive months beginning on November 1 during the calendar year in question.
- (e) "Current Rate of Exchange" means the average noon spot rate of exchange applicable to the exchange of Canadian dollars for U.S. dollars for the month in question as quoted from time to time by the Bank of Canada.
- (f) "Daily Quantity" has the meaning set forth in subsection 2.1.
- (g) "day" means a period of twenty-four (24) consecutive hours beginning at 0800 hours Mountain Standard Time each day. The reference date for any day shall be the calendar date upon which the twenty-four (24) hour period commences.
- (h) "Delivery Point" has the meaning set forth in section 4.1.

- (i) "Force Majeure" has the meaning attributed thereto in Article 12.
- (j) "gas" means, as the context may require, raw natural gas and/or residue natural gas remaining after conditioning or processing of raw natural gas.
- (k) "Gas Purchase Agreements" means:
 - (i) the Gas Purchase Agreement made as of the 30th day of April 1996 between Pinnacle Resources Ltd. and Seller, as assignee of PanEnergy Services Canada Ltd., carrying on business through its division, PanEnergy Marketing;
 - (ii) the Gas Purchase Agreement made as of the 30th day of April, 1990 between Beau Canada Exploration Ltd. and Seller, as assignee of PanEnergy Services Canada Ltd., carrying on business through its division, PanEnergy Marketing; and
 - (iii) such other Gas Purchase Agreements as Seller may from time to time enter into to replace or supplement the gas supply to be acquired by it under the terms of the above mentioned two Gas Purchase Agreements for the purpose of resale hereunder.
- (l) "Interest" means interest at the rate per annum announced and published from time to time by the Canadian Imperial Bank of Commerce, Main Branch, Calgary, Alberta, as its prime rate of interest plus 1% per annum.
- (m) "month" means a period beginning at 8:00 a.m. Mountain Standard Time on the first day of a calendar month and ending immediately prior to 8:00 a.m.

Mountain Standard Time on the first day of the next succeeding calendar month.

- (n) "National Fuel" means National Fuel Gas Supply Corporation and its successors and assigns.
- (o) "natural gas" means a mixture consisting primarily of methane but including other constituents which may include other hydrocarbons, nitrogen, carbon dioxide, hydrogen sulphide, helium and minor impurities, that is recovered or is recoverable at a well from an underground reservoir and that is gaseous at the conditions under which its volume is measured or estimated.
- (p) "Nova" means NOVA Gas Transmission Ltd. and its successors and assigns.
- (q) "Previous Gas Sale Agreement" has the meaning set forth in the second paragraph of the recitals hereto.
- (r) "Producers" means all of the sellers of gas to Seller from time to time under the Gas Purchase Agreements.
- (s) "TransCanada" means TransCanada PipeLines Limited and its successors and assigns.
- (t) "U.S. Regulatory Approval" means import authorization from the United States Department of Energy as required for importation into the United States of the gas to be purchased by Buyer hereunder.

1.2 Heating Value and Volumetric Definitions

- (a) The following words, phrases and symbols, wherever used in this Agreement shall have the meanings set forth below.
- (i) "Btu" means one British thermal unit.
 - (ii) "cubic metre" or "m³" means that quantity of gas which at a temperature of 15° Celsius and at a pressure of 101.325 kilopascals absolute occupies one cubic metre.
 - (iii) "GJ" means one gigajoule and is equal to 1 000 000 000 joules.
 - (iv) "Heating Value" means the gross or higher heating value of the gas expressed in MJ per cubic metre (MJ/m³), produced by the complete combustion of one cubic metre of gas with air, at a temperature of 15° degrees Celsius and at an absolute pressure of 101.325 kilopascals, with the gas free of all water vapour, the products of combustion cooled to a temperature of 15° Celsius, and the water formed by the combustion condensed to the liquid state.
 - (v) "joule" or "J" means the amount of work done when the point of application of a force of one newton is displaced a distance of one metre in the direction of the force.
 - (vi) "MJ" means one megajoule and is equal to 1 000 000 joules.
 - (vii) "MMRtu" means 1 000 000 Btu's.

- (viii) "Standard Heat Conversion Factor" means 37.43 MJ per m³.
 - (ix) "10³m³" means 1 000 cubic metres of gas.
- (b) All conversions to be done for or in any way in relation to this Agreement, from Imperial units of measurement to metric units or vice versa, shall be done on the following basis, namely:
- (i) 1,000 cubic feet of gas at standard reference conditions of 14.73 pounds per square inch absolute and 60° Fahrenheit shall be considered equivalent to 28.32794 cubic metres of gas at standard reference conditions of 101.325 kilopascals and 15° Celsius.
 - (ii) 1 cubic metre of gas at standard reference conditions of 15° Celsius and 101.325 kilopascals shall be considered equivalent to 0.0353009 thousand cubic feet at standard reference conditions of 14.73 pounds per square inch absolute at 60° Fahrenheit.
 - (iii) 1 MMBtu shall be considered equivalent to 1.054615 GJ's at standard reference conditions of 101.325 kilopascals and 15° Celsius.
 - (iv) 1 GJ at standard reference conditions of 101.325 kilopascals and 15° Celsius shall be considered equivalent to 0.948213 MMBtu's.

Any such conversion from Imperial units of measurement to metric units or vice versa which are not expressly contemplated above, shall be carried out in accordance with the Canadian Association of Petroleum Producers

Supplementary Metric Practice Guide for the Petroleum and Natural Gas Industry and Services, latest edition.

1.3 Industry Usage

In this Agreement, words and phrases which are not defined herein and which have an accepted meaning in the custom and usage of the petroleum and natural gas industry in Canada, shall have that meaning.

1.4 Applicable Law and Selection of Forum

This Agreement shall be governed by and shall be construed in accordance with the laws of the Province of Alberta. The Courts having jurisdiction in the Province of Alberta shall have exclusive jurisdiction in relation to any legal proceedings arising in connection with this Agreement.

1.5 Time

Time shall be of the essence in this Agreement.

1.6 Severability

Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

1.7 Headings

The various headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation hereof.

1.8 Gender

Whenever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural or feminine or body politic or corporate and vice versa, as the context so requires.

1.9 Hereof, Etc.

"Hereof", "herein", "hereunder" and similar expressions refer to this Agreement and not to any particular section or subsection, and the terms "Section" and "subsection" followed by a number refer to the specified Section or subsection of this Agreement. All references herein to any term or phrase defined herein, such as for example but without restricting the generality of the foregoing, terms and phrases such as "Regulatory Approvals" shall be a reference to all and/or any part thereof.

1.10 Currency

All references in this Agreement to amounts expressed in dollars shall, unless otherwise specified, be references to amounts expressed in Canadian dollars.

1.11 Entire Agreement

There are no representations, warranties, covenants, or agreements made between the parties hereto with respect to the matters referred to herein other than as are set forth by the terms of this Agreement and this Agreement shall constitute the entire agreement between the parties hereto in relation to the matters referred to herein.

1.12 Subject to all Laws

This Agreement is subject to all valid laws, orders, rules and regulations of any government or any agency or political subdivision thereof having jurisdiction or control over the parties hereto or either of them, or over their respective facilities or gas supplies. If any governmental or administrative approval, permit, order or other authorization shall be necessary relative to this Agreement and any provision hereof or any transaction contemplated hereby, each party hereto shall use all reasonable efforts to assist in the obtaining of such approval, permit, order or other authorization.

ARTICLE 2 - GAS SUPPLY

2.1 Daily Quantity

Subject only to Force Majeure or the suspension of deliveries by Seller because of Buyer's failure to pay pursuant to Section 11.6, Seller shall on each day during the term hereof deliver and sell to Buyer 9261.63 GJ's of gas (8,782 MMBtu's) (the "Daily Quantity") and Buyer shall on each such day receive and purchase from Seller the Daily Quantity at the Delivery Point. The Daily Quantity shall remain the standing nomination of the volume of gas to be sold by Seller and purchased by Buyer hereunder throughout the term of this Agreement.

2.2 Operations

Buyer and Seller shall use all reasonable efforts to cooperate and work together as necessary in order to develop, amend, implement and maintain delivery and other administrative procedures that are consistent with the dispatch and operational requirements of TransCanada and National Fuel.

ARTICLE 3 - TERM OF THIS AGREEMENT

3.1 Commencement Date

Unless the parties hereto otherwise agree in writing, the Commencement Date for deliveries of gas by Seller to Buyer hereunder shall be November 1, 1997. If the parties do so agree to any other date for the commencement of deliveries then such new date shall be the Commencement Date for all purposes hereof.

3.2 Term

Subject to all other provisions hereof, this Agreement shall be effective from the date hereof and shall continue thereafter in full force and effect such that gas shall be sold and purchased hereunder for a term commencing on the Commencement Date and continuing thereafter up to and including October 31, 2007 (the "Primary Term"), provided however that:

- (a) unless Seller gives notice to Buyer at least ten (10) months prior to the end of the Primary Term specifying its intention to terminate this Agreement at the end of such Primary Term; or

- (b) unless Buyer gives notice to Seller at least fourteen (14) months prior to the end of the Primary Term specifying its intention to terminate this Agreement at the end of such Primary Term.

the operative term hereof shall continue after the end of the Primary Term and until either:

- (c) Buyer shall have given notice to Seller on or before September 1 of any calendar year specifying its intention to terminate this Agreement effective as of November 1 of the next following calendar year; or
- (d) Seller shall have given notice to Buyer on or before January 1 of any calendar year specifying its intention to terminate this Agreement effective as of November 1, of the same calendar year,

subject, in the case of a termination by either Seller or by Buyer, to any adjustments and the settlement of all accounts then outstanding between the parties.

ARTICLE 4 - DELIVERY

4.1 Delivery Point

Delivery of the gas to be sold and purchased hereunder shall be effected at a point on the international boundary between Canada and the United States near the interconnection of the transportation systems of TransCanada and National Fuel near Niagara Falls, Ontario. Such point on the international boundary or, in the alternative, any other point which may from time to time be agreed upon between Buyer and Seller, shall hereinafter be referred to as the "Delivery Point".

4.2 Point of Sale

The point of sale for all gas to be sold and purchased hereunder shall coincide with the Delivery Point.

4.3 Transfer of Possession and Title

Property in and title to the gas and all risk of loss respecting all gas delivered hereunder shall pass from Seller to Buyer and shall vest in Buyer at the said point of sale at the Delivery Point. Until delivery of the gas sold and purchased hereunder, Seller shall be deemed to be in control of or to be in possession of the gas, and after such delivery, Buyer shall be deemed to be in control and possession of the gas.

4.4 Transportation

- (a) Seller shall use all reasonable efforts to obtain and to maintain throughout the term hereof, all necessary firm transportation service on the TransCanada system.
- (b) Buyer shall use all reasonable efforts to obtain and to maintain throughout the term hereof, all necessary firm transportation service on the National Fuel system or otherwise as may be required to transport the gas following its delivery at the Delivery Point.

4.5 Transportation Imbalances

In the event that either party hereto provides insufficient notice of a change in the volume to be delivered or accepted hereunder, and a pipeline imbalance penalty is

assessed by a transporter of the gas as a result of such change, then the party failing to provide timely notice shall be responsible for paying such penalty.

ARTICLE 5 - CONDITIONS OF THIS AGREEMENT

5.1 The Conditions

The initial delivery of gas hereunder shall be subject to the satisfaction of the following conditions, namely:

- (a) Seller shall have obtained all Canadian Regulatory Approvals to enable the gas that has been sold and purchased hereunder to be removed from the Province of Alberta and exported from Canada;
- (b) Buyer shall have obtained the U.S. Regulatory Approval to enable the gas that has been sold and purchased hereunder to be imported into the United States;
- (c) the Producers shall have entered into firm service contracts for Nova receipt point transportation service to enable them to deliver the gas to be sold by Seller to Buyer hereunder, to Seller in the Province of Alberta;
- (d) Seller shall have entered into a firm service contract for Nova delivery point transportation service to enable it to transport the gas to be sold and purchased by it hereunder within the Province of Alberta for delivery in the TransCanada system;

- (e) Seller shall have entered into a firm service contract with TransCanada to provide for the transportation of the gas to be sold and purchased hereunder on the TransCanada system from Empress, Alberta to the Delivery Point.

5.2 Fulfilment of Conditions

Buyer shall use all reasonable efforts to fulfill the condition set forth in subsection 5.1(b). Seller shall use all reasonable efforts to fulfill the conditions set forth in subsections 5.1(a), 5.1(d) and 5.1(e).

5.3 Notification of Fulfilment of Conditions

Buyer shall notify Seller forthwith in writing upon the fulfilment of the condition set forth in subsection 5.1(b) and Seller shall notify Buyer forthwith in writing upon the fulfilment of each of the conditions set forth in subsections 5.1(a), 5.1(c), 5.1(d) and 5.1(e).

5.4 Cooperation Between the Parties

Buyer and Seller shall cooperate with each other as necessary so as to assist each other in the fulfilment of the various conditions set forth in Section 5.1 (other than condition 5.1(c) which must be fulfilled by the Producers) in order that the delivery of the gas may commence on a timely basis as contemplated under Section 3.1.

5.5 Termination of this Agreement

- (a) If the conditions set forth in Section 5.1 have not been satisfied by the Commencement Date, then:

- (i) Seller shall have the right to thereafter terminate this Agreement on at least sixty-five (65) days notice to Buyer; and
 - (ii) Buyer shall have the right to thereafter terminate this Agreement on at least fifty-five (55) days notice to Seller.
- (b) If any condition referred to in any notice referred to in subsection 5.5(a) or upon which any such notice is based is satisfied prior to the date on which such notice is effective to terminate this Agreement, then such notice shall be null and void and shall have no force or effect in terminating this Agreement.
- (c) Notwithstanding the foregoing provisions of this Section 5.5, if either Buyer or Seller shall have failed to fulfill their obligations under Sections 5.2 or 5.4, then the nonperforming party shall not, throughout the period of its failure to fulfill such obligations, have the right to terminate this Agreement as aforesaid.
- (d) If any condition set forth in Section 5.1 shall not have been satisfied by the time the first gas is delivered hereunder on or after the Commencement Date, then any such condition shall be deemed to have been waived by the parties hereto.
- (e) Notwithstanding all other provisions hereof to the contrary, Seller shall have the right to at any time waive any of the conditions set forth in subsections 5.1(a), 5.1(c), 5.1(d) and 5.1(e). Similarly, Buyer shall have the right to at any time waive the condition set forth in 5.1(b) by giving notice of such waiver to Seller. Upon any such waiver as aforesaid, the condition(s) in question shall thereupon be null and void and of no further force or effect whatsoever.

ARTICLE 6 - SELLER'S FAILURE TO DELIVER

- 6.1 If Seller shall for any reason whatsoever, other than the occurrence of an event of Force Majeure or the suspension of deliveries by Seller because of Buyer's failure to pay pursuant to Section 11.6, fail to meet its gas delivery and sale obligations to Buyer as set forth in Section 2.1 (a "Supply Failure") or shall reasonably anticipate the probable occurrence of a Supply Failure (the daily volume of which being hereinafter called the "Delivery Shortfall"), then the following shall apply.
- (a) Seller shall use all reasonable efforts to provide prior notice to Buyer of any anticipated Supply Failure as early as reasonably possible under the circumstances, such notice to include Seller's estimate of the anticipated Delivery Shortfall and the duration of the Supply Failure.
 - (b) In the event of a Supply Failure, Buyer shall have the right to obtain from other sources, natural gas ("Alternate Gas Supply") having a heating content (calculated on the basis of the Standard Heat Conversion Factor) equal to that of a volume of gas up to the Delivery Shortfall.
 - (c) Should Buyer purchase Alternate Gas Supply in the circumstances of a Supply Failure, then Buyer shall be obligated to use reasonable efforts to acquire such Alternate Gas Supply at a reasonable price.
 - (d) Subject to the fulfilment by Buyer of its obligations under subsection 6.1(c), Seller shall be liable to Buyer for damages in the event that Buyer purchases Alternate Gas Supply during the period of a Supply Failure. Such damages shall for each day during a Supply Failure be equal to the amount by which the

amount that Buyer would have paid in acquiring the Delivery Shortfall had the Delivery Shortfall been sold to Buyer hereunder, is exceeded by the sum of:

- (i) the amount paid by Buyer in purchasing Alternate Gas Supply on the day in question;
- (ii) the reasonable additional expenses (if any) incurred by Buyer to transport the Alternate Gas Supply on the day in question to a point on the National Fuel system to replace the Delivery Shortfall;
- (iii) all unabsorbed demand transportation charges resulting from Seller's default;
- (iv) all other reasonable expenses (including legal costs on a lawyer and client basis) arising from the default by Seller hereunder; and
- (v) \$0.25 per GJ.

Such damages shall hereinafter be referred to as the "Alternate Gas Supply Damages".

- (e) Seller shall not, as a result of a Supply Failure, be liable to Buyer for or with respect to any other claims whatsoever whether for indirect, consequential, special, punitive or exemplary damages or otherwise, including without limitation, claims for loss of profits or income, loss of business expectations, business interruptions, loss of contract or any claims for losses or damages sustained by any third parties, other than Buyer's claim for Alternate Gas Supply Damages as set forth herein.

- (f) The parties hereto hereby acknowledge and confirm that the Alternate Gas Supply Damages as set forth in subsection 6.1(d), provide compensation to Buyer in an amount which is reasonable in light of the anticipated or actual harm caused by any breach of this Agreement by a Supply Failure, the difficulties of proof of any such loss and the inconvenience or extreme difficulty of otherwise obtaining an adequate remedy. The Alternate Gas Supply Damages are therefore the parties' preestimate, as at the date of this Agreement, of the loss and damage which would be sustained by Buyer in the event of a Supply Failure. The Alternate Gas Supply Damages shall be conclusively deemed to be liquidated damages and shall not under any circumstances be construed as a penalty.
- (g) Any Alternate Gas Supply Damages payable hereunder shall be paid by Seller to Buyer on the 25th day of each month following the month in which they were incurred. The amount of Alternate Gas Supply Damages properly payable by Seller to Buyer hereunder may be offset by Buyer against amounts payable by Buyer hereunder as contemplated in Section 11.3. Should Seller fail to pay Buyer all or any part of any Alternate Gas Supply Damages owing hereunder when such amount is due as aforesaid, interest shall accrue on the unpaid part thereof commencing on the date when such amount is due. All such interest shall be payable on demand by Seller to Buyer.

ARTICLE 7 - BUYER'S FAILURE TO TAKE

- 7.1 If Buyer shall for any reason whatsoever, other than the occurrence of an event of Force Majeure, fail to meet its obligations to take and purchase gas from Seller as set forth in Section 2.1 above (a "Failure to Take"), or shall reasonably anticipate the probable occurrence of a Failure to Take (the daily volume of

which being hereinafter called the "Receipt Shortfall"), then the following shall apply.

- (a) Buyer shall use all reasonable efforts to provide prior notice to Seller of any anticipated Failure to Take as early as reasonably possible under the circumstances, such notice to include Buyer's estimate of the anticipated Receipt Shortfall and the duration of the Failure to Take.
- (b) In the event of a Failure to Take, Seller shall have the right to sell to other purchasers, natural gas ("Alternate Market Gas") having a heating content (calculated on the basis of the Standard Heat Conversion Factor) equal to that of a volume of gas up to the Receipt Shortfall.
- (c) Should Seller sell Alternate Market Gas in the circumstances of a Failure to Take, then Seller shall be obligated to use reasonable efforts to sell such Alternate Market Gas at a reasonable price.
- (d) Subject to the fulfillment by Seller of its obligations under subsection 7.1(c), Buyer shall be liable to Seller for damages in the event that Seller sells Alternate Market Gas during the period of a Failure to Take. Such damages shall for each day during a Failure to Take be equal to the sum of:
 - (i) the amount by which the amount that Seller would have received in selling the Receipt Shortfall had the Receipt Shortfall been sold to Buyer hereunder exceeds the amount received by Seller in selling the Alternate Market Gas on the day in question (such amount to be adjusted as necessary for transportation costs if the Alternate Market Gas was sold other than at the Delivery Point);

- (ii) all unabsorbed demand transportation charges resulting from Buyer's default;
- (iii) all other reasonable expenses (including legal costs on a lawyer and client basis) arising from the default by Buyer hereunder; and
- (iv) \$0.25 per GJ.

The amount of all such damages shall hereinafter be referred to as the "Alternate Market Damages".

- (e) Buyer shall not, as a result of a Failure to Take, be liable to Seller for or with respect to any other claims whatsoever whether for indirect, consequential, special, punitive or exemplary damages or otherwise, including without limitation, claims for loss of profits or income, loss of business expectations, business interruptions, loss of contract or any claims for losses or damages sustained by any third parties, other than Seller's claim for Alternate Market Damages as set forth herein.
- (f) The parties hereto hereby acknowledge and confirm that the Alternate Market Damages as set forth in subsection 7.1(d), provide compensation to Seller in an amount which is reasonable in light of the anticipated or actual harm caused by any breach of this Agreement by a Failure to Take, the difficulties of proof of any such loss and the inconvenience or extreme difficulty of otherwise obtaining an adequate remedy. The Alternate Market Damages are therefore the parties' preestimate, as at the date of this Agreement, of the loss and damage which would be sustained by Seller in the event of a Failure to Take.

The Alternate Market Damages shall be conclusively deemed to be liquidated damages and shall not under any circumstances be construed as a penalty.

- (g) Any Alternate Market Damages payable hereunder shall be paid by Buyer to Seller on the 25th day of each month following the month in which they were incurred. Should Buyer fail to pay Seller all or any part of any Alternate Market Damages owing hereunder when such amount is due as aforesaid, Interest shall accrue on the unpaid part thereof commencing on the date when such amount is due. All such Interest shall be payable on demand by Buyer to Seller.

ARTICLE 8 - PRICING PROVISIONS

8.1 Niagara Index

- (a) For the purposes of this Article 8, the phrase "Niagara Index" shall mean the monthly index price for a particular month expressed in U.S. dollars per MMBtu for deliveries at Niagara (NFG) Tenn as shown in the table entitled "Daily Price Survey" in the first issue containing such information published during the month in question of *Gas Daily* published by Pasha Publications Inc. (thus, by way of example only, the Niagara Index for deliveries hereunder during the month of April 1996 based on the April 18, 1996 issue of *Gas Daily* would be \$3.09 (U.S.) per MMBtu). Notwithstanding the foregoing, if for any reason *Gas Daily* should cease publication or if the said monthly index price for deliveries at Niagara (NFG) Tenn should be changed in any material way from what it was at the time of the said April 18, 1996 publication, then the parties hereto shall agree on a suitable alternative definition for the "Niagara Index" hereunder. If the parties hereto shall for any reason whatsoever be unable to so agree on such alternative definition, then a new "Niagara Index" shall be determined by

arbitration under the *Arbitration Act* (Alberta), it being the objective of any such arbitration to establish a new pricing index which as closely as possible reflects the principles of pricing incorporated in the said monthly index price for deliveries at Niagara (NFG) Tenn as set forth in the April 18, 1996 issue of *Gas Daily* as aforesaid.

- (b) The price to be paid for all gas sold and purchased hereunder during each month of the term hereof shall be calculated in accordance with the following formula:

$$\text{Price} = A \times B$$

where:

A = the quantity of gas sold and purchased hereunder at the Delivery Point during the month in question expressed in gigajoules; and

B = the Niagara Index for the month in question converted to Canadian dollars per gigajoule using the Current Rate of Exchange and the conversion ratios referred to in subsection 1.2(b);

8.2 Seller's Responsibility for Taxes

The price of gas hereunder shall be inclusive of, and Seller shall be responsible for the payment of, all taxes, levies and charges that are validly exigible on the gas sold by Seller to Buyer hereunder prior to the sale of the gas hereunder at the Delivery Point.

ARTICLE 9 - MEASUREMENT AND SPECIFICATIONS OF THE GAS

9.1 Units of Measurement

The unit of volumetric measurement for the purposes of this Agreement shall be 10^3m^3 . Any volume of gas delivered hereunder at the Delivery Point during any day shall be converted into a corresponding quantity of gas expressed in relation to its gross heating content in GJ units, by utilizing the average gross heating value (in MJ/m^3) as identified from time to time by TransCanada.

9.2 Sales Unit

The sales unit upon which payment by Buyer to Seller shall be made hereunder, shall be expressed with reference to its gross heating content in gigajoules.

9.3 Measurement

All gas delivered by Seller to Buyer hereunder shall be measured and determined as to volume and gross heating value by TransCanada in accordance with the provisions of its approved and published gas transportation tariff. All such measurements made by TransCanada (including all corrections thereof in accordance with TransCanada's approved and published gas transportation tariff) shall be final and binding upon Seller and Buyer as to the gas delivered hereunder by Seller to Buyer for all purposes of this Agreement.

9.4 General Specifications

The minimum gross heating value, quality, delivery pressure and temperature of the gas delivered hereunder shall conform to the minimum standards of TransCanada as set forth in the approved gas tariff published from time to time by TransCanada, and shall otherwise be marketable natural gas.

9.5 Delivery in a Common Stream

Buyer and Seller each recognize that the gas purchased by Buyer hereunder shall be from a commingled stream of gas and shall be received for the account of Buyer at the Delivery Point.

9.6 Preservation of Records

Unless the parties otherwise agree, each party shall preserve all original records in such party's possession in connection with the gas sold under this Agreement for a period of at least two (2) years after the end of each Contract Year.

ARTICLE 10 - WARRANTIES, REPRESENTATIONS AND INDEMNITIES

10.1 Warranties

Seller hereby covenants, warrants and represents to Buyer that:

- (a) Seller shall at the Delivery Point have good right or title to all gas to be sold hereunder, and shall sell the gas to Buyer at the Delivery Point, free and clear

of all liens, charges, encumbrances and adverse claims of every nature and kind whatsoever; and

- (b) Seller shall at the Delivery Point have the right to deliver the gas to be delivered or tendered for delivery hereunder and shall deliver the gas hereunder at the Delivery Point free and clear of all liens, charges, encumbrances and adverse claims of every nature and kind whatsoever.

10.2 Seller To Pay Royalties, Etc.

Seller shall at all times during the term of this Agreement have the obligation to make payment of and to protect Buyer from all liabilities with respect to royalties, overriding royalties and all other payments whatsoever to owners of mines and minerals and to royalty owners in connection with the delivery and sale of gas hereunder.

10.3 Indemnity

Seller shall indemnify Buyer and hereby agrees to save Buyer harmless from and in respect of all suits, actions, debts, accounts, damages, costs, losses and expenses of every nature and kind whatsoever arising from or in connection with any adverse claims of any or all persons to the gas or to royalties, taxes, licence fees or charges thereon which are applicable before the title to the gas passes to Buyer or which may be levied and assessed prior to the sale thereof to Buyer. Similarly, Buyer shall indemnify Seller and hereby agrees to save Seller harmless from and in respect of all suits, actions, debts, accounts, damages, costs, losses and expenses of every nature and kind whatsoever arising from or in connection with any adverse claims of any or all persons with respect to Buyer's ownership, possession and management of the gas after title to the gas passes to Buyer at the Delivery Point.

ARTICLE 11 - BILLINGS AND PAYMENTS

11.1 Seller to Provide Information

After deliveries of gas have commenced hereunder, Seller shall, on or before the twelfth (12th) day of each month (the "Billing Month") during the term hereof, provide to Buyer in writing information with respect to the preceding month as to the daily and total volume of gas delivered hereunder and the heating content thereof, or if such information is not available to Seller by that day, an estimate of such daily and total amounts.

11.2 Buyer's Monthly Statement

Buyer shall render to Seller on or before the 25th day of each Billing Month, a statement setting forth the volume of gas delivered by Seller during the preceding month, the heating content thereof and the total amount payable by Buyer therefor. Such statement may include estimates as described above if the necessary information is not available to Buyer by such day.

11.3 Payment by Buyer

Buyer shall pay Seller on or before the 25th day of each Billing Month the total amount payable by Buyer for the quantity of gas sold or reasonably estimated to have been sold by Seller hereunder during the preceding month in accordance with the provisions of this Agreement. In the event that the 25th day of the Billing Month is a Saturday or a Friday that is not a business day, then Buyer shall pay Seller as aforesaid on or before the business day immediately preceding the 25th day of the Billing Month. In the event that the 25th day of the Billing Month is a Sunday or any

other day of the week that is not a business day other than a Friday or Saturday, then Buyer shall pay Seller as aforesaid on or before the first business day immediately following the 25th day of the Billing Month. If Buyer's statement for any month is based on an estimate of the gas sold in the preceding month, then the parties shall make all necessary adjustments in the month following the Billing Month to reflect the actual volumes of gas sold, provided however, that such adjustments shall not include any interest on the adjusted amounts.

11.4 Payment by Wire Transfer

All payments by Buyer to Seller shall be by wire transfer in Canadian funds as follows:

PanEnergy Marketing Limited Partnership
Canadian Imperial Bank of Commerce
Calgary, Alberta, Canada
Transit No. 00009-010
Account No. 1215515

11.5 Late Interest Charge if Payment Delayed

If Buyer fails to make each such payment or any portion thereof to Seller when same is due, interest thereon shall accrue from the date when such payment is due until the same is paid.

11.6 Suspension of Deliveries for Failure to Pay

(a) If Buyer fails to pay all or any part of any amount payable by it to Seller hereunder and such failure to pay continues for a period of four (4) business days after payment is due, then Seller may, in addition to any other remedies that it may have under the terms hereof, suspend further delivery of gas until

such amount is paid. If such default continues for an additional period of ten (10) days, then Seller shall have the right to terminate this Agreement by notice to Buyer. The rights of Seller to suspend deliveries of gas and to terminate this Agreement as aforesaid shall be in addition to and not in substitution for any other remedy or right which Seller may have under this Agreement or at law or in equity. In particular, the exercise of such right shall not deprive Seller, either in whole or in part, of any other right or remedy including any right to claim liquidated damages as hereinbefore provided. For greater certainty but without restricting the generality of the foregoing, Buyer shall bear the full liability for all demand charges with respect to the Nova and TransCanada transportation service referred to in subsection 4.4(b) throughout any period of suspension for Buyer's failure to pay as aforesaid.

- (b) Notwithstanding the foregoing, if Buyer acting in good faith disputes any prices, volumes or calculations contained in any statement or bill and if Buyer shall have paid to Seller such amounts as Buyer concedes to be correct, and if Buyer at any time within four (4) business days after payment is due shall have furnished security in a form satisfactory to Seller acting reasonably, assuring payment to Seller of the amount ultimately found to be due to Seller by agreement or by a decision of a court of competent jurisdiction, as the case may be, then Seller shall not be entitled to suspend further delivery of gas hereunder as a result of the nonpayment of any amount, unless Buyer defaults under the terms and conditions of such security.

11.7 Limitation on Disputes

Notwithstanding anything contained herein to the contrary, neither party hereto shall be entitled to dispute any volume of gas delivered hereunder, or the amount paid or

payable with respect thereto, unless such dispute is raised by notice to the other party within two (2) years after the end of the month in question.

11.8 Adjustments

Subject to the provisions of Section 11.3, if it shall be found that at any time Buyer has overpaid Seller hereunder, then within thirty (30) days after the final determination thereof, Seller shall refund the amount of any such overpayment. If such overpayment was the result of Seller's error, then Interest shall be paid by Seller on the amount in question from the date the overpayment was paid to the date that Buyer is reimbursed for the overpayment. If any such overpayment is not a result of an error on the part of Seller, then no interest shall be charged to Seller. Similarly, if it shall be found that at any time Seller has been underpaid hereunder, then within thirty (30) days after the final determination thereof, Buyer shall pay the amount underpaid. If such underpayment was the result of an error by Buyer, then Interest shall be paid by Buyer to Seller on the amount in question from the date the amount of the underpayment should have been paid to the date that Buyer actually pays the amount in question to Seller. If any such underpayment was not the result of an error by Buyer, then no interest shall be payable by Buyer on the amount of any underpayment unless Buyer shall fail to pay the amount thereof within the said 30-day period, in which event Interest shall be calculated and payable thereon from the first day after such 30-day period to the date of payment of the underpayment by Buyer.

11.9 Extension of Time for Payment When Information Delayed

If the information referred to in Section 11.1 is delayed after the twelfth (12th) day of the Billing Month, then the time for payment hereunder shall be extended accordingly unless Buyer is responsible for the delay.

ARTICLE 12 - FORCE MAJEURE

12.1 Suspension

Subject to all other provisions of this Article 12, if either party to this Agreement is rendered unable by reason of Force Majeure, as hereinafter described, to perform in whole or in part any obligation or covenant set forth in this Agreement, with the exception of unpaid financial obligations, the obligations of both parties under this Agreement shall be suspended to the extent necessary for the period of such Force Majeure.

12.2 Definition of Force Majeure

- (a) For the purpose of this Agreement, the term "Force Majeure" shall mean acts of God, including lightning, earthquakes, storms, strikes, lockouts or other industrial disturbances, acts of the Queen's enemies, sabotage, wars, blockades, insurrections, riots, epidemics, landslides, floods, fires, washouts, arrests and restraints, civil disturbances, explosions, breakages of or accidents to machinery or lines of pipe, hydrate obstructions of lines of pipe, freezings of delivery facilities, the orders, acts or decisions of any court, government, or governmental authority, or administrative board or tribunal, any acts or omissions (including, without restriction, curtailments) of any transporters of the gas for Buyer or Seller which are excused by any event or occurrence of the character herein defined as constituting Force Majeure, or any other causes, whether of the kind herein enumerated or otherwise, not within the control of the party claiming suspension and which, by the exercise of due diligence, such party is unable to overcome.

- (b) Seller shall utilize all of the gas purchased by it from the Producers under the terms of the Gas Purchase Agreements for the purpose of meeting its delivery obligations hereunder and for the purpose of supplying fuel gas on the TransCanada system for the transportation of the gas to be sold hereunder to the Delivery Point, before any such gas purchased from the Producers shall be utilized for any other purpose whatsoever. Notwithstanding any other provisions of this Agreement to the contrary, any failure whatsoever by the Producers or any of them to deliver any quantity of gas to Seller, which Seller requires to meet its delivery obligations to Buyer hereunder (the "Producer Shortfall Quantity"), in accordance with the terms of the Gas Purchase Agreement(s), whether by reason of force majeure (as defined in the applicable Gas Purchase Agreement(s)) or not, shall, to the extent only of the Producer Shortfall Quantity, constitute an event of Force Majeure for all purposes of this Agreement if, but only if and to the extent, that Seller, having exercised all reasonable best efforts to do so, cannot acquire gas to replace any part of the Producer Shortfall Quantity at a price at the Delivery Point which is not more than one cent (\$0.01) per gigajoule in excess of the price that Buyer is to pay for the gas hereunder (the "Replacement Upset Price").
- (c) Notwithstanding the provisions of subsection 12.2(b), in the event of a Producer Shortfall Quantity that is caused by circumstances that constitute force majeure (as defined under the applicable Gas Purchase Agreement(s)) in circumstances where Seller, having exercised all reasonable best efforts to do so, cannot acquire gas to replace any part of the Producer Shortfall Quantity at a price which is not more than the Replacement Upset Price, Seller, at the request of Buyer, shall purchase from other sources gas to replace any part of the Producer Shortfall Quantity as may be requested by Buyer upon Buyer's agreement to indemnify Seller for the cost of the replacement gas to the extent

that it exceeds the amount payable to Seller hereunder for the replacement gas based on the Replacement Upset Price.

- (d) Notwithstanding the provisions of subsection 12.2(b), in the event of a Producer Shortfall Quantity that is caused by circumstances that do not constitute force majeure (as defined under the applicable Gas Purchase Agreement(s)) in circumstances where Seller, having exercised all reasonable best efforts to do so, cannot acquire gas to replace any part of the Producer Shortfall Quantity at a price which is not more than the Replacement Upset Price, Seller, at the request of Buyer, shall purchase from other sources gas to replace any part of the Producer Shortfall Quantity as may be requested by Buyer upon Buyer's agreement to indemnify Seller for the cost of the replacement gas to the extent that it exceeds the amount payable to Seller hereunder for the replacement gas based on the Replacement Upset Price. In the event that such indemnity is given by Buyer to Seller as aforesaid, then Seller shall use all reasonable best efforts to collect the "Alternate Gas Supply Damages" (as defined in the Gas Purchase Agreement(s) in question) from the Producer(s) in question and if Seller is successful in doing so, Seller shall account to Buyer for all amounts paid by Buyer to Seller (less all reasonable costs including costs on a lawyer and client basis incurred by Seller in collecting the "Alternate Gas Supply Damages" from the Producer(s) in question) pursuant to its said indemnity to Seller to the extent that such amount paid under the indemnity exceeds the amount that otherwise would have been payable by Buyer to Seller for the gas delivered hereunder had the Producer Shortfall Quantity in question not occurred.

12.3 Exceptions

Neither party shall be entitled to the benefit of the provisions of Section 12.1 under any of the following circumstances:

- (a) to the extent that the failure was caused by the negligence or contributory negligence of the party claiming suspension;
- (b) to the extent that the failure was caused by the party claiming suspension having failed to diligently attempt to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch;
- (c) if the failure was caused by lack of funds or with respect to the payment of any amount then due hereunder;
- (d) unless, as soon as possible after the happening of the occurrence relied upon or as soon as possible after determining that the occurrence was in the nature of Force Majeure and would affect the claiming party's ability to observe or perform any of its covenants or obligations under this Agreement, the party claiming suspension shall have given to the other party notice to the effect that such party is unable by reason of Force Majeure (the nature of which shall be therein described with reasonable particularity) to perform the covenants or obligations in question.

12.4 Resumption of Obligations

The party claiming suspension shall likewise give notice, as soon as possible after the Force Majeure conditions shall have been remedied, to the effect that the same had

been remedied and that such party has resumed, or is then in a position to resume, the performance of its covenants and obligations hereunder.

12.5 Settlement of Industrial Disturbances

Notwithstanding anything to the contrary in this Article 12, expressed or implied, the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the particular party involved therein and such party may make settlement thereof at such time and on such terms and conditions as it may deem to be advisable, and no delay in making such settlement shall deprive such party of the benefit of its right to claim Force Majeure hereunder.

12.6 Prorationing of Seller's Available Supply

Upon the occurrence of an event of Force Majeure claimed by Seller which is not caused by any failure of any Producer to deliver gas to Seller under the terms of any Gas Purchase Agreement, and which results in any reduction in Seller's ability to deliver gas hereunder at or near the Delivery Point, Seller shall prorate all volumes that it may have available for delivery to markets at or near the Delivery Point as between its delivery obligations under this Agreement and its delivery obligations under all other firm gas sale agreements. Specifically, but without restricting the foregoing, Seller shall not in such circumstances deliver gas under any interruptible gas sale agreement or any other agreement or arrangement other than a firm gas sale agreement unless and until Seller shall have resumed meeting its delivery obligations to Buyer hereunder.

12.7 Right of Termination on Extended Force Majeure

If at any time during the term hereof, the covenants and obligations hereunder of either Seller or Buyer (the "Party Claiming Suspension") are continuously suspended for a period of at least two (2) years by reason of an event of Force Majeure, then the other party hereto may by notice to the Party Claiming Suspension, terminate this Agreement effective as of the date of such notice, provided that any such termination shall relate only to the obligations hereunder which are subject to the claim of Force Majeure, whereas all other obligations hereunder shall remain in full and effect to the extent that is reasonable in the circumstances.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

13.1 Waiver

No waiver by either of the parties hereto of any default by the other under this Agreement shall operate as a waiver of a future default whether of a like or different character.

13.2 Further Assurances

The parties hereto shall do and shall perform all such acts and things and shall execute all such deeds, documents and writings and shall give all such further assurances as may be necessary to carry out the intent of this Agreement.

13.3 Notices

Any notice, request, demand or other instrument which may be required or permitted to be delivered, given or served upon any party hereto shall be sufficiently delivered, given to or served upon the party in question, if in writing, and if either delivered by hand, by facsimile or by any other means of instant written telecommunication, in each case addressed, in the case of Buyer, to:

Correspondence:

PanEnergy Trading and Market Services, LLC
10777 Westheimer, Suite 650
Houston, Texas 77042

Attention: Gas Contract Administration

Phone: (713) 260-1800
Fax: (713) 260-1825

Invoices:

PanEnergy Trading and Market Services, LLC
10777 Westheimer, Suite 650
Houston, Texas 77042

Attention: Gas Accounting

Phone: (713) 260-1800
Fax: (713) 260-1825

Gas Control:

PanEnergy Trading and Market Services, LLC
10777 Westheimer, Suite 650
Houston, Texas 77042

Attention: Gas Control

Phone: (713) 260-1800
Fax: (713) 260-1850

and in the case of Seller, to:

Correspondence:

**PanEnergy Marketing Limited Partnership
1600, 633 - 6th Avenue S.W.
Calgary, Alberta
T2P 2Y5**

Attention: Robert C. Edney

Phone: (403) 297-9800

Fax: (403) 237-6021

Invoices:

**PanEnergy Marketing Limited Partnership
1600, 633 - 6th Avenue S.W.
Calgary, Alberta
T2P 2Y5**

Attention: Gas Accounting

Phone: (403) 297-9800

Fax: (403) 237-6021

Gas Control:

**PanEnergy Marketing Limited Partnership
1600, 633 - 6th Avenue S.W.
Calgary, Alberta
T2P 2Y5**

Attention: Gas Control

Phone: (403) 297-9800

Fax: (403) 237-6021

Any written communication as aforesaid, if delivered or sent by facsimile or any other means of instant written telecommunication shall be deemed to have been given or made on the day on which it was delivered or sent as aforesaid if it is received at or before 4:30 p.m. Calgary time on the day in question or, if such day is not a business day, delivery shall be deemed to have occurred on the next following business day. Any party hereto may from time to time change its address for service hereunder by notice to the other party.

13.4 Assignment

Neither party hereto shall have the right to assign this Agreement or any of its rights, benefits, duties and obligations hereunder without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld.

13.5 Confidentiality

All data, documents and information of a confidential nature concerning the business or assets of either party hereto, which are made available or disclosed to the other party hereto pursuant to the terms of this Agreement, other than such data, documents and information which:

- (a) were in the possession of the other party hereto prior to its receipt or acquisition thereof;
- (b) at the time of disclosure, is in the public domain; or
- (c) after disclosure, becomes part of the public domain by publication or otherwise, through no act or omission on the part of the recipient thereof;

(the "Confidential Information"), shall be kept and maintained on a confidential basis by the party hereto which is a recipient thereof. Each party hereto shall implement such measures and shall take such precautions as may be reasonably necessary to endeavour to ensure the confidentiality of all Confidential Information. Notwithstanding the foregoing, either party hereto may, without consultation with or notice to the other, from time to time disclose Confidential Information to any court, government, governmental agency, regulatory body or quasi judicial agency ("Regulatory Agency") at any time and from time to time and may thereby cause the Confidential Information to become public if and to the extent that may be required by any Regulatory Agency or the rules, regulations, procedures, requirements or practices of any Regulatory Agency.

13.6 Termination of the Previous Gas Sale Agreement

Upon the execution and delivery of this Agreement, the Previous Gas Sale Agreement shall be terminated and shall be of no further force or effect whatsoever, it having been replaced in its entirety by this Agreement.

13.7 Enurement

Subject to the provisions of Section 13.4, this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF this Agreement has been executed as of the day
and year first above written.

PANENERGY LIMITED PARTNERSHIP,
by its general partner
PanEnergy Marketing Canada Ltd.

Per: *Alfred J. ...*
VICE PRESIDENT

Per: _____

PANENERGY TRADING AND MARKET
SERVICES, LLC

Per: *Ken T. Howell*

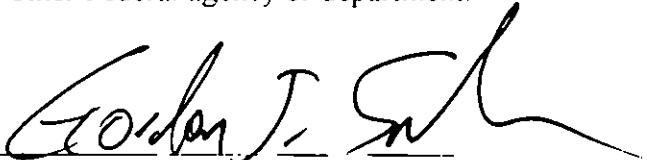
~~Per:~~ *Senior Vice President*

VERIFICATION

DISTRICT OF COLUMBIA
CITY OF WASHINGTON

) ss:
)

Gordon J. Smith, being duly sworn, deposes and says he is counsel for PanEnergy Trading and Market Services, L.L.C.; that he has read the foregoing document, that he is familiar with the contents thereof; that the statements contained therein are true and correct to the best of his knowledge, information and belief; and that he is authorized to file the same with the Department of Energy; and that, to the best of his knowledge, information and belief, the same or a related matter is not being considered by any other part of the Department of Energy, including the Federal Energy Regulatory Commission, or any other Federal agency or department.


Gordon J. Smith

SUBSCRIBED AND SWORN TO before me this 14th day of March, 1997.


Notary Public

My Commission Expires:

My Commission Expires:
April 14, 1999
Kathleen Quinn, Notary Public
District of Columbia

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

MAR 20 P 4:37

REC'D DOE/FE

PANENERGY TRADING AND MARKETING)
SERVICES, L.L.C.)
_____)

FE DOCKET NO. 97-28-NG

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

DOE/FE ORDER NO. 1266

MARCH 20, 1997

I. DESCRIPTION OF REQUEST

On March 14, 1997, PanEnergy Trading and Marketing Services, L.L.C. (PTMS) 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, for authorization to import from Canada up to 8,782 MMBtu (approximately 8,782 Mcf) of natural gas per day (as adjusted for fuel, line loss, and imbalances). The term of the authorization would be for a period commencing November 1, 1997, and terminating on October 31, 2007. PTMS is a Delaware limited liability company engaged in the business of marketing natural gas and electric power. PTMS is owned by PTMSI Management, Inc., which holds a 60 percent interest, and by Mobil Natural Gas, Inc., which holds a 40 percent interest. PTMS' principal place of business is located in Houston, Texas.

PTMS proposes to purchase the natural gas from PanEnergy Marketing Limited Partnership (PanEnergy Marketing). The imported gas would be produced in the Province of Alberta and would be transported to PTMS through the pipeline facilities of Nova Gas Transmission Limited (NOVA), TransCanada PipeLines Limited (TCPL), and National Fuel Gas Supply Corporation (National Fuel). The gas would flow on NOVA to Empress, Alberta, to the interconnect with TCPL, and then across Canada on the pipeline facilities of TCPL to the interconnect of TCPL and National Fuel at Niagara Falls, New York. National Fuel will

^{1/} 15 U.S.C. § 717b.

transport the gas for PTMS from the border to various markets in the northeast United States, in particular, in the New York and Boston area.

PTMS would purchase the gas supplies from PanEnergy Marketing under a contract dated August 1, 1996. The contract price to be paid to PanEnergy Marketing for the gas would be a price equal to the price for the applicable delivery month published in Gas Daily for deliveries at Niagara Falls, New York to National Fuel and Tennessee Gas Pipeline Company.

II. FINDING

The application filed by PTMS 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 import 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 PTMS 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:

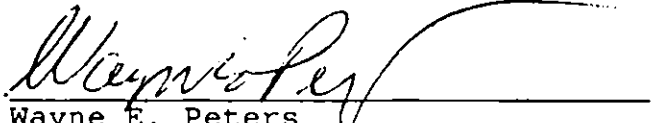
A. PanEnergy Trading and Marketing Services, L.L.C. (PTMS) is authorized to import up to 8,782 MMBtu (approximately 8,782 Mcf) of natural gas per day from Canada commencing November 1, 1997, and terminating October 31, 2007. These volumes may be adjusted from time to time for fuel, line loss, and imbalances. This natural gas shall be imported at Niagara Falls, New York under a gas sale agreement between PTMS and PanEnergy Marketing Limited Partnership dated August 1, 1996.

B. Within two weeks after deliveries begin, PTMS shall provide written notification to the Office of Natural Gas & Petroleum Import and Export Activities, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date that the first import of natural gas authorized in Ordering Paragraph A above occurred.

C. With respect to the natural gas imports authorized by this Order, PTMS shall file with the Office of Natural Gas & Petroleum Import and Export Activities, within 30 days following each calendar quarter, quarterly reports indicating whether imports of natural gas have been made. Quarterly reports must be filed whether or not initial deliveries have begun. If no imports of natural gas have been made, a report of "no activity" for that calendar quarter must be filed. If imports have occurred, PTMS must report total monthly volumes in Mcf and the average purchase price of gas per MMBtu delivered at the international border. In addition, PTMS shall provide a breakdown of the import volumes by showing the amounts marketed in each state.

D. The first quarterly report required by Ordering Paragraph C of this Order is due not later than January 30, 1998, and should cover the period from November 1, 1997, until the end of the fourth calendar quarter, December 31, 1997.

Issued in Washington, D.C., on March 20, 1997.



Wayne E. Peters
Manager, Natural Gas Regulation
Office of Natural Gas & Petroleum
Import and Export Activities
Office of Fossil Energy

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

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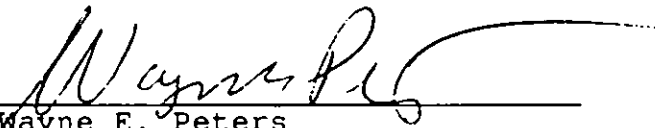
PANENERGY TRADING AND MARKET)
SERVICES, L.L.C.)
_____)

FE DOCKET NO. 97-28-NG

ERRATA NOTICE

DOE/FE Order No. 1266, issued March 20, 1997, is amended to delete all references to "PanEnergy Trading and Marketing Services, L.L.C." wherever they appear and substitute "PanEnergy Trading and Market Services, L.L.C."

Issued in Washington, D.C. on March 31, 1997.



Wayne E. Peters
Manager, Natural Gas Regulation
Office of Natural Gas & Petroleum
Import and Export Activities
Office of Fossil Energy

ORIGINAL

JOHN & HENGERER
A LAW PARTNERSHIP
1200 17TH STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20036-3006

August 11, 1997

DOUGLAS F. JOHN
EDWARD W. HENGERER
KEVIN M. SWEENEY
KIM M. CLARK
GORDON J. SMITH
SHELBY L. PROVENCHER

TELEPHONE
202/429-8800
TELECOPIER
202/429-8805

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D O E / F E

Via Hand Delivery

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

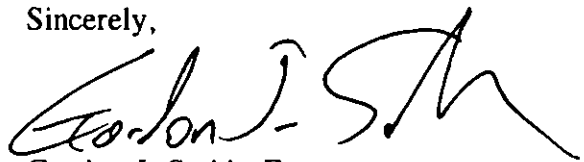
**Re: *Duke Energy Trading and Marketing, L.L.C.*, FE Docket No. 97-28-NG-___,
Request for Transfer of Order Authorizing the Import of Gas From
Canada on a Long-Term Basis**

Dear Sir/Madam:

Pursuant to 10 C.F.R. § 590.405 (1996), I've enclosed for filing an original and fifteen copies of the request of Duke Energy Trading and Marketing, L.L.C. for the transfer of the authorization issued to PanEnergy Trading and Market Services, L.L.C. to import of gas from Canada under Section 3 of the Natural Gas Act. In addition, I've enclosed a check in the amount of \$50.00 for the filing fee as required by 10 C.F.R. § 590.207.

Please feel free to call me directly at (202) 429-8814 if you have any questions regarding this transfer request.

Sincerely,



Gordon J. Smith, Esq.
Counsel for Duke Energy Trading and
Marketing, L.L.C. and PanEnergy Trading
and Marketing Services, L.L.C.

Enclosures

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

**DUKE ENERGY TRADING AND
MARKETING, L.L.C.**

)
)

FE DOCKET NO. 97-28-NG-_____

**REQUEST OF DUKE ENERGY TRADING AND MARKETING, L.L.C.
FOR A TRANSFER OF AUTHORIZATION
TO IMPORT GAS FROM CANADA ON A LONG-TERM BASIS**

Pursuant to Part 590.405 of the Regulations of the Department of Energy, 10 C.F.R. § 590.405, Duke Energy Trading and Marketing, L.L.C. (DETM) hereby requests that the Department authorize the transfer to DETM of the import authorization granted to DETM's predecessor, PanEnergy Trading and Market Services, L.L.C. (PTMS) in Order No. 1266, issued on March 20, 1997 in FE Docket No. 97-28-NG. Order No. 1266 granted authority to PTMS to import natural gas from Canada on a long-term, firm basis.

In support of this request, DETM states as follows:

I.

The exact name of the Applicant is Duke Energy Trading and Marketing, L.L.C. DETM, formerly PanEnergy Trading and Market Services, L.L.C., is a joint venture between Duke Energy Company and Mobil Natural Gas, Inc. (MNGI) and is an independent power marketer. DETM is owned by Duke Energy Company (a subsidiary of Duke Energy Corporation), which holds a 60% interest, and by MNGI, which holds a 40% interest. MNGI, a wholly-owned subsidiary of Mobil Corporation, is a natural gas marketer.

Like its predecessor PTMS, DETM is a Delaware limited liability company engaged in the business of marketing natural gas and electric power. DETM buys and sells gas throughout the United States and at the international border.

II.

Recently, one of PTMS' parent companies, PanEnergy Corporation, consummated a merger with Duke Power Company, forming Duke Energy Corporation. As a result of this merger, the name of PTMS has been changed to Duke Energy Trading and Marketing, L.L.C.¹ Under its new name, DETM seeks to continue the same import activities authorized under the Department's Order No. 1266, and under the terms and conditions described in that Order. Accordingly, DETM respectfully requests that the Department transfer the authorization issued to PTMS in Docket No. FE 97-28-NG to DETM.

III.

Communications and correspondence concerning this Request for Transfer should be directed to:

Gordon J. Smith, Esq.
JOHN & HENGERER
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036
(202) 429-8814

John R. Orr, Esq.
DUKE ENERGY TRADING AND
MARKETING, L.L.C.
One Westchase Center, 10777 Westheimer
Suite 650
Houston, TX 77042
(713) 260-1800

IV.

Exhibits and Attachments

DETM has included the following Exhibits and Attachments:

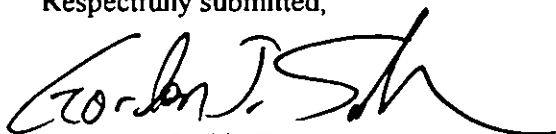
- Exhibit A- Statement and Opinion of Counsel
- Exhibit B- Copy of the Amendment to the State Corporation Certificate

¹ As reflected in the attached a copy of the "Certificate of Amendment of Certificate of Formation of PanEnergy Trading and Market Services, L.L.C.," Delaware has recognized this name change.

V.

The transfer described above is fully consistent with the goals and criteria presented in United States law and regulations, and is fully consistent with the public interest. The benefits to the gas-consuming public, and to those who will be supplied by DETM, are substantial. Therefore, DETM requests that the transfer requested herein be granted as expeditiously as possible.

Respectfully submitted,



Gordon J. Smith, Esq.
JOHN & HENGERER
1200 17th Street, N.W.
Suite 600
Washington, D.C. 20036

Counsel for Duke Energy Trading and
Marketing, L.L.C. and PanEnergy Trading and
Market Services, L.L.C.

Dated: August 11, 1997

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Exhibit A

FE Docket No. 97-28-NG-__

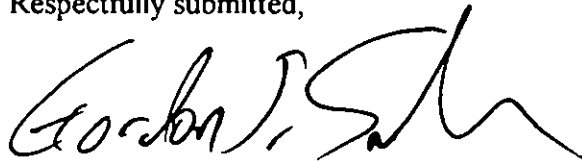
STATEMENT AND OPINION OF COUNSEL

STATEMENT AND OPINION OF COUNSEL

Pursuant to 10 C.F.R. § 590.202(c), the undersigned hereby submits the following Statement and Opinion of Counsel in connection with the "Request of Duke Energy Trading and Marketing, L.L.C. for a Transfer of Authorization to Import Gas from Canada on a Long-term Basis":

- (1) I am an attorney at law, authorized to practice law in the State of Maryland and the District of Columbia.
- (2) Duke Energy Trading and Marketing, L.L.C. is a duly-organized limited liability company, validly existing and in good standing under the laws of Delaware; and
- (3) To the best of my knowledge and belief, the proposed importation of natural gas is within the powers of Duke Energy Trading and Marketing, L.L.C.; and
- (4) To the best of my knowledge and belief, Duke Energy Trading and Marketing, L.L.C. either has complied with or is in the process of complying with applicable rules and regulations of state regulatory authorities in the states in which it operates.

Respectfully submitted,



Gordon J. Smith
Counsel for Duke Energy Trading and Marketing,
L.L.C. and PanEnergy Trading and Marketing
Services, L.L.C.

Dated: August 11, 1997

Exhibit B

FE Docket No. 97-28-NG-___

Copy of the Amendment to the State Corporation Certificate

State of Delaware
Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "PANENERGY TRADING AND MARKET SERVICES, L.L.C.", CHANGING ITS NAME FROM "PANENERGY TRADING AND MARKET SERVICES, L.L.C." TO "DUKE ENERGY TRADING AND MARKETING, L.L.C.", FILED IN THIS OFFICE ON THE TWENTY-FOURTH DAY OF JUNE, A.D. 1997, AT 11:30 O'CLOCK A.M.



Edward J. Freel

Edward J. Freel, Secretary of State

2642390 8100

971208093

AUTHENTICATION:

8526592

DATE:

06-24-97


CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF FORMATION
OF
PANENERGY TRADING AND MARKET SERVICES, L.L.C.

1. The name of the limited liability company is PanEnergy Trading and Market Services, L.L.C.

2. The Certificate of Formation of the limited liability company is hereby amended as follows:

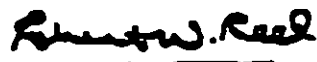
1. Name. The name of the Company is Duke Energy Trading and Marketing, L.L.C.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment of PanEnergy Trading and Market Services, L.L.C. this 18th day of June, 1997.



L. B. Garwood
Chairman, Management Committee
Authorized Person

(SEAL)
ATTEST:

BY: 

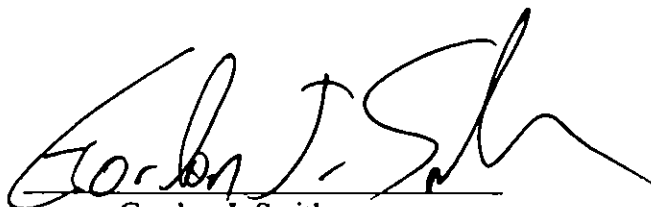
Robert W. Reed
Secretary
Authorized Person

VERIFICATION

DISTRICT OF COLUMBIA
CITY OF WASHINGTON

) ss:
)

Gordon J. Smith, being duly sworn, deposes and says he is counsel for Duke Energy Trading and Marketing, L.L.C. and PanEnergy Trading and Marketing Services, L.L.C.; that he has read the foregoing document; that he is familiar with the contents thereof; that the statements contained therein are true and correct to the best of his knowledge, information and belief; and that he is authorized to file the same with the Department of Energy; and that, to the best of his knowledge, information and belief, the same or a related matter is not being considered by any other part of the Department of Energy, including the Federal Energy Regulatory Commission, or any other Federal agency or department.


Gordon J. Smith

SUBSCRIBED AND SWORN TO before me this 11th day of August, 1997.


Notary Public

My Commission Expires:

My Commission Expires:
April 14, 1999
Kathleen Quinn, Notary Public
District of Columbia

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

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DUKE ENERGY TRADING AND)
MARKETING, L.L.C.)
(Formerly PanEnergy Trading and)
Market Services, L.L.C.))
_____)

FE DOCKET NO. 97-28-NG

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

DOE/FE ORDER NO. 1266-A

In DOE/FE Order No. 1266 (Order 1266), issued in FE Docket No. 97-28-NG on March 20, 1997, PanEnergy Trading and Market Services, L.L.C. (PTMS), a Delaware limited liability company with its principal place of business in Houston, Texas, was authorized to import natural gas from Canada on a long-term, firm basis. Specifically, PTMS has authority to import up to 8,782 MMBtu per day (approximately 8,782 Mcf) of natural commencing November 1, 1997, and terminating October 31, 2007.^{1/}


On August 11, 1997, Duke Energy Trading and Marketing, L.L.C. (DETM) filed an application requesting that Order 1266 be transferred to DETM. Recently, one of PTMS' parent companies, PanEnergy Corporation, consummated a merger with Duke Power Company, forming Duke Energy Corporation. As a result of the merger, the name of PTMS has been changed to DETM. DETM is a joint venture between Duke Energy Company and Mobil Natural Gas,

^{1/} 1 FE ¶ 71,391.

Inc. Like its predecessor PTMS, DETM is a Delaware limited liability company engaged in the business of marketing natural gas and electric power. Its principal place of business is in Houston, Texas. Under its new name, DETM seeks to continue the same import activities authorized under Order 1266, and under the terms and conditions described in that Order.

Accordingly, pursuant to section 3 of the Natural Gas Act, the import authorization conferred by DOE/FE Order No. 1266 is transferred from PanEnergy Trading and Market Services, L.L.C. to Duke Energy Trading and Marketing, L.L.C., effective on the date of this Order. DETM shall be bound by all terms and conditions set forth in Order 1266.

Issued in Washington, D.C., on August 19, 1997.



Wayne E. Peters
Manager, Natural Gas Regulation
Office of Natural Gas & Petroleum
Import and Export Activities
Office of Fossil Energy

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

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1997 AUG 19 P 3:17

DUKE ENERGY TRADING AND)
MARKETING, L.L.C.)
(Formerly PanEnergy Trading and)
Market Services, L.L.C.))
_____)

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Issued in Washington, D.C., on August 19, 1997.



Wayne E. Peters
Manager, Natural Gas Regulation
Office of Natural Gas & Petroleum
Import and Export Activities
Office of Fossil Energy