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ORANGE AND ROCKLAND UTILITIES, INC.
4 Irving Place
New York, New York 10003

May 21, 2001

Hon. Janet Hand Deixler
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: **Case Nos. 93-G-0932 and 97-G-1380**
Capacity Proposal and Proposed Schedule
For Parties' Comments

Dear Secretary Deixler:

A notice published in the New York State Register on February 21, 2001, pursuant to the State Administrative Procedure Act ("SAPA") (I.D. No. PSC-08-01-00013-P), provides that in a proposed rule the Commission intends to address capacity requirements for next winter, whether and to what extent action is required to ensure availability of additional capacity to New York within the next one to three years and other capacity related issues."[1] Prior to issuance of that SAPA notice, the Staff convened a meeting of the Reliability Collaborative on February 7, 2001 to address those issues and thereafter summarized its proposal in a February 12, 2001 letter to parties in the Reliability Collaborative. Pursuant to Staff's proposal, Orange and Rockland Utilities, Inc. ("O&R"

[1]An additional notice issued on February 21, 2001, provides the same substance of proposed rule, but pertains specifically to Orange and Rockland Utilities, Inc. (I.D. No. PSC-08-01-00023-P)

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or "the Company") hereby files the following upstream pipeline capacity plan ("Capacity Proposal") and requests that it be issued for comment and approval by the Commission (see proposed schedule below). A description of the Capacity Proposal is set forth below and is incorporated in the enclosed amendments to the Company's Schedule for Gas Service, P.S.C. No. 4 – Gas ("Gas Tariff"). Corresponding revisions to the Company's Gas Transportation Operating Procedures ("Operating Procedures") will also be submitted under separate cover.

The Company understands that Staff's proposal is intended to address current pipeline capacity market conditions for the short-term (i.e., three years) so that retail marketers serving firm customers in the Company's gas transportation service program ("Sellers") have the opportunity to obtain upstream pipeline capacity at costs equivalent to those included in the Company's firm sales rates. The Company further understands that the proposal is necessary because Sellers have not made long-term capacity commitments and the fair market value of short-term capacity currently is materially greater than the local distribution companies' ("LDC") weighted average cost of capacity. In order to address this issue, Staff has proposed that the Company obtain and make available to interested Sellers capacity for the next one to three years. While the Company is willing to entertain and implement such a program on the terms set forth in this letter and proposed tariff leaves, the Company must note that such a program runs counter to the Commission's long-range goal of achieving an efficient, competitive marketplace for two reasons:

(1) the cost of capacity obtained specifically for Sellers who elect not to procure their own primary point capacity will increase rates for firm gas sales customers; and

(2) at a time when interstate pipeline companies are requiring long-term (five to ten-year) contracts before proceeding with needed new and expanded pipelines, the proposed one to three-year capacity commitment provides a disincentive to Sellers to contract with new pipeline projects.

Therefore, in recognition that short-term capacity costs are greater than long-term capacity costs, the Commission should recognize in its order approving this program that the Company should not be subject to a later claim that it did not mitigate capacity costs if the Company makes short-term purchases to satisfy these requirements. Commission recognition of this principle would parallel similar action that it took in an earlier phase of this proceeding.[2] Capacity obtained by the Company for greater than three years, i.e.,

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2 There, in order to make more capacity available for marketers, the Commission found:

> We believe that releasing capacity for 7 months at maximum pipeline rates roughly approximates the revenues that an LDC could obtain in the market. Therefore, if an LDC releases capacity for 7 months at maximum pipeline rates to marketers serving customers in its service territory [rates] it should not be subject to a claim later that it could have obtained greater revenues from transactions in the secondary market and did not mitigate stranded costs. We believe that this approach strikes the appropriate balance between minimizing stranded costs and making capacity available to foster development of a competitive market.

See, Case 97-G-1380, Staff Memorandum (dated August 4, 1999), issued August 19, 1999, at 7 (emphasis added).

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beyond the needs of this three-year program, would be utilized for system growth and/or to replace other existing elements of the Company's capacity portfolio. Granting the Company discretion to obtain capacity for greater than three years in conjunction with this new program could assist in minimizing rate impacts for its firm sales customers and in increasing participation in the Company's retail access program.

Reasons for the Proposed Tariff Changes

In response to the Staff's proposal, the Company hereby submits for filing tariff leaves reflecting revisions to its Gas Tariff. The revised leaves are listed in Appendix A. These tariff leaves reflect the new three-year Capacity Proposal that the Company is now offering to Sellers. Assuming Commission approval of this filing as set forth in the tariff leaves being filed herewith, when approved the Company will file with the Commission a revised "Statement of Rates to Qualified Sellers Without Company Released Capacity" to reflect the cancellation of Service Classification No. 12. In order to provide the Company and Sellers serving firm customers adequate time to prepare for the winter season that commences on November 1, 2001, the Company is issuing the new tariff leaves with an effective date of June 28, 2001.

Summary of Capacity Proposal

The major elements of the Company's Capacity Proposal are as follows:

1. O&R will acquire capacity and/or bundled citygate deliveries needed to meet the capacity requirements of Sellers for 1, 2, or 3 years of the three-year period commencing November 1, 2001 and ending October 31, 2004.

2. The Company will recover the full cost of all capacity and bundled Citygate contracts acquired by the Company in furtherance of this program through its Gas Supply Charge. The cost of capacity, including the capacity component of bundled Citygate contracts will be reflected in the Company's weighted average cost of capacity ("WACOC").

   Sellers, acting as agents for the Company's customers, shall either (i) make binding commitments to serve all or part of the load to serve their firm customers behind O&R's Citygate for either a 12-month, 24- month or 36-month period commencing November 1, 2001; or (ii) acquire and utilizing only their own capacity to serve those customers. Service Classification No. 11 has been amended to provide for this option (Capacity Option A). Service Classification No. 12, applicable to Sellers that secure their own capacity from

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third parties, has been canceled. This service is now available under Capacity Option B of Service Classification No. 11.

3. Where Sellers decide to rely upon their own capacity for all or a portion of their capacity requirements, they must present documentation to the Company showing that there is in place a transportation contract(s) to the Citygate (as specified in the Company's Operating Procedures) that for each winter season (November through March) through 2003-2004 provides non-recallable firm transportation with primary delivery point capacity from the source of gas supply to the Citygate with the combined total of such contract(s) providing the requisite quantity.

4. The capacity released by O&R to Sellers as agents for the Company's customers (i) will be allocated to Sellers pro rata (as specified in the Company's Operating Procedures); and (ii) will be priced at the Company's WACOC, which will be adjusted periodically to reflect changes in the Company's capacity costs.

5. For any month after November 1, 2001 and until October 2004, if a Seller has a net increase in its firm load behind the Company's Citygate, it may obtain additional capacity, if available, from O&R to meet that net increase, provided such increase is associated with new or converting firm transportation customers. However, O&R will not be obligated to provide the additional capacity in a situation where the additional load represents a reduction in load supplied by another Seller who was utilizing its own capacity to serve that load. Required advance notice and minimum term provisions will be as spelled out in O&R's Operating Procedures.

6. The capacity released to a Seller may be recalled by O&R: (i) to the extent that a Seller's firm load behind the Company's Citygate declines; (ii) if a Seller fails to comply with the Company's Gas Tariff, its Operating Procedures, or the Capacity Release Service Agreement; or (iii) if a Seller fails to comply with an interstate pipeline company's capacity release provisions.

7. The customer's Transportation Charge is subject to an adjustment each month, through its Seller as agent, to the extent that the maximum pipeline rate(s) for the released capacity differs from O&R's WACOC.

8. During the winter months (November-March), Sellers must use the capacity released by O&R to deliver gas to their firm customers behind the Company's Citygate.

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9. Continued implementation of this Capacity proposal is contingent upon the ability of Con Edison to release its pipeline capacity in a manner consistent with the Federal Energy Regulatory Commission's regulations and applicable pipeline tariffs.

Proposed Schedule

In order for the Company to make the required capacity acquisitions or bundled purchases to implement this program and for non-participating Sellers to make their own arrangements before November 1, 2001, O&R considers it important that the Commission approve this Capacity Proposal at its June 21, 2001 open session. Towards that end, the Company proposes that the Commission adopt the following schedule for reviewing the Company's proposal:

June 13: Parties submit Comments on Company's Capacity Proposal (sent via e-mail to all Parties and Staff no later than <u>3:00 p.m.</u> EDT <u>and</u> by regular or express mail to the Commission)

June 21: Commission Session

July 5 (or later as described below):

Sellers interested in participating in the Company's program make binding commitments for the quantity (in Dekatherms) of the Company's capacity that they are electing to utilize commencing November 1, 2001 (which quantity will thereafter be increased or decreased in accordance with the SC No. 11 Tariff). This binding commitment must be made by 5:00 p.m. EDT on the later of July 5, 2001 or 14 days following issuance of the order, via e-mail to O&R SCERBOR@ORU.COM and Staff.

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Request for Complete Waiver of Newspaper Publication

The Company hereby requests complete waiver of newspaper publication requirements since all Marketers and active parties in the above captioned docket will be provided with notice of this proposal by both the Commission and the Company.

If you have any questions concerning this filing, please contact the undersigned at (212) 460-3308.

Sincerely,

William Atzl, Jr.
Manager- Electric and Gas Rate Design

c.c. All Active Parties (regular mail)
and all Marketers via E-Mail

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Appendix A

Leaf No. 5	Revision 3
Leaf No. 72	Revision 5
Leaf No. 73	Revision 11
Leaf No. 74	Revision 6
Leaf No. 79	Revision 7
Leaf No. 94	Revision 3
Leaf No. 94.2	Revision 2
Leaf No. 94.3	Revision 2
Leaf No. 94.6	Revision 1
Leaf No. 129	Revision 6
Leaf No. 131	Revision 6
Leaf No. 133	Revision 11
Leaf No. 133.1	Revision 6
Leaf No. 133.2	Revision 3
Leaf No. 152	Revision 5
Leaf No. 152.1	Revision 0
Leaf No. 152.2	Revision 0
Leaf No. 153	Revision 2
Leaf No. 154	Revision 4
Leaf No. 155	Revision 7
Leaf No. 156	Revision 3
Leaf No. 158	Revision 2
Leaf No. 159	Revision 5
Leaf No. 166.8	Revision 2
Leaf No. 166.9	Revision 2
Leaf No. 166.10	Revision 1
Leaf No. 167	Revision 7
Leaf No. 168	Revision 5
Leaf No. 169	Revision 3
Leaf No. 170	Revision 2
Leaf No. 171	Revision 1
Leaf No. 172	Revision 1
Leaf No. 173	Revision 1
Leaf No. 174	Revision 3
Leaf No. 175	Revision 6
Leaf No. 175.1	Revision 1
Leaf No. 176	Revision 3
Leaf No. 177	Revision 5
Leaf No. 178	Revision 4
Leaf No. 179	Revision 4
Leaf No. 179.1	Revision 1
Leaf No. 180	Revision 2
Leaf No. 181	Revision 2
Leaf No. 182	Revision 3
Leaf No. 182.1	Revision 1
Leaf No. 182.2	Revision 1
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Leaf No. 182.7	Revision 3
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Leaf No. 182.9	Revision 3
Leaf No. 182.10	Revision 2
Leaf No. 182.11	Revision 2