VIA E-MAIL

January 20, 2006

TO: North American Energy Standards Board (NAESB) Office (naesb@naesb.org); NAESB Wholesale Gas Quadrant Contracts Subcommittee Chairs, Keith Sappenfield (EnCana) and Suzanne Calcagno (UBS Warburg)

CC: Rae McQuade, NAESB President and COO

FROM: Interested LDCs[1]

RE: Comments of Interested LDCs Regarding Proposed Changes to date to the NAESB Base Contract for Purchase and Sale of Natural Gas

The Interested LDCs respectfully submit comments regarding the North American Energy Standards Board (NAESB) Wholesale Gas Quadrant (WGQ) proposed modifications to the existing NAESB Base Contract for Purchase and Sale of Natural Gas (Base Contract). They hereby offer general and specific comments that present concerns they have identified to date about the redlined version of the Base Contract, dated December 14, 2005.

The Interested LDCs request that these comments be considered thoroughly by the NAESB WGQ Contracts Subcommittee during its upcoming meeting. The comments provided herein are intended to articulate those significant positions that are shared by the Interested LDCs; however, each individual participant retains the right to advocate different or additional positions in further NAESB proceedings. Further, these comments by no means should be construed to represent an exhaustive set of comments or recommendations and do not preclude the Interested LDCs from submitting subsequent comments.

Section 10 – Financial Responsibility: The Interested LDCs find that the existing language within Section 10 of the Base Contract, coupled with the ability of parties to negotiate freely by means of special provisions, has worked very well throughout the natural energy industry. Thus, we do not support the revisions that have been proposed to this section except, conditionally, those made to Section 10.10, which offers new and specific information. The proposed language in general would be better suited for special provisions as negotiated between parties to the contract.

Section 10.1: The proposed term, "other mutually acceptable forms" (footnote 90), and the existing term, "including, but not limited to," are conceptually identical; therefore, it is unnecessary to add the language in footnote 90. Furthermore, the existing language within this section adequately addresses the concept presented in footnote 91, and while it may be suitable for inclusion in Special Provisions, it is not necessary for the Base Contract. The Interested LDCs recommend preserving the original language in this section.

Section 10.2: Similarly, the language proposed in footnotes 93 and 94 would be better suited for inclusion in Special Provisions but not in the Base Contract. We therefore do not support the inclusion of such proposed language and propose maintaining the existing provision under Section 10.2.

[1] Interested LDCs: Aquila, Avista Utilities, Baltimore Gas and Electric Co., Consolidated Edison Company of New York, Inc., Consumers Energy Company, Energy East, KeySpan Energy, National Fuel Gas Distribution Corporation, National Grid, New Jersey Natural Gas, Resources Corporation, NiSource Inc., NW Natural, PECO Energy, The Peoples Natural Gas Company (PA), PPL Energy Plus, LLC, Questar Gas Company, Southern California Gas Company, UGI Utilities, Inc., Washington Gas Light Company, Xcel Energy Inc, and Yankee Gas Services Company.

In addition, the language that is proposed in the last sentence under Section 10.2 (footnote 95) is not appropriate, because occurrence of the events specified within this section with respect to the party's guarantor would be grounds for a party to demand Adequate Assurance of Performance (under Section 10.1), and this would provide adequate protection for both parties.

Section 10.3: The additional language (footnote 96) proposed for this section would be better suited for inclusion in Special Provisions or in a separate Master Netting Agreement, but not in the Base Contract. Thus we disagree with this revision to the Base Contract.

Section 10.3.1: The Interested LDCs oppose the proposal in this section (footnote 97), because it would introduce subjectivity into the cost calculation and would thus lead to delays in the process of determining early termination damages. Such language fails the objectivity test, which is the rationale for Section 10.3.1.

Section 10.3.2: We request clarification on whether the language in footnotes 98 and 99 is proposed as an addition to or a replacement of the existing provision under Section 10.3.2. LDC support is contingent upon the resolution of this clarification. As to the issue of whether and how to include affiliates in setoff agreements, this would be better suited for special provisions (last paragraph regarding triangular setoff).

Section 10.6: The existing language under Section 10.6 protects both parties by minimizing the possibility of litigation. Thus the Interested LDCs disagree with the proposal to delete the existing language under Section 10.6.

Section 10.8: The proposed new section, numbered 10.8, is not necessary because it could be covered within the Credit Support Addendum.

Section 10.9: The terms under proposed new Section 10.9 (footnote 105) address specific circumstances applicable to particular counterparties and therefore should be addressed by those counterparties in Special Provisions or within a separate agreement, but not in the Base Contract.

Section 10.10: The Interested LDCs are conceptually in agreement with the proposal in new Section 10.10 (footnote 106); however, we find that the proposed language as it is currently worded, is burdensome and problematic for non-reporting entities. It suggests that non-reporting companies will be found non-compliant in terms of creditworthiness if they do not provide such financial documents as referenced in this provision. Therefore we suggest amending the language 1) to make clear the applicability of this concept to non-reporting entities in terms of compliance for creditworthiness status and 2) to minimize the burden such reporting could place on such entities. The financial information referenced in the language is often publicly and readily available online.

Therefore, to address the aforementioned second point, we suggest modifying the first sentence to begin with, "Upon the request by either party, unless such information is publicly and readily available, the counterparty shall make available or deliver (i) within 120 days …." As to the first point, if the issue of compliance by non-reporting companies cannot adequately be addressed, this provision would not apply universally and thus would be better suited in Special Provisions to address what might exist on a bilateral basis.

Section 11: The Base Contract is intended to cover generic procedures or transactions, and the inclusion of LNG-specific events under Force Majeure implies that local events qualify as a legitimate cause for claiming protections from liability under the Force Majeure provisions of the contract. We believe that Force Majeure language should cover LNG-specific events only when it can be sourced to LNG, and in such a case, it should be handled in Special Provisions. At the very least, we believe that it would be premature to include provisions tied specifically to LNG at this point, with the current state of transparency and liquidity within the energy market. And at the most, the Interested LDCs share a concern that inclusion of LNG under Force Majeure would allow the counterparty to expand the definition of Force Majeure and could be used to suspend performance, which would pose a reliability risk for LDCs serving

their customers. Therefore, the Interested LDCs at this time oppose the inclusion of language specifying LNG-specific events under Force Majeure provisions.

Section 12: We would support the revisions proposed under Section 12 (footnote 115), IF references to Sections 13 (Limitations) and 14.10 (Miscellaneous) are deleted. Referencing Section 13 here implies that there is a legitimate concern that certain obligations would exist after the termination of the contract when they did not exist during the term of such contract. Such a concern is without merit and hence any mention of Section 13 would be unacceptable. In the same manner, applying this provision to Section 14.10 implies that the confidentiality requirements regarding the contract should last indefinitely. This contradicts the confidentiality clause under Section 14.10, which limits such obligations to "one year from the expiration of the transaction." Therefore, we strongly recommend deleting references to Section 13 and 14.10 in the proposed language for this section.

Section 14.1: The Interested LDCs recommend keeping the parenthetical clause in the second sentence of Section 14.1 (footnote 116), as it tends to mitigate the prospect of litigation. Footnote 118 addresses the concept that is in footnote 117 albeit in greater detail; we recommend, however, conceptually mirroring this section with Section 10.1 by deleting footnote 117 and replacing footnote 118 with the phrase, "as long as such entity has provided Adequate Assurance of Performance in the manner required under Section 10.1." This clearly specifies the requirements for the assignor (or assigning party) with language that is analogous to Section 10.1.

The language in footnote 119 is partly already addressed in footnote 118 (or the language proposed above to replace the footnote) and thus unnecessary. Furthermore, this proposal could apply only if the Credit Support Addendum used by the counterparties provides for a transfer of the Guaranty from the assignor (or assigning party) to the assignee (or non-assigning party). Credit Support Addendum are well fitted for such particular provisions that reflect the specific requirements of individual parties. We therefore oppose inserting into the Base Contract such language that is concerned with particular rather than universal cases and is more appropriate for a special provision.

Section 14.3: The original language in this section constitutes standard wording that is widely used in contracts today. Furthermore, waivers are commonly made in the course of dealing, and there is no requirement in the law that such waivers be made in writing. We support maintaining the original language, as it accommodates the law and widespread practice.

Section 14.5: The concept of a waiver that is presented in footnote 123, and repeated in varying form in footnoted 124, is not widely applicable. Waivers of jury trials may apply in particular circumstances; however the practice is certainly not applicable to most cases or in all jurisdictions. The existing provision reflects this fact. To the extent individual parties elect to waive a jury trial, they should negotiate such a waiver in special provisions to the contract. The Interested LDCs therefore do not support including such a waiver as a blanket practice into the Base Contract. We reject also the proposal in footnote 124 to uniformly submit all parties to a contract to the laws of a specific state and place the venue of Proceedings in the courts of that particular state.

Section 14.10: The inclusion of "Affiliates" (footnote 125) into the parenthetical exceptions to the provision under Section 14.10, thereby allowing disclosures of the terms of transactions to affiliates, is likely to conflict with existing state affiliate rules. Moreover, disclosure of the terms of individual deals to "credit reporting agencies" (footnote 126) runs counter to the spirit of this section which protects counterparties from the possible adverse consequences of disclosing sensitive information to third parties by requiring prior written consent to such disclosures. Consent to such disclosures is best handled by exception and in writing. Footnote 128 also contradicts the intent this section: The names of counterparties to individual transactions should not be disclosed, except when otherwise agreed to between the parties or required by law. Accordingly, we oppose the addition to the Base Contract of the language proposed in footnotes 125, 126 and 128.

While we support the revision in footnote 127 to include routine regulatory reporting requirements in the exceptions to non-disclosures, we suggest replacing the word "gas" with "fuel." Finally, the insertion of

the clause regarding direct damages (footnote 129) appears to be a misplaced comment; thus we recommend deleting this language from this section.

The companies comprising the Interested LDCs group are active participants in NAESB and appreciate the opportunity to comment on the proposed revision to the NAESB Base Contract.

Respectfully submitted,

Avista Utilities
Aquila
Baltimore Gas and Electric Co.
Consolidated Edison Company of New York, Inc.
Consumers Energy Company
Energy East
KeySpan Energy
National Fuel Gas Distribution Corporation
National Grid
New Jersey Natural Gas
NiSource Inc.
NW Natural
PECO Energy
The Peoples Natural Gas Company (PA)
PPL Energy Plus, LLC
Questar Gas Company
Southern California Gas Company
UGI Utilities, Inc.
Washington Gas Light Company
Xcel Energy Inc.
Yankee Gas Services Company