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ADAMENDMENT

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NEW YORK STATE DEPARTMENT OF E

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In the Matter of the Development
and Implementation of a Former
Manufactured Gas Plant (MGP) Sites
Investigation and Remediation Program
by New York State Electric & Gas Corporation

ORDER ON CONSENT
Index #D0-0002-9309

WHEREAS:

1. On March 30, 1994, the New York State Department of Environmental Conservation (the "Department") issued Order Index #D0-0002-9309, which requires the New York State Electric & Gas Corporation ("Respondent") to investigate and, as determined by the Department, remediate certain former manufactured gas plant sites identified in Table "A" of Paragraph I of that Order.

2. During the course of that Order's implementation, Respondent requested that the Department reduce the up-front level of funding necessary to fund the Monitoring Account No. 301-99.

3. The Department determined that Respondent's request is appropriate and that approval of such request will not affect Respondent's responsibility to fund the State's oversight of Respondent's implementation of the Order's obligations.

4. Respondent consents to the Department's revision of Department Order Index #D0-0002-9309 solely to reflect the Department's approval of Respondent's request respecting Paragraph XII of such Order and to have all other provisions of such Order remain in full force and effect.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Paragraph XII of Department Order Index #D0-0002-9309 is hereby revised to read as follows:

XII. Payments of State Costs

Respondent shall make payments to the Department in order to pay for State costs (including, but not limited to, direct labor and fringe benefits, overhead, travel, analytical costs and contractor costs), however, not exceeding on an annual basis \$310,000 (which amount may be increased on an annual basis based upon increases in the Consumer Price Index). Beginning

With the June 1996 quarterly billing, only costs associated with the environmental monitors will be paid from an advance of funds submitted by the Respondent. The costs associated with State support staff will be reimbursed, after the fact, based on an itemized invoice from the Department.

The procedures for each type of costs are set forth below.

A. Environmental Monitors

1. The Department shall establish an interest bearing account into which the Department shall place all monies received from Respondent under the provisions of this Order for the purpose of paying the State's expenses for the environmental monitors.

2. Respondent shall submit to the Department the sum of \$210,000 which shall represent the State's estimate of the first year costs (including, but not limited to, direct labor and fringe benefits, overhead, travel, analytical costs and contractor costs). The Department acknowledges that Respondent has provided the sum of \$310,000 to the Department as an advance under the original order Index No. D0-0002-9309. If Respondent's current advance on hand exceeds the required amount, the difference will be applied toward future environmental monitor costs. If Respondent's current advance on hand is less than the required amount, the difference shall be submitted to the Department within 30 days from the receipt of an itemized invoice from the Department.

3. Respondent shall make subsequent quarterly payments to the Department within 30 days after receipt of an itemized invoice from the Department for the duration of this Order in order to maintain an account balance sufficient to meet the next nine months anticipated costs, however, not exceeding the estimated annual cost for the scope of work outlined in this Order.

4. The estimated annual costs will be reevaluated by the Department annually to address such matters as changes in level of effort and type of personnel, changes in fringe benefits and indirect cost rates, increases in salaries as well as other non personal service costs.

B. State Support Staff

Within 30 days after receipt of an itemized invoice from the Department, the Respondent shall pay to the Department a sum of money which shall represent reimbursement for the State's costs for support staff performing the scope of work outlined in this Order, provided, however, that the cumulative annual amount of such costs plus the Environmental Monitors' costs shall not exceed the sum of \$310,000 (which amount may be increased on an annual basis based upon increases in the Consumer Price Index).

C. Scope of Work

"Scope of work" for reimbursement for environmental monitors as well as State support

staff is work associated with reviewing and revising submittals made pursuant to the Order, overseeing activities conducted pursuant to the Order, collecting and analyzing samples, and administrative costs associated with administering the requirements of this Order.

D. Cost Documentation

State eligible costs for environmental monitors as well as State support staff include, but are not limited to, direct labor, fringe benefits, indirect cost, travel, supplies, equipment, including the purchase of vehicles (if necessary) and its full operating costs, analytical costs and other contractual costs for work related to the Sites to the effective date of this Order, as well as for the scope of work outlined in Subparagraph XII.C of this Order.

1. Personal Service

i. Actual personal service costs (direct labor) will be based on site specific time and activity (T&A) codes and costs.

ii. Itemization of the personal service costs shall include an accounting of personal services indicating the employee name, title, bi-weekly salary, and time spent (in hours) on the project on the site during the billing period identified by an assigned time and activity code. This information shall be documented by reports of Direct Personal Service.

iii. Approved agency fringe benefits and indirect cost rates shall be applied to personal service costs.

2. Non-Personal Service

i. Non-personal service costs are prorated based on the percentage of T&A incurred for each site subject to this order for that time period.

ii. Non-personal service costs shall be summarized by category of expense (e.g., supplies, travel, equipment, contractual) and shall be documented by expenditure reports. Copies of actual invoices will not be provided but shall be made available for auditing purposes.

E. Payment

1. The Department shall notify Respondent in writing when a quarterly payment is due by submitting a quarterly billing. Respondent shall make such payment in the form of a check payable to the Department of Environmental Conservation no later than 30 days from receipt of such billing.

2. Payment for the environmental monitor's invoice shall be sent to the following address:

New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233-1510
Attention: Director of Environmental Monitors

Payment shall be in advance of the period in which they will be expended.

3. Payment for the State support staff invoice shall be sent to the following address:

New York State Department of Environmental Conservation
Division of Environmental Remediation
50 Wolf Road
Albany, New York 12233-7010
Attention: Director, Bureau of Program Management

Payment shall be submitted no later than 30 days from receipt of the itemized invoice.

4. Respondent may dispute a quarterly billing by informing the Department in writing within 30 days of receipt of such billing that the amount of such billing is unreasonable. For purposes of this Order, the sole grounds for determining that a billing is unreasonable are that it contains clerical errors; and that all or a portion of a billing cannot be substantiated by the documentation identified in Subparagraph XII.D of this Order. The procedures contained in Subparagraph XVII.A of this Order shall be used to resolve such dispute, and Respondent shall pay the amount as those procedures shall determine Respondent shall pay, within the time period they shall require.

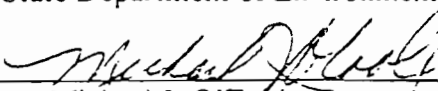
5. Upon the later termination of this Order and upon payment of any outstanding costs and expenses, the Department shall return the unexpended advance balance, including interest, to Respondent.

II. All other provisions of Department Order Index #D0-0002-9309 hereby remain in full force and effect.

III. The effective date of this Modification of Order Department Order Index #D0-0002-9309 shall be the date it is signed by the Commissioner or his designee.

DATED: 12/14/96

Michael D. Zagata, Commissioner
New York State Department of Environmental Conservation
by:


Michael J. O'Toole, Jr.

CONSENT BY RESPONDENT

Respondent hereby waives its right to a hearing herein as provided by law; consents to the issuance and entry of this order; and agrees to be bound by its terms, not to contest the authority or jurisdiction of the Department to issue or enforce this order, and not to contest the validity of this order or its terms.

NEW YORK STATE ELECTRIC & GAS CORPORATION

by:

Typed name of signer: John T. Bodkin

Title of signer: Vice President - Support Services

Date signed: 11/21/96

STATE OF NEW YORK)
) ss.
COUNTY OF *BROOME*)

On this 21st day of November, 1996, before me personally appeared John J. Bodkin, to me known, who, being duly sworn, did depose and say that he resides in Vestal, N.Y.; that he is Vice President of the New York State Electric & Gas Corporation; that he executed the foregoing instrument on behalf of the New York State Electric & Gas corporation; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Kathleen Cooper

Notary Public State of New York

Registration number:

My commission expires:

Kathleen Connor
Metropolitan Police Department, New York
No. 44203
Residing in Broome County
My Commission expires March 30, 1998

