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September 11, 2006

Public Service Commission
Ms. Beth O'Donnell
Executive Director
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602

RECEIVED
SEP 13 2006
PUBLIC SERVICE
COMMISSION

RE: CASE NO. 2005-00319

Dear Ms. O'Donnell:

Pursuant to your August 4, 2006 correspondence, please allow this letter to serve as a response to the Order of the Public Service Commission entered on March 31, 2006. Attached are copies of the following documents:

1. Gas Supply Guarantee Agreement dated July 1, 2006, by and between Citigas, LLC, and Citipower, LLC.
2. Pipeline Lease and Gas Peaking Agreement (Tennessee), dated February 19, 2004, by and between Citipower, LLC, and Citizens Gas Utility District.
3. A copy of the Public Service Commission's Order dated March 31, 2006. (Attachment).

Thank you for your consideration in this matter, and should you have any questions, please do not hesitate to contact me.

Sincerely,


Robert L. Brown III

RLB/ca

Enclosures

GAS SUPPLY GUARANTEE AGREEMENT

This Gas Supply Guarantee Agreement (“Agreement”) dated this 1st day of July, 2006 by and between **Citigas, L.L.C.**, a Delaware limited liability company (“SELLER”), and **Citipower, LLC**, a Delaware limited liability company (“BUYER”). Buyer and Seller are referred to herein separately as a “Party” and collectively as the “Parties”.

RECITALS

- A. Seller owns pipelines and gathering lines, has access to local (McCreary County) gas production, and access to a gas storage field, giving Seller the unique capability of supplying natural gas to Buyer for the foreseeable future;
- B. Seller agrees to provide all natural gas supply required by Buyer, on demand, from whatever source necessary to provide the volumes needed by Buyer
- C. Buyer desires to purchase gas from Seller, and Seller desires to sell to gas to Buyer, in the quantities and upon the other terms and conditions hereinafter set forth.

AGREEMENT

In consideration of the mutual promises contained herein, the benefits to be derived by each Party hereunder and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties to this Agreement agree as follows:

Article 1 Definitions

The following terms, when used in this Agreement, shall have the following meanings assigned to them:

“Btu” means British thermal units.

“Btu Factor” the number multiplied by the actual Mcf of gas delivered to account for the heating value in excess of 1000 Btu per Mcf of the produced wet gas. For example, the Btu Factor for one Mcf of wet gas containing 1200 Btu’s is 1.2. The Btu Factor shall be tested from time to time.

“Contract Price” is defined in Section 7.1

“Delivery Points” shall be at various meters designated as purchase meters by Buyer, the location of which has been approved by the Seller.

“Gas” means natural gas.

“Index Price” means the NYMEX or other agreed-upon index price

“Month” means a period beginning at 7:00 a.m. (Eastern Time) on the first day of a calendar month and ending at 7:00 a.m. (Eastern Time) on the first day of the next succeeding calendar month.

“Seller’s Gas” means all Gas delivered to Buyers Pipeline.

“Transportation/Supply Guarantee Fee” means the fee charged by Citigas to transport and guarantee a supply of gas, on demand, to the Buyer. The Transportation / Supply Guarantee Fee shall be \$1.96 per MMBTU of Gas, based on Buyer’s annual gas purchases. Said fee shall be billed after the fact and collected by Seller upon the terms and conditions of the attached Order of the Kentucky Public Service Commission dated March 31, 2006.

“Utility” is the same as Buyer.

Article 3 Quantity

3.1 Gas Supply. Seller shall supply all gas volume requirements of Buyer on demand.

3.2 Notice of Gas Supply Requirements. Buyer shall give such notice to Seller, no later than 10 days prior to the first day of the Month estimating the volume of gas needed for the following month. Such notice shall be provided the seller in writing.

Article 4 Delivery

4.1 Delivery Point. Seller's Gas shall be delivered to various meters designated as purchase meters by Buyer, at locations to be agreed to by Seller.

4.2 Passage of Title and Risk of Loss. Title and risk of loss to Seller's Gas shall pass to and vest in Buyer at the Delivery Point.

Article 5 Term of Agreement

5.1 Term. The term of this Agreement shall be until September 1, 2025.

Article 6 Price

6.1 “Contract Price”. The price paid by Buyer to Seller as determined by the published NYMEX on the last day of the month or other agreed-upon index price, plus a Transportation/Supply Guarantee Fee, taking into consideration the BTU value of the gas delivered (i.e., including an adjustment for the BTU Factor).

Article 7 Delivery Pressure

7.1 Delivery Pressure. Seller's Gas shall be delivered by Seller to the Delivery Point at sufficient pressure to meet Buyer's needs.

Article 8 Metering, Maintenance and Measurement

8.1 Measurement. The measurement of Seller's Gas shall be performed in accordance with and governed by customary oil and gas industry procedures.

8.2 Additional Lines. Buyer and Seller shall purchase and install the meter, all regulators, valves, safety relief valves, and check valves as Buyer and Seller deem necessary to comply with the utility regulations. Buyer shall have the sole and exclusive right to control any and all regulators, valves, safety relief valves, and check valves at the Delivery Point. Seller shall take all reasonable steps necessary to ensure a safe delivery pressure. Costs of such jointly funded Additional Lines shall be shared 50% by Buyer, and 50% by Seller.

8.3 Meter Site. Buyer hereby grants and guarantees to Seller, so far as Buyer has the right to do so, a meter location with full right of ingress and egress to and from said site and the further right to do thereon, acts necessary or convenient for the carrying out of the terms of this Agreement. All pipelines and equipment placed, or caused to be placed, on such sites by Seller shall be and remains the Seller's property and may be removed by Seller at any time. This paragraph shall not be construed as creating an obligation on the part of the Buyer to install compression or to locate its meter station at any particular location other than where Buyer deems necessary in its sole and absolute discretion.

8.4 Maintenance. Seller shall maintain its pipeline and connections at the Delivery Point in a safe and suitable condition at all times and shall comply with all State and Federal rules and regulations. Seller agrees to maintain all of its pipelines, compressors, metering stations, and/or points of delivery free from trash and debris.

8.5 Easements, Rights-of-Way, etc. Buyer shall obtain and maintain all easements, rights-of-way, leases, and meter station agreements. The Buyer and Seller will each own the equipment and materials that they contribute to comply with this Contract.

8.6 Preservation of Charts. Buyer and/or Seller shall preserve, or cause to be preserved, for at least two (2) years all test data, charts, and other similar records pertaining to the measurement of Seller's Gas.

8.7 Calibration and Adjustments. The purchase meter will be tested and calibrated at regular intervals by a qualified testing firm selected by Buyer, the cost of which shall be divided equally between the Seller and Buyer.

Article 9 Billing and Payment

9.1 Statements. On or before the end of each Month, Seller shall render to Buyer a statement showing the actual quantity of Seller's Gas purchased during the prior Month (in MCF's) and the Contract Price for the month of sale. Within 30 days of delivery of such statement, Buyer shall make payment by check or wire transfer or check to an account designated by Seller.

9.2 Books and Records. Buyer shall have the right upon reasonable notice at reasonable hours to examine the books, records, and charts of Seller to the extent necessary to verify the accuracy of any statement, payment, calculation, or determination made pursuant to this Agreement. If any examination shall reveal, or if Seller shall otherwise discover, any error in such statements, payments, calculations, or determinations, then proper adjustment and correction thereof shall be made as promptly as practicable thereafter. All such statements, payments, calculations, or determinations shall be deemed for all purposes to be correct if not challenged and a written notice thereof delivered within two years after the date of such statement, payment, calculation, or determination.

Article 10 Responsibility and Title

10.1 Possession. As between the Parties, Seller shall be deemed to be in exclusive control and possession of Seller's Gas until Seller's Gas has been actually delivered to Buyer at the Delivery Points, after which point Buyer shall be deemed to be in exclusive control and possession of Seller's Gas.

10.2 Indemnification. The Party deemed to be in control and possession of Seller's Gas sold hereunder shall be responsible for and shall indemnify the other Party with respect to any losses, claims, liabilities, or damages arising in connection with or related to Seller's Gas when it is in the Party's control and possession; provided, that, neither Party shall be responsible for any losses, claims, liabilities, or damages arising from the other Party's negligence, gross negligence, or willful misconduct.

10.3 Warranty of Title. Seller hereby warrants that it has title to or the right to sell Seller's Gas delivered and sold to Buyer hereunder and warrants against title claims arising by, through, or under Seller, but not otherwise. Seller further warrants that Seller's Gas is free and clear of all liens, adverse claims, any and all assessments, and any other

encumbrances of every kind when delivered hereunder that arise by, through, or under Seller, but not otherwise.

Article 11 Assignments

11.1 Restrictions on Assignment. Seller may not assign or delegate any of its rights or obligations under this Agreement without the prior written consent of Buyer.

11.2 Assignments. Except as permitted by Section 12.1, any purported assignment or delegation (legal or beneficial) by Seller shall be void and ineffective.

11.3 Inurement. Subject to the foregoing provisions, this Agreement binds and inures to the benefit of the Parties and their respective successors and assigns.

Article 12 Force Majeure

12.1 Non-Performance. Neither Party shall be responsible for any loss or damage to the other Party resulting from any delay in performing or failure to perform any obligation under this Agreement (other than Buyer's obligation to make payments of dollar amounts due and owing under this Agreement) to the extent such failure or delay is caused by a Force Majeure Event.

12.2 Force Majeure Event. "Force Majeure Event" means any event that directly or indirectly renders a Party unable, wholly or in part, to perform or comply with any obligation, covenant, or condition in this Agreement, including the following events (to the extent they otherwise satisfy the foregoing definition):

(a) act of God, fire, lightning, landslide, earthquake, storm, hurricane, hurricane warning, flood, high water, washout, or explosion;

(b) strike, lockout, or other industrial disturbance, act of the public enemy, war, military operation, blockade, insurrection, riot, epidemic, arrest or restraint of government or people, civil disturbance, or national emergency;

(c) the inability of the affected Party to acquire, or the delay on the part of the affected Party in acquiring materials, supplies, machinery, equipment, servitudes, right-of-way grants, easements, permits, or licenses, approvals, or authorizations by regulatory bodies needed to enable such Party to perform hereunder;

(d) breakage of or accident to machinery, equipment, facilities, or lines of pipe, including the gathering systems, plants, and pipelines gathering, compressing, treating, and transporting gas downstream of the Delivery Point, the repair, maintenance, improvement, replacement, test, or alteration of or to such

gathering systems, plants, or pipelines, the freezing of a well or line of pipe, well blowout, or the partial or entire failure of a gas well; or

(e) act, order, or requisition of any governmental agency or acting governmental authority, or any governmental proration, regulation, or priority.

12.3 Remedy of a Force Majeure Event. The affected Party will exercise diligence in good faith to remedy each Force Majeure Event and resume full performance under this Agreement as soon as reasonably practicable, except that the settlement of strikes, lockouts, or other labor disputes shall be entirely within the discretion of the affected Party.

Article 13 Notice

13.1 Notices. All notices, consents, requests, demands, instructions, approvals, and other communications permitted or required to be given hereunder shall be validly given or made in writing if (a) personally delivered, (b) delivered and confirmed by telecopier or like facsimile transmission service, (c) delivered by Federal Express or other reputable overnight courier delivery service or (d) deposited in the United States mail, first class, postage prepaid, certified or registered, return receipt requested, addressed as follows:

If to Seller:

Citigas, L.L.C.
2122 Enterprise Road
Greensboro, NC 27408

Attention: Dan Forsberg
Fax: (336) 379-0881

If to Buyer:

Citipower, L.L.C.
37 Courthouse Street
Whitley City, KY 42653

Attention: Vernon Smith
Fax: (606) 376-8830

or to such other place within the United States of America as any Party may designate as to itself by written notice to the others. All notices given by personal delivery or mail shall be effective on the date of actual receipt at the appropriate address. Notice given by telecopier shall be effective upon actual receipt if received during recipient's normal business hours or at the beginning of the next business day after receipt

if received after the recipient's normal business hours. All notices by telecopier shall be confirmed promptly after transmission, by certified mail or personal delivery.

Article 14 Other Provisions

14.1 APPLICABLE LAW. THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT BEAR A REASONABLE RELATIONSHIP TO, AND SHALL BE CONSTRUED AND ENFORCED UNDER, THE LAWS OF THE COMMONWEALTH OF KENTUCKY, EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION HEREOF TO ANOTHER JURISDICTION.

14.2 Venue. The parties hereby irrevocably submit to the jurisdiction of Whitley County, Kentucky, and to the jurisdiction of the United States District Court for the Eastern District of Kentucky, for the purposes of any suit, action or other proceeding arising out of or relating to this agreement and each party waives any right to change venue.

14.3 Integrated Agreement. This Agreement is the full, final, complete, and exclusive expression of the agreements of the Parties with respect to the matters covered by this Agreement.

14.4 Amendment. This Agreement may not be amended, altered, revised, renewed, extended, or otherwise changed, except by a writing that refers to this Agreement and is executed by the Parties.

14.5 Construction of Agreement. In construing this Agreement, the following principles shall be followed:

(I) no consideration shall be given to the captions of the articles, sections, subsections, or clauses, which are inserted for convenience in locating the provisions of this Agreement and not as an aid in its construction;

(ii) no consideration shall be given to the fact or presumption that one Party had a greater or lesser hand in drafting this Agreement;

(iii) examples shall not be construed to limit, expressly or by implication, the matter they illustrate;

(iv) the word "includes" and its syntactical variants mean "includes, but is not limited to" and corresponding syntactical variant expressions;

(v) a defined term has its defined meaning throughout this Agreement regardless of whether it appears before or after the place in this Agreement where it is defined;

(vi) the plural shall be deemed to include the singular, and vice versa;

(vii) each gender shall be deemed to include the other gender; and

(viii) each exhibit, attachment, and schedule to this Agreement is a part of this Agreement, but if there is any conflict or inconsistency between the main body of this Agreement and any exhibit, attachment, or schedule, the provisions of the main body of this Agreement shall prevail.

14.6 No Waiver. Failure of either Party to require performance of any provision of this Agreement shall not affect either Party's right to require full performance thereof at any time thereafter, and the waiver by either Party of a breach of any provision hereof shall not constitute a waiver of a similar breach in the future or of any other breach or nullify the effectiveness of such provision.

14.7 No Partnerships. This Agreement is neither a partnership nor joint venture, and each party will own the equipment it has supplied.

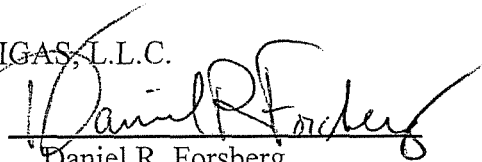
14.8 Pledges. It is understood and agreed by the parties hereto that this Agreement shall be included as collateral pledged to various financial institutions to secure Seller's loans collateralized by the Subject Interests; or with respect to the Buyer, loans collateralized by the Utility and any related interests in real or personal property. This Agreement will inure to the benefit of the successors, assigns, and beneficiaries of Buyer and/or Seller including but not limited to, the said financial institutions.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the day and year first above written.

SELLER:

CITIGAS, L.L.C.

By:

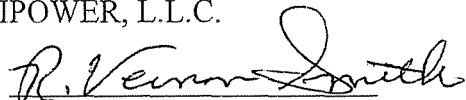


Daniel R. Forsberg
President

BUYER:

CITIPOWER, L.L.C.

By:



R. Vernon Smith
Operations Manager

PIPELINE LEASE AND GAS PEAKING AGREEMENT
(Tennessee)

THIS PIPELINE LEASE AND GAS PEAKING AGREEMENT ("Agreement"), dated ~~February~~ ~~January 14,~~ 2004, but effective as of December 1, 2003 (the "Effective Date"), is between CITIPOWER, LLC, a _____ limited liability company ("Citipower"), and CITIZENS GAS UTILITY DISTRICT, a _____ ("Citizens").

RECITALS

A. Citizens owns and operates an eight inch steel natural gas transmission pipeline (the "Transmission Line") that runs in a Northeast to Southwesterly direction to Helenwood, Tennessee.

B. Citipower owns and operates an 11.5 mile, four inch steel natural gas gathering pipeline ("Gathering Line") that runs generally North to South from the Kentucky/Tennessee State line to the tie-in to Citizens' Transmission Line.

C. Citipower owns and operates the Worley Compressor Site ("Compressor") on its Gathering Line located approximately 3,000 feet south of the Kentucky/Tennessee State Line on Isham Road, which Compressor is idle during certain times of the year.

D. Citizens owns and operates a plastic natural gas distribution system of pipelines that runs generally Northeast to Southwest from its tie-in to Citipower's Gathering Line which tie-in is located at Citizen's Piney Grove Station close to the Compressor.

E. During those times of the year during which the Compressor is idle, Citizens desires to lease from Citipower that portion of the Gathering System that runs from the Compressor to the Transmission Line (the "Leased Line") and effectively append the Leased Line to the front end of Citizens Distribution Line.

F. During those times of the year during which Citizens leases the Leased Line from Citipower, Citizens desires to provide peaking gas to Citipower pursuant to the terms and conditions of this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Citipower and Citizens hereby agree as follows:

1. Pipeline Lease: To facilitate the needs of each party, Citipower shall lease a portion of its gathering line to Citizens during certain times of the year as follows:

a. The Leased Line: Citipower hereby leases to Citizens, that portion of Citipower's four inch steel pipeline defined as the "Leased Line" in Recital E of this Agreement from the first day of December through the last day of March (the "Cold Months") during the Term of this Agreement. Citizens use of the line is for the specific purpose of supplying gas to its Tennessee customers, supplying gas to Citipower, as provided for in paragraph 3 contained herein and to purchase gas delivered to Citizens gas by Citipower at the Worley Compressor Site.

b. Operations: Subject to paragraph 1.c of this Agreement, during the Cold Months, Citizens shall operate the Leased Line in accordance with prudent pipeline operator standards, and shall use its best efforts to maintain the standards of operation historically provided by Citipower, except any necessary differences resulting from Citizen's use of the Leased Line as a distribution line as opposed to Citipower's use of the Leased Line as a gathering line.

c. Material Modifications: Citizens also agrees not to perform or cause to be preformed any material modifications to the Lease Line. For the purposes of this Agreement, a material modification to the Leased Line is any modification, repair, maintenance or other physical change in the pipeline that would detrimentally impact Citipower's use of the Leased Line from the first day of April through the last day of October (the "Warm Months") during the Term of this Agreement and thereafter. The definition of Material Modifications includes, without limitation, new taps or connections.

d. Repairs and Maintenance: Any non-emergency maintenance or repairs to the Leased Line shall be performed by Citipower during the Warm Months, however, during the Cold Months, Citizens shall perform any necessary maintenance or repairs that it in good faith determines cannot or should not be delayed. The cost of all maintenance and repairs to the Leased Line shall be borne 5/12th by Citizens, and 7/12th by Citipower. The party performing the maintenance or repair shall invoice the other party within 30 days of incurring the cost, or for scheduled repairs and maintenance; the party performing the maintenance may advance bill the other party but only for those estimated costs reasonably expected to be incurred within the following month. The party receiving an advance invoice shall have 15 days to deliver payment, and upon determination of the actual costs, an additional invoice or refund shall be delivered as soon as practicable.

2. Title and Risk of Loss: The risk of loss and title to the gas in the Leased Line shall pass to Citizens during the Cold Months, and revert to Citipower during the Warm Months. Transfer of operations shall include the accounting for any pipeline gas inventory differences.

3. Peaking Gas and Delivery Point: During the Cold Months, Citizens agrees to deliver to Citipower, a variable quantity of peaking gas ranging from 0 to 1,000 MMBTU per day. The delivery point ("Delivery Point") shall be the peaking meter to be installed at the location of the Compressor.

a. Peaking Meter and Regulator Station: Citizens shall, at its sole risk and expense, install such peaking meter and regulator station at the location of the Compressor after consultation with Citipower as to the actual location.

b. Meter Reading: Citizens shall designate and notify Citipower in advance of the day and time for all meter readings. Citipower shall have the right, but not the obligation to have a representative present for all such meter readings. Any meter reading taken without reasonable notice to Citipower shall not be binding upon Citipower.

c. Meter Deposit: On or before October 1 of each year during the Term of this Agreement, and in lieu of a meter deposit, Citipower shall deliver to Citizens: (A) a bank letter of credit; or (B) a surety bond in an amount equal to: (1) twice the estimated volume of peaking gas (estimated by Citipower) to be purchased during any given 30-day period multiplied by the cost of the peaking gas set forth in Section 4(a), (b) or (c) of this Agreement. The selection of the peaking gas cost used in the above calculation shall be at Citipower's sole discretion. If the actual amount of peaking gas delivered in any given 30-period exceeds the amount estimated by Citipower by more than 50%, Citizens may request an increase in the amount of the bank letter of credit or surety bond at any time.

4. Cost of Peaking Gas: Citipower shall pay to Citizens, in addition to the cost of the gas ("Gas Price"), an amount equal to \$5.00 per MMBTU of peaking gas delivered at the Delivery Point. In determining the above peaking gas charge, the parties agree that Citipower shall be entitled to net the quantity of MMBTU's delivered to Citizens by Citipower against the quantity MMBTU's of peaking gas delivered to Citipower by Citizens during any payment period. For the purpose of this Agreement, the Gas Price is defined (at Citipower's sole election, which election may change from time to time) as one of the follow indexes:

a. the average cost of storage gas owned by Citizens at the LBU Gas Storage Field;

b. the Tennessee Louisiana Index, 500 Leg (as published in the Inside FERC Natural Gas Market Report); or

c. \$0.00 per MMBTU in the event Citipower elects to credit its account for gas sold to Citizens during the Cold Months and/or gas in the Lick Branch Units Gas Storage Field ("LBU").

5. Specifications: Gas delivered at the Delivery Point(s) shall be of pipeline quality, meeting the specifications of the receiving pipeline and acceptable to the receiving pipeline and shall be at adequate pressure to be received by the receiving pipeline without additional compression.

6. Liability and Indemnity Among the Parties: As between the parties hereto, Citipower shall be deemed to be in full control and possession of the gas and responsible for all damages or injury caused thereby during the Warm Months. Citizens shall be deemed to be in full control and possession of the gas and responsible for all damages or injuries caused thereby during the Cold Months. Each party agrees to indemnify, defend, and hold the other harmless from and against any liability, claim, or cause of action accruing while the gas is deemed to be in the indemnifying party's possession and control.

7. Insurance: Citipower and Citizens shall each maintain general liability insurance on the Leased Line for the Warm Months and Cold Months, respectively, and shall name the other as an additional insured on each policy.

8. Term: The Term of this Agreement shall be from the Effective Date until the last day of March, 2009.

9. Warranty: Citipower and Citizens warrants to each other (a) that it has good and sufficient legal title to the gas delivered by it and the right to deliver same (b) that it has paid or will pay, or cause to be paid, all royalties, overriding royalties, production payments or similar charges, if applicable, against the gas delivered by such party, and (c) that the gas is merchantable and meets the specifications herein. Each party agrees to indemnify, defend, and hold the other harmless from and against any loss, claim or demand by reason of any failure or breach of this warranty.

10. Audit: Each party and its duly authorized representatives shall have access to the accounting records and other documents maintained by the other party which relate to this Agreement and shall have the right to audit such records at any reasonable time or times once every two years and within twenty-four (24) months after the termination of this agreement.

11. Financial Responsibility: In the event that a party (the "non-performing party") fails to make timely payment of any sums due hereunder or defaults in the performance of any obligation to the other party (the "performing party") under this Agreement, or otherwise gives the performing party reasonable grounds to doubt its continuing financial responsibility, the non-performing party shall provide such additional security for or assurances of the performance of its obligations as may be demanded by the performing party. If such security for or assurance of continued performance is not provided within a reasonable time under the circumstances not to exceed 48 hours of the demand therefore, the performing party may suspend its own performance under this contract until such security or assurance is provided, or may immediately terminate this Agreement without additional notice. If either party makes a general assignment for the benefit of creditors, or files a petition or commences a case under any bankruptcy, reorganization, or similar law for the protection of creditors, or has any such petition filed or case commenced against it, then the other party may immediately terminate this Agreement upon written notice. Exercise by either party of any rights under this provision shall be without prejudice to any claim for damages or any other right under this Agreement or applicable law.

12. Taxes: All taxes (if any) relating to the natural gas shall be borne by the party having title to and possession of the gas at the point of levy or assessment.

13. Choice of Law: This Agreement and any dispute arising hereunder shall be governed by the laws of the State of North Carolina and each party consents to the exclusive jurisdiction of the courts in North Carolina.

14. Force Majeure: In the event either party is rendered unable, wholly or in part, to perform its obligations under this agreement due to acts of God, floods, fires, explosions, weather, strikes, lockouts or other industrial disturbances, wars or any federal or any state

government, or due to exhaustion, reduction or unavailability of gas at the source of supply from which deliveries are normally made or any other cause or causes (except financial) beyond its control whether similar or dissimilar to those stated above, it is agreed that the obligations of each party shall be suspended for the continuance of any inability so caused but for no longer period. The party claiming force majeure shall notify the other party promptly of the nature and estimated duration of such inability to perform. The cause of such inability to perform shall, so far as possible, be remedied with reasonable dispatch. In the event that a condition of force majeure is invoked by either party, and such condition continues for a period of thirty (30) days, the noninvoking party, at its election, shall be entitled to terminate this agreement upon written notice. Such termination shall not affect the duty to make timely payments for any volumes delivered hereunder.

15. Notice: All billings, payments, statements, notices and communication shall be in writing and shall be delivered personally, by mail, by facsimile or by telegram to the address set forth below, unless changed by written notice:

For Notices and Communications to Citipower: CITIPOWER, LLC
2122 Enterprise Road
Greensboro, North Carolina 27408
Attn: Carl Labonge
Telephone: 336 379-0800 ext 106
Facsimile: 336 379-0881

For Notices and Communications to Citizens: Citizens Gas Utility District
P.O. Box 320
Helenwood, TN 37755
Telephone: 423 569-4457
Facsimile: 423 569-5303

16. Alterations: No oral promises, agreements or warranties shall be deemed a part hereof, nor shall there be any alteration or amendment of this agreement, or waiver of any of its provisions, unless the same be in writing and executed by both parties to this agreement. This agreement shall not be subject to modification or waiver by any course of performance, course of dealing or usage of trade.

17. Waiver: The waiver by either party of the breach of any provision hereof by the other party shall not be deemed to be a waiver of the breach of any other provision or provisions hereof or of any subsequent or continuing breach of such provision or provisions.

18. Successors: This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

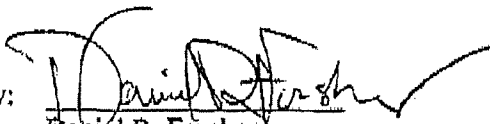
19. Entirety of Agreement: There are no understandings, agreements or representations, express or implied, not specified in this agreement between the parties.

20. Time: Time is of the essence in this Agreement.

IN WITNESS WHEREOF, the parties have executed two (2) originals of this Agreement as of the date first written above.

CITIPOWER, LLC

**CITIZENS GAS UTILITY DISTRICT
OF SCOTT AND MORGAN COUNTIES**

By: 
Daniel R. Forsberg
President

By: 
Freddy Bishop
General Manager

STATE OF TENNESSEE

COUNTY OF Scott

The foregoing instrument was acknowledged before me this 19th day of February, 2004, by FREDDY BISHOP as GENERAL MANAGER, of CITIZENS GAS UTILITY DISTRICT OF SCOTT AND MORGAN COUNTIES, a natural gas Utility District, on behalf of said District.

My Commission Expires:

03-06-07

Charles J. Gandy
Notary Public

STATE OF NORTH CAROLINA

COUNTY OF Swain

The foregoing instrument was acknowledged before me this 23 day of February, 2004, by DANIEL R. FORSBERG as President of CITIPOWER, L.L.C., a _____ limited liability company, on behalf of said Company.

My Commission Expires:

12/24/2007

Shelley M. Allen
Notary Public

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF GAS COST ADJUSTMENT)	CASE NO.
FILING OF CITIPOWER, LLC)	2005-00319

O R D E R

On August 1, 2005, Citipower, LLC ("Citipower") submitted a Gas Cost Adjustment ("GCA") filing which included a \$3.00 per Mcf gas marketing fee ("fee") from its affiliate, Citigas, LLC ("Citigas"). On August 18, 2005, the Commission suspended the proposed GCA in order to gather further information on the proposed fee. The Office of the Attorney General ("AG") requested and was granted intervention. Citipower responded to two rounds of discovery and participated, with the AG and Commission Staff, in a telephonic informal conference on February 10, 2006.

The \$3.00 per Mcf fee is included in a contract between Citipower and Citigas. Under the terms of the contract, Citigas will provide all natural gas supply required by Citipower, on demand, from whatever source necessary. The contract bases the gas price on an agreed-upon index price plus a transportation/supply guarantee fee. The transportation/supply guarantee fee is specified by the contract as the fee charged by Citigas to transport and guarantee a supply of gas to Citipower. The contract also states that the fee will be adjusted each year based on the average general Consumer Price Index ("CPI"). Staff confirmed during discovery that the transportation/supply guarantee fee is the same charge as the gas marketing fee included in the GCA filing.

The fee is designed to cover the costs associated with an 11.5 mile pipeline that Citipower transferred to Citigas in Case No. 2004-00444.¹ In providing cost justification for the fee, Citipower stated that it is based on the original cost of the pipeline spread over 10 years with a 10 percent return. The fee also includes \$75,000 in costs for operating a compressor, as well as administration costs, management costs, and the risk of loss for transporting the gas supply, all of which are Citigas's responsibility.² Citipower later clarified the circumstances under which the fee would be applied in its supplemental response to Staff's question during the telephonic conference. Citigas will charge the fee only if it must reverse the normal flow of gas on the pipeline in order to supply Citipower.³ Citipower asks that the fee be pre-approved in order to aid Citigas in financing arrangements, supply guarantees and operations.

DISCUSSION

The Commission has considered three main issues presented in the proceeding: (1) the appropriate amount of the fee; (2) how and when the fee can be charged to Citipower's ratepayers; and (3) the manner, if any, in which the fee can be adjusted. Each of these issues is addressed in the following sections of this Order.

¹ Case No. 2004-00444, Application of Citipower, LLC for Approval of Reorganization Proposal, Order dated April 14, 2005.

² Response to Item 2(a) of the Commission Staff's First Data Request to Citipower, LLC, received November 2, 2005.

³ Under normal conditions, the gas flows north-to-south from Citipower to Citigas. The proposed contract establishes a contingency arrangement in the event Citipower's normal sources of supply are insufficient to meet its demand.

Amount of the Fee

The pipeline is not regulated by the Federal Energy Regulatory Commission and is owned by an affiliate of Citipower; therefore, the amount Citigas charges Citipower falls under this Commission's jurisdiction pursuant to KRS 278.2207, KRS 278.272 and KRS 278.274. In reviewing the cost justification provided by Citipower, the Commission notes that the 10 percent return on the original cost of the pipeline proposed by Citigas is somewhat greater than the overall returns granted by the Commission in gas utility rate cases in recent years. In those cases, since 2004, the Commission has granted overall returns ranging between 6.79 and 8.10 percent, with the average return granted being 7.60 percent. In order to account for Citipower's smaller size and the risks it identified, the Commission finds a return of 9.0 percent to be reasonable.⁴

The Commission also finds Citipower's proposal to use 10 years for depreciation to be unreasonable. A gas pipeline would typically be depreciated over a much longer expected life, such as 40 years, which Citipower referenced in a data response.⁵ Allowing for the 5 years that have elapsed since the construction of the pipeline, the Commission finds that the annual depreciation should be based on the remaining 35 years of the pipeline's expected life and its net book value as identified by Citipower.⁶

⁴ The only support offered for the proposed return is Citipower's response to Item 4 of Staff's Second data request, which states "Citigas management considers a 10% return and 10 year amortization a conservative return on investment."

⁵ Response to Item 5 of Staff's second data request.

⁶ Supplemental response to Informal Telephone Conference, Item 2(a), received February 24, 2006.

Finally, while the Commission agrees that costs related to Citigas's operation of the pipeline should be considered, Citipower provided inadequate support to justify the \$2,500 in miscellaneous costs included in the total costs of \$75,000. Based on the findings set forth herein, the Commission has recalculated the fee and determined that it should be established at \$1.96 per Mcf, based on Citipower's annual gas purchases.

Charging the Fee to Retail Customers

Citipower will need to charge its customers the fee only when Citigas reverses the flow of gas on its pipeline to deliver gas to Citipower. Only after this event has occurred, can Citipower determine the actual amount to recover from its customers. The Commission finds that Citipower should be allowed to recover the cost it incurs under the fee, on an after-the-fact basis, through the Actual Adjustment component of its GCA. This will allow it to incorporate the actual cost incurred under its contract with Citigas as part of its GCA. When filing a GCA to recover the fee, Citipower will need to file appropriate documentation, including, but not limited to: (1) a detailed explanation for why it was necessary to purchase from Citigas; (2) any documentation provided by Citigas to notify Citipower of the need to reverse the flow of gas in the pipeline; and (3) a copy of Citigas's invoice showing the actual volumes delivered to Citipower and the amount charged for the fee.

Adjusting the Fee Charged Retail Customers

Citipower's contract with Citigas proposes to adjust the fee each year based on changes in the CPI. Citipower states that it agreed to this clause because the CPI is the most efficient and stable indication of consumer and market costs, is published by the federal government and used widely by industry. Citipower further states that this

clause would prevent the need to require a contract renegotiation and costly approval process.⁷

While the Commission takes note of these arguments, it is bound by statute to review and approve the rates charged by utilities. Pursuant to KRS 278.180, no change shall be made by any utility in any rate except upon 30 days' notice to the Commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. In addition, using the CPI to adjust a rate only addresses those costs covered by the index, it does not review the entire set of costs included in the fee and adjust those accordingly. Therefore, the Commission finds that Citigas's fee should not be adjusted based on annual changes in the CPI.

IT IS THEREFORE ORDERED that:

1. The gas marketing fee proposed by Citipower is denied.
2. A revised gas marketing fee of \$1.96 per Mcf is approved.
3. The fee shall not be adjusted annually based on the CPI.
4. The fee shall be recovered after-the-fact through the Actual Adjustment component within Citipower's GCA mechanism.
5. Citipower shall, within 30 days from the date of this Order, file a revised version of its contract with Citigas, which incorporates all the changes necessary to reflect the Commission's findings and decision in this proceeding.

⁷ Response to Item 2(b) of the Staff's first data request, received November 2, 2005.

Done at Frankfort, Kentucky, this 31st day of March, 2006.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Executive Director