



Date: April 1, 2011

To: **All potential shippers, customers and interested parties**

Re: **Binding Open Season for Mainline Expansion between Stagecoach Interconnect and Ramapo NY**

## **I. General**

Millennium Pipeline Company, LLC ("Millennium") hereby announces the commencement of a binding open season ("Open Season") for firm transportation service under its existing rate schedules FT-1 and BH-1 to be made available through the use of currently existing capacity and upgrades to its existing system. The mainline expansion projects ("Projects") will provide incremental firm transportation capacity to northeast markets between Millennium's existing interconnect with Stagecoach Storage ("Stagecoach") and its existing interconnect with Algonquin Gas Transmission ("Algonquin") at Ramapo, New York and back haul capacity from the Ramapo interconnection with Algonquin along the mainline to the interconnection with National Fuel ("National Fuel") at Independence, New York. Bids may include a ramp up and ramp down feature for the capacity being requested, however, the lowest level of capacity during the term of the agreement may not be less than 40% of the maximum capacity and the maximum capacity may not be for a term of less than 3 years. Similarly, the amount of capacity being requested under rate schedule BH-1 may not be greater than the minimum capacity being requested under rate schedule FT-1.

Millennium will determine the extent to which it will expand its mainline capacity between the interconnect with Stagecoach and the interconnect with Algonquin at Ramapo, New York based on its analysis of the bids received in the Open Season. Millennium's receipt point at the Milford, Pennsylvania interconnection between Columbia Gas Transmission and Tennessee Gas Pipeline is excluded from this Open Season because Millennium's rights to that point are limited to the capacity granted under a lease with Columbia and Millennium does not control the ability to expand the line between that interconnection and Millennium's interconnection with Columbia at Wagoner.

The Projects will be undertaken separately with the First Project having an anticipated in-service date of November 1, 2012 and the Second Project having an anticipated in-service date of November 1, 2013. Depending on the response to the Open Season, Millennium is willing to consider additional projects with in-service dates of November 2014 or November 2015.

This Open Season will commence on April 1, 2011 and close at 4:00 p.m. CCT on April 15, 2011 ("Open Season Period"). To be considered, interested parties must submit a completed Service Request Form, an executed Precedent Agreement, and information regarding creditworthiness, to Millennium by no later than 4:00 p.m. CCT via facsimile or email on April 15, 2011 to:

Millennium Gas Pipeline Company  
Attention: Stan Brownell  
Fax: 845.620.1320  
Email: [brownell@millenniumpipeline.com](mailto:brownell@millenniumpipeline.com)

## **II. Project Background**

Millennium has signed binding precedent agreements with two Anchor Shippers for the development of Projects. The Anchor Shippers' commitments provide sufficient market support to move forward with the Projects.

### **III. Project Description**

Based on the precedent agreements with the two Anchor Shippers, Millennium intends to build a compressor station in Orange County, New York (First Project). This compressor station is expected to be in-service by November 2012. Millennium also intends to build a second compressor station at a separate site, but the exact location of that compressor station cannot be determined until after the Open Season concludes (Second Project). This second compressor station is expected to be in-service by November 2013.

### **IV. Map**

A map of Millennium's existing system is attached as Exhibit A to this Open Season. For FT-1 capacity, all existing receipt and delivery points on Millennium's mainline between the Stagecoach interconnect and the Ramapo interconnect may be included in the bid as a primary receipt or delivery point and bidders may also propose new interconnection points anywhere between those two points. For BH-1 capacity, all existing receipt and delivery points on Millennium's mainline may be included in the bid as a primary receipt or delivery point and bidders may also propose new interconnection points. Receipt and delivery points on the branch south of the Wagoner point are excluded from this open season.

### **V. Service Type, Rates and Fuel**

Service will be provided pursuant to Millennium's Rate Schedules FT-1 and BH-1, as more fully described in and pursuant to Millennium's FERC Gas Tariff.

Shippers may select either a cost-of-service based recourse rate or fixed negotiated rates for the specified term for transportation service. If a recourse rate is selected, shippers will pay the applicable reservation and commodity rates, applicable surcharges, and fuel and loss charges under Transporter's Rate Schedules FT-1 or BH-1, as approved by the Federal Energy Regulatory Commission ("FERC") from time to time, currently the reservation rate under both Rate Schedules is a daily rate of \$.6499/Dth.

If negotiated rates are selected, a shipper's base negotiated rate will be as set forth in Section 8 of the Precedent Agreement (attached as Exhibit B). In addition, shipper will pay applicable surcharges, and fuel and loss charges under Millennium's Rate Schedule FT-1, as set forth in Section 8 of the Precedent Agreement.

Due to the fact that the cost to build facilities varies depending on the location of the requested receipt and delivery points, Millennium will take into consideration the location of a shipper's requested receipt and delivery points when evaluating bids from the Open Season.

### **VI. Term**

Millennium reserves the right to reject any request for transportation service with a primary term less than ten (10) continuous years commencing on the later of the in-service date of the First Project or November 1, 2012.

### **VII. Anchor Shipper Status and Benefits**

A shipper may qualify to be an Anchor Shipper for the Project by committing to (i) a minimum of 25,000 Dth/day of existing capacity, to the extent available, beginning July 1, 2011 and continuing until the later of the in-service date of the First Project or November 1, 2012, (ii) a contract with a term of at least 10 continuous years commencing on the in-service date of the First Project, and (iii) a total expansion commitment of at least 100,000 Dth/day by no later than the second anniversary of the First Project's in-service date (projected to be November 1, 2014) with a minimum commitment for the entire ten years of not less than 40% of the maximum capacity required at any point during the ten

year term. Millennium proposes that Anchor Shippers will receive a contractual right to extend their contracts and a contractual right of first refusal for helping the Project reach critical mass to proceed. Any one qualifying as an Anchor Shipper may request additional benefits that do not affect the quality or priority of their service under Millennium's FERC Gas Tariff. Any benefits granted to Anchor Shippers will be subject to FERC approval.

#### **VIII. Shipper Benefits**

All shippers in the Project will have rights regarding secondary service and capacity segmentation as provided in Millennium's FERC Gas Tariff.

#### **IX. Open Season Process**

Participation in this Open Season will be considered binding on both the participants and on Millennium, once such parties have executed the Precedent Agreement. Any shipper interested in participating in the Open Season must submit a valid request by delivering to Millennium three items prior to the close of the Open Season Period: (1) a completed Service Request Form signed by a duly authorized representative (Exhibit C); (2) the Precedent Agreement executed by a duly authorized representative (Exhibit B); and (3) information demonstrating that the shipper can meet certain minimum financial criteria to satisfy Millennium's creditworthiness requirements for the Projects. If a shipper is proposing any modifications to the Precedent Agreement, such modifications should be submitted in a separate addendum to the Precedent Agreement, and Millennium reserves the right to reject any bid that proposes changes to the Precedent Agreement. Only Service Request Forms, accompanied by an executed Precedent Agreement and credit information, received during the Open Season Period will be considered. The Precedent Agreement will bind each of the parties once they have executed it.

The attached service request form allows bidders to indicate whether the bidder is willing to accept an award of capacity that is less than the amount contained in the bid. If a bidder indicates that it is willing to accept an award of capacity that is less than the amount requested, Millennium may award any capacity to such a bidder up to the amount contained in the bid and to aggregate bids of different shippers to maximize the total value of the aggregated bids to Millennium, and to minimize the incremental cost of any expansion.

Upon the close of this Open Season, Millennium will review all bids, qualify shippers, and may enter into negotiations with the bidders while it evaluates the scope, economics, and feasibility of the Projects. While the exact receipt and delivery points requested in a bid could affect the overall design of the Projects, once the Projects are designed, Millennium intends to review the bids received, as may be modified through the negotiations described above, based on the net present value of each shipper's total commitment over the period beginning on July 1, 2011 and ending on October 31, 2022. For purposes of evaluating recourse rate bids, Millennium will apply a constant daily rate of \$.6089 for the period during which recourse rates are proposed. For purposes of calculating the net present values of the bids, Millennium will use an annual discount rate of 3.25%.

Millennium reserves the right, upon notice and in its sole discretion, at any time during this Open Season, to terminate the Open Season. In addition, Millennium reserves the right to modify this Open Season to accommodate market interest. Millennium reserves the right to reject requests that contain rates that do not meet its financial objectives. Millennium reserves the right, on a nondiscriminatory basis, to reject any Service Request Form or executed Precedent Agreement which, in Millennium's sole determination, is incomplete, is inconsistent with the terms of Millennium's FERC Gas Tariff or this Open Season, is received after the close of this Open Season, contains additions or modifications to the terms of the Service Request Form or Precedent Agreement, is otherwise deficient in any respect or requests service

outside the scope of the Projects or is submitted by a bidder who fails to meet the creditworthiness requirements set forth below.

Millennium intends to notify the shipper(s) that is/are awarded capacity by May 1, 2011.

This Open Season is subject to Millennium's FERC Gas Tariff and to all applicable laws, order, rules, and regulations of authorities having jurisdiction.

#### **X. Creditworthiness**

To be eligible to execute the binding Precedent Agreement, all potential shippers must meet certain minimum financial criteria. Potential shippers may contact Jamie Swartz, Millennium's Credit Manager, at 614.460.6991 or [jswartz@nisource.com](mailto:jswartz@nisource.com) to initiate the credit review process. Potential shippers will ultimately be required to demonstrate an ability to satisfy Millennium's creditworthiness provisions to be considered in the awarding of capacity and must agree to provide all required credit support documents (such as a parent guaranty or letter of credit in form and substance acceptable to Millennium). Millennium reserves the right to reject any potential shipper if Millennium, in its sole discretion, deems such potential shipper to be an unacceptable credit risk.

Potential shippers must provide financial information requested by Millennium in accordance with Section 3.3 of the General Terms & Conditions of Millennium's FERC Gas Tariff. Millennium will conduct a credit evaluation in the manner outlined in Section 3.9 of the General Terms & Conditions of Millennium's FERC Gas Tariff. Depending on the shipper's creditworthiness, a shipper may be required to provide assurance of payment as described in Section 3.9 of the General Terms and Conditions of Millennium's FERC Gas Tariff. Potential shippers must provide and maintain such required assurance of payment to Millennium within 30 days of Millennium's notice to potential shipper indicating assurance is required. Such creditworthiness requirements will remain in effect during the term of the Precedent Agreement as well as the term of shipper's transportation agreement.

#### **XI. Turnback Capacity Solicitation**

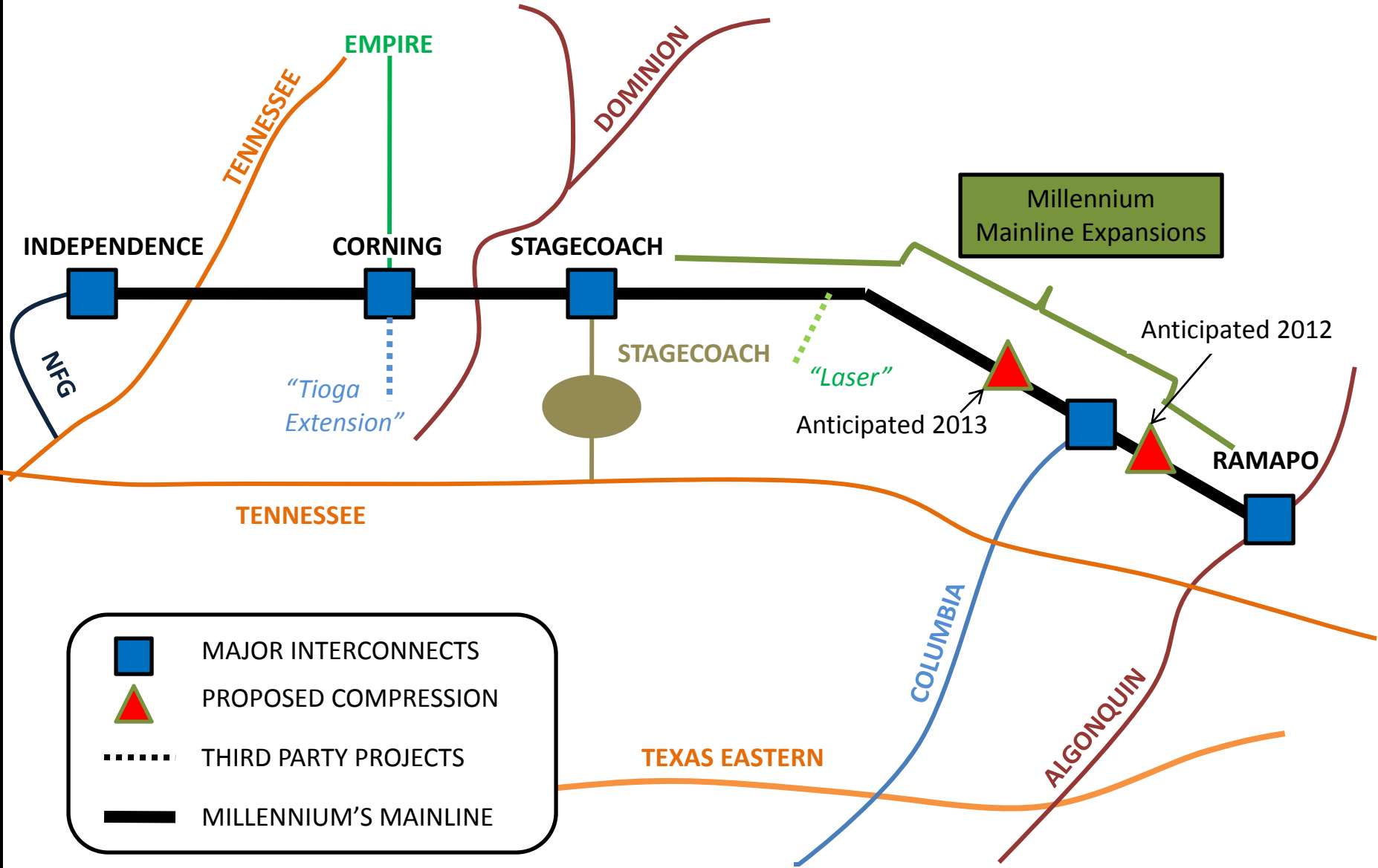
Existing shippers who currently hold firm transportation capacity on Millennium's pipeline and who believe such capacity could be used in lieu of a portion(s) of the proposed Projects, as defined and accepted by Millennium, are invited to notify Millennium of their desire to permanently relinquish their capacity for use in the Projects. Existing shippers wishing to turn back such capacity must notify Millennium, in writing, of their quantity, term, receipt point(s), delivery point(s) contract number(s), and any other relevant information necessary to effectuate the permanent relinquishment of such capacity. For Millennium to consider anticipated turnbacks of capacity, such notification must be received by Millennium on or before 4:00 PM CCT on April 15, 2011. This solicitation of turnback capacity is not binding on Millennium. Turnback requests are subject to rejection or pro ration based upon the results of this Open Season and this turnback solicitation as determined by Millennium in its sole discretion.

Millennium reserves the right to reject, in its sole discretion, any turnback requests that are incomplete, contain modifications to the terms of the turnback capacity solicitation, or are submitted with any conditions on the turnback capacity. The final design of the Project will be based in part on the results of this capacity turnback solicitation.

If you have any questions regarding this Open Season, please contact Stan Brownell at (845) 620-1300 or [brownell@millenniumpipeline.com](mailto:brownell@millenniumpipeline.com).

# EXHIBIT A

# MILLENNIUM'S PROPOSED EXPANSIONS



# EXHIBIT B

## PRECEDENT AGREEMENT

This Precedent Agreement (“Precedent Agreement”) is made and entered into effective as of the \_\_\_ day of April 2011, by and between MILLENNIUM PIPELINE COMPANY, L.L.C., a Delaware limited liability company (“Millennium”), and \_\_\_\_\_, a \_\_\_\_\_ (“Shipper”). Millennium and Shipper may each be referred to herein individually as a “Party,” and collectively as the “Parties.”

**WHEREAS**, Millennium is the owner and operator of an interstate natural gas transmission pipeline extending from an interconnect with the pipeline facilities of National Fuel Gas Supply Corporation in Independence, New York to the pipeline facilities of Algonquin Gas Transmission, LLC in Ramapo, New York;

**WHEREAS**, Shipper desires to purchase natural gas transportation services provided by Millennium under Rate Schedules FT-1 and BH-1 to the extent set forth in this Precedent Agreement;

**WHEREAS**, Millennium plans to expand its existing pipeline facilities through compression (“Expansion Facilities”);

**WHEREAS**, Millennium plans to file an application with the Federal Energy Regulatory Commission (“FERC”) for a certificate of public convenience and necessity, or a notice under its blanket authority, authorizing Millennium to construct, own and operate the Expansion Facilities to provide increased transportation services pursuant to the provisions of its FERC Gas Tariff (“Tariff”); and

**WHEREAS**, Millennium and Shipper now desire to enter into this binding Precedent Agreement to set forth the terms and conditions under which the Parties will commit to enter into a transportation services agreement under either Rate Schedule FT-1 or Rate Schedule BH-1 or

both of Millennium's FERC Gas Tariff ("TSA") providing for the transportation service contemplated herein.

**NOW, THEREFORE,** in consideration of the mutual covenants and agreements contained herein, Millennium and Shipper agree as follows:

1. Commitment of Parties. This Precedent Agreement is intended to memorialize the terms and conditions pursuant to which Shipper will commit to purchase, and Millennium will commit to perform transportation services for Shipper, pursuant to a TSA substantially in the form attached hereto as Attachment A in the quantities and at the receipt and delivery points specified in Exhibit A to such TSA. Among other things, such TSA will provide for service at the rates set forth in Section 8 below. To the extent not otherwise addressed herein, the terms and conditions applicable to the transportation services contemplated in this Precedent Agreement will be as set forth in the TSA or in the provisions of Millennium's FERC Gas Tariff in effect from time to time, including for the period prior to Shipper's execution of the TSA as if Shipper were already a "Shipper" as that term is defined in Millennium's FERC Gas Tariff.

2. Regulatory And Other Approvals.

(a) Subject to the terms and conditions set forth herein, including satisfaction or waiver of the conditions precedent set forth in Section 10(a), Millennium agrees to exercise commercially reasonable efforts to seek the contractual and property rights, financing arrangements, and regulatory approvals, including all authorizations under the Natural Gas Act ("NGA") (such authorizations under the NGA herein referred to as the "FERC Authorizations"), and all other federal, state, and local governmental approvals as may be necessary, to authorize Millennium to construct, own, operate and maintain the Expansion Facilities for the purpose of providing the natural gas transportation services contemplated under this Precedent Agreement

on behalf of Shipper. Millennium reserves the right to file and prosecute applications for any such required authorizations, any supplement or amendment to an application, and any court review as it deems in its best interests.

(b) Shipper agrees to cooperate in, and provide reasonable support for, Millennium's preparation and filing of all necessary applications for authorizations and with regard to Millennium's negotiation and execution of all financial or other contractual arrangements necessary for the construction and operation of the Expansion Facilities. Shipper will further provide in a timely manner to Millennium such information as may be reasonably required in support of such applications or as may be required for any such financial or contractual arrangements. Shipper's required support pursuant to this Section 2(b) will include, but not be limited to, provision of the following:

- (1) Providing information to support Millennium's FERC application and responding to FERC data requests;
- (2) Providing information to support applications filed with and responses to data requests received from environmental agencies and other governmental agencies from whom permits are required;
- (3) Executing consents in the form attached as Attachment C; and
- (4) Providing information and consents required to enable Millennium to obtain financing to construct the Expansion Facilities.

3. Authorizations. Within thirty (30) days of Millennium's receipt of the FERC Authorizations, Millennium will notify Shipper of Millennium's decisions: (a) to accept, reject, or request rehearing of the FERC Authorizations; and (b) whether or not it elects to proceed with the construction of the Expansion Facilities. If Millennium requests rehearing of the FERC

Authorizations, then Millennium will have an additional thirty (30) days from receipt of the FERC order on rehearing to notify Shipper of such decisions.

4. Commitment to Execute TSA. No later than thirty (30) days after Millennium's notice to Shipper pursuant to Section 3(b), above, that it has elected to proceed with the construction of the Expansion Facilities, and subject to the terms and conditions of this Precedent Agreement, including satisfaction or waiver by the applicable Party of all of its conditions precedent set forth in Section 10, Millennium will execute and deliver to Shipper a TSA substantially in the form appended to this Agreement as Attachment A. Within ten (10) days thereafter, Shipper will return to Millennium the executed TSA signed by Shipper. If necessary, Millennium will file the executed TSA with the FERC.

5. Commencement Date. Transportation service and payment of reservation charges under the TSA will commence on the later of November 1, 2012 and the in-service date of the Expansion Facilities (the "Commencement Date"), and will continue for a primary term ending \_\_\_\_\_ years from the Commencement Date; provided that Millennium and Shipper may mutually agree, in writing, to commence service prior to the Commencement Date, on an interim basis, to the extent that capacity is available. For the purposes of this Section 5, the in-service date of the Expansion Facilities will be the date when all of the Expansion Facilities have been constructed and placed into service so that Millennium is physically able to accept and schedule nominations for the transportation service described in the TSA. Millennium will undertake good faith, commercially reasonable efforts to place the Expansion Facilities in service by no later than November 1, 2012, provided, however, under no circumstances whatsoever will Millennium be liable to Shipper if such in-service date has not occurred by then.

6. Interim Service. For any period prior to the Commencement Date during which Millennium is able and elects to make transportation service available to any shipper using part or all of the Expansion Facilities capacity, Shipper may request that Millennium provide either interruptible or firm transportation service (“Interim Service”) at mutually agreed to rates not to exceed the 100 percent load factor equivalent of the rates set forth in Millennium’s tariff, from such receipt point(s) as requested by Shipper to any operational interconnects available at such time.

7. Capacity Reductions. Millennium will have the right to reduce the Transportation Demand specified Exhibit A to the attached TSA or to terminate this Precedent Agreement if, in Millennium’s sole opinion, such reduction or termination is necessary to comply with Millennium’s FERC Gas Tariff or to comply with any FERC regulation, requirement, directive or order. Millennium will have no liability whatsoever to Shipper in the event of any reductions of capacity or termination pursuant to this Section 7.

8. Rates and Other Charges; Fuel.

(a) The rates for service under the TSA for FT-1 capacity will consist of the following [please check the appropriate box]:

the maximum reservation charge specified from time to time in Millennium’s FERC Gas Tariff for transportation services under the TSA

a negotiated reservation rate of \$\_\_\_\_\_/Dth of Transportation Demand per day (billed on a monthly basis)

plus all applicable commodity charges, the FERC’s annual charge adjustment, and all other surcharges in effect from time to time under Rate Schedule FT-1 of Millennium’s FERC Gas

Tariff. All receipts and deliveries under the TSA will be made at the prevailing operating pressures of Millennium's facilities.

(b) The rates for service under the TSA for BH-1 capacity will consist of the following [please check the appropriate box]:

the maximum reservation charge specified from time to time in Millennium's FERC Gas Tariff for transportation services under the TSA

a negotiated reservation rate of \$\_\_\_\_\_/Dth of Transportation Demand per day (billed on a monthly basis)

plus all applicable commodity charges, the FERC's annual charge adjustment, and all other surcharges in effect from time to time under Rate Schedule BH-1 of Millennium's FERC Gas Tariff. All receipts and deliveries under the TSA will be made at the prevailing operating pressures of Millennium's facilities.

(c) If in (a) or (b) above, the box has been checked for a negotiated reservation rate, such reservation rate will be applicable to service under the TSA during the entire term of the TSA, regardless of any otherwise applicable maximum recourse reservation rate; provided, however, that the negotiated reservation rate will be applicable only to gas nominations for receipts and deliveries under the TSA at the primary receipt and delivery points set forth in the TSA and for within-the-path secondary points to the extent permitted by Millennium's FERC Gas Tariff, and provided further that the negotiated reservation rate will not apply to any non-conforming quality or additional pressure requirement at any receipt or delivery point.

(d) Fuel retainage will also be assessed on the receipt volumes tendered for transportation by Shipper as provided for in Millennium's FERC Gas Tariff from time to time.

9. Credit Support. Shipper will be required to comply with all provisions of Millennium's FERC Gas Tariff regarding creditworthiness as set forth in Section 3 of the General Terms and Conditions of Millennium's FERC Gas Tariff from the date it executes this Precedent Agreement, including the requirement to provide credit assurance in accordance with Section 3.9(d) of the General Terms and Conditions.

10. Conditions Precedent.

(a) Notwithstanding anything contained in this Precedent Agreement to the contrary, the performance by Millennium of its obligations under this Precedent Agreement, including but not limited to any obligation to commence or continue at any time the acquisition of pipe, compressors and materials, the acquisition of rights-of-way, the construction of the Expansion Facilities, or the conduct of any other activity involving either the commitment or actual expenditure of funds by Millennium that may be required to construct the Expansion Facilities, or to execute the TSA or to provide any transportation service for Shipper, will not arise unless each of the following conditions precedent is satisfied or waived in writing by Millennium:

(1) Millennium's receipt and acceptance of all material regulatory approvals, including FERC Authorizations, environmental permits, and all other federal, state, and local authorizations, in form and substance satisfactory to Millennium in its sole judgment, as may be necessary to construct, own, operate and maintain the Expansion Facilities for the purpose of providing the natural gas transportation service as contemplated under this Precedent Agreement;

(2) the receipt by Millennium of all approvals and authorizations from the Board of Directors of Millennium that are necessary to bind Millennium to the terms

of this Precedent Agreement by the later of (i) the date which is sixty (60) days after the close of the Open Season or (ii) August 1, 2011;

(3) execution by Shipper of the TSA;

(4) completion of construction and satisfactorily placing the Expansion Facilities in service to enable Millennium to render transportation service for Shipper pursuant to the TSA; and

(5) Shipper's execution of credit assurance instruments and subsequent maintenance of satisfactory credit assurance pursuant to Section 9, in a manner acceptable to Millennium.

(b) Notwithstanding anything contained in this Precedent Agreement to the contrary, the performance by Shipper of its obligations under this Precedent Agreement, including but not limited to its obligation to execute the TSA or its obligations under Section 2(b), above, will be subject to the following condition precedent: receipt by Shipper within thirty (30) days of the execution hereof of all approvals and authorizations from the Board of Directors of Shipper that are necessary to bind Shipper to the terms of this Precedent Agreement.

(c) Each Party will provide the other Party with written notice of its satisfaction of, or failure to satisfy, the above conditions precedent, as applicable, within five (5) days of such event, except that Millennium will not be required to provide additional notice under this subsection (c) in the event it has informed Shipper of its acceptance of the FERC Authorizations under Section 3.

11. Termination. Notwithstanding anything herein to the contrary, Millennium will have the right to terminate this Precedent Agreement in the event that either of the following occurs:

(a) if any condition precedent specified in Section 10 is not satisfied by an applicable deadline, and Millennium does not waive the condition or extend the time for satisfaction, or if the authorizations or terms referenced in Section 10(a)(1) are not satisfactory to Millennium, in Millennium's sole discretion, then Millennium will have the right to terminate this Precedent Agreement, and the TSA if executed, upon thirty (30) days prior written notice to Shipper. This Precedent Agreement (and the TSA, if applicable) will terminate upon the expiration of the foregoing thirty (30) day period unless prior to the expiration of such period: (1) a change to the FERC Authorizations renders them satisfactory to Millennium in its sole discretion and Millennium provides written notice of such to Shipper; (2) the Parties otherwise mutually agree in writing to an amendment of this Precedent Agreement and the TSA, if applicable; or (3) Millennium agrees in writing to extend the thirty (30) day period; and

(b) if Millennium determines at any time that the Expansion Facilities would not be economic, in Millennium's sole discretion, Millennium will have the right to terminate this Precedent Agreement, and the TSA if executed, upon thirty (30) days prior written notice to Shipper. This Precedent Agreement (and the TSA, if applicable) will terminate upon the expiration of the thirty (30) day period unless within such period: (1) Millennium, in writing, withdraws such notice of termination; or (2) the Parties otherwise mutually agree in writing to an amendment of this Precedent Agreement and the TSA, if applicable.

12. Shipper Reimbursement. If this Precedent Agreement is terminated by Millennium pursuant to Section 11, or if Shipper fails to execute the TSA pursuant to its obligation under Section 4, Shipper will reimburse Millennium for Shipper's Proportionate Share (as defined below) of the Expansion Facilities project costs reasonably incurred and/or committed to the fulfillment of Millennium's obligations under this Precedent Agreement as of

the date of such termination. The term “Shipper’s Proportionate Share” shall mean a fraction, the numerator of which is Shipper’s Transportation Demand and the denominator of which is the total of the firm service commitments executed for transportation service using the Expansion Facilities (whether under precedent agreements or transportation service agreements), determined as of the date of such termination. Such project costs will include, without limitation, the reasonable costs relating to Millennium’s pursuit of contract rights, property rights and regulatory approvals necessary to provide the transportation service contemplated under this Precedent Agreement, including, without limitation, costs incurred in feasibility studies, facility design, engineering, environmental assessment, land access and acquisition, and permit applications related to the Expansion Facilities, constructing the Expansion Facilities, and otherwise procuring materials for the construction of the Expansion Facilities. Shipper recognizes that Millennium is under no obligation to order any compressors, pipe or other materials necessary for the construction of the Expansion Facilities prior to the satisfaction of all of the conditions precedent set forth in Sections 10(a)(1, 2, 3 or 5) hereof, and prior to the execution of the TSA. Shipper also recognizes, however, that such advance ordering may be necessary to preserve the possibility of meeting Shipper’s intended in-service date. Therefore, while Millennium will make a good faith effort to mitigate the project costs to be reimbursed by Shipper hereunder, including good faith efforts to (a) remarket to potential shippers (at the lower of maximum recourse rates or Shipper’s negotiated rates) the capacity subscribed by Shipper hereunder, and/or (b) sell or assign the materials and supplies that will not be used for the Expansion Facilities as a result of such termination of this Precedent Agreement, Millennium’s obligation to make any such good faith effort to mitigate project costs will terminate one (1) year after any termination of this Precedent Agreement (“Close Out Date”), and any then remaining

unmitigated projects costs as of such Close Out Date will be used to calculate Shipper's Proportionate Share. Shipper's payment to Millennium of Shipper's Proportionate Share will be due to Millennium within five (5) Business Days of receipt of an invoice from Millennium for same.

13. Arbitration.

(a) It is specifically understood and agreed that any dispute, controversy or claim under this Precedent Agreement that cannot be resolved between the Parties within a reasonable time period, including any matter relating to the interpretation of this Precedent Agreement, will be submitted to arbitration irrespective of the magnitude thereof, the amount in dispute, or whether such dispute would otherwise be considered justiciable or ripe for resolution by any court or arbitral tribunal.

(b) Each arbitration between the Parties will take place at Millennium's offices or another location mutually agreeable to the Parties and be conducted pursuant to the then applicable Commercial Arbitration Rules of the American Arbitration Association.

(c) The Party desiring arbitration will submit to the other Party a notice requesting such arbitration. The arbitration will be conducted before a tribunal composed of three arbitrators. Each Party will appoint an arbitrator, obtain its appointee's acceptance of such appointment, and deliver written notification of such appointment and acceptance to the other Party within thirty (30) Days after the notice described above. The two Party-appointed arbitrators will jointly appoint the third arbitrator (who will be the chairperson), obtain the acceptance of such appointment and deliver written notification of such appointment within fifteen (15) Days after their appointment and acceptance. The arbitrators will have the power

and authority to determine the arbitrability of any dispute arising under or relating to this Agreement or the subject matter hereof.

(d) Any arbitration commenced hereunder will be completed within one-hundred twenty (120) Days of the appointment of the arbitral tribunal, absent agreement of the Parties to an extension of such period. The Parties will be entitled to no discovery, provided, however, that the tribunal may permit document discovery upon a showing of good cause. All direct testimony will be offered by way of affidavit. The Party submitting an affidavit will make the affiant available for cross-examination before the tribunal. The Parties waive any claim to any damages in the nature of special, punitive, exemplary, consequential or statutory damages in excess of compensatory damages, and the tribunal is specifically divested of any power to award such damages. All decisions of the tribunal will be pursuant to a majority vote. Any interim or final award will be rendered by written decision. The judgment of the tribunal will be final and binding (i.e., not subject to appeal) on the Parties. The Parties agree that a judgment upon any arbitration award may be entered by any court having jurisdiction thereof.

(e) If a Party fails to appoint its arbitrator within a period of thirty (30) Days after receiving notice of the arbitration, or if the two arbitrators appointed cannot agree upon the third arbitrator within a period of fifteen (15) Days after appointment of the second arbitrator, then such arbitrator will be appointed by the American Arbitration Association.

(f) No arbitrator will be a past or present employee or agent of; or consultant or counsel to, either Party or any affiliate of either Party, unless such restriction is waived in writing by the other Party.

(g) Each Party will pay the costs of its designated arbitrator (or the arbitrator designated upon such Party's failure to designate an arbitrator pursuant to Section 13(e) hereof)

and one-half of the costs of the third arbitrator and the out-of-pocket third party costs and expenses of any arbitration under this Section 13.

14. Notices. Any notice and/or request provided for in this Agreement, or any notice which either Party may desire to give to the other, will be in writing transmitted by facsimile or e-mail, and mailed by registered or certified mail to the post office address of the Party intended to receive the same, as the case may be, as follows:

Millennium:

Joseph P. Shields  
President  
Millennium Pipeline Company  
One Blue Hill Plaza, 7th floor  
Pearl River, New York 10965  
Phone: (845) 620-1300  
Fax: (845) 620-1320  
e-mail: shields@millenniumpipeline.com

Shipper:

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\_\_\_\_\_

15. Succession; Assignment. Any entity which will succeed by purchase, merger, consolidation or other transfer to the properties of either Millennium or Shipper, either substantially or as an entirety, will be entitled to the rights and will be subject to the obligations of its predecessor in interest under this Precedent Agreement. Either Party may, without relieving itself of its obligations under this Precedent Agreement, assign any of its rights hereunder to a company with which it is substantially affiliated, but otherwise no assignment of this Precedent Agreement or of any of the rights or obligations hereunder will be made, unless there first will have been obtained the written consent thereto of the other Party to this Precedent Agreement, which consent will not be unreasonably withheld. It is agreed, however, that the

restrictions on assignment contained in this Section will not in any way prevent either Party to this Precedent Agreement from pledging or mortgaging its rights hereunder as security for its indebtedness.

16. Modification. No modification of the terms and provisions of this Precedent Agreement will be made except by the execution by both Parties of a written agreement.

17. Choice of Law. The interpretation and performance of this Precedent Agreement will be in accordance with and controlled by the laws of the State of New York, except that any conflict of laws rule of the State of New York which would require reference to the laws of some other state or jurisdiction will be disregarded.

18. Surviving Provisions. Unless terminated sooner pursuant to Section 11, this Precedent Agreement will terminate upon the execution of the TSA between Millennium and Shipper, provided however that Sections 1, 2, 6, 7, 11(b), 12, 13 and 15 will remain in force until and expire on the Commencement Date. Upon termination of this Precedent Agreement pursuant to Section 11, neither Party will have any further rights or obligations under this Precedent Agreement, other than as set forth in Section 12.

19. Entirety of Agreement. This Precedent Agreement sets forth all understandings and agreements between the Parties respecting the subject matter hereof, and all prior agreements, understandings and representations, whether written or oral, respecting the subject matter hereof are merged into and superseded by this Precedent Agreement.

20. No Waiver. No waiver by a Party of any default(s) by the other Party in the performance of any provision, condition or requirement of this Precedent Agreement will operate or be construed as a waiver of any future default(s), whether of a like or of a different character,

nor in any manner release the defaulting party from performance of any other provision, condition or requirement herein.

21. Governmental Authorities; Modification. This Precedent Agreement and the performance thereof are subject to all present and future applicable valid law, orders, decisions, rules and regulations of duly establish governmental authorities having jurisdiction over interstate natural gas transportation service in the United States. If any provision of this Precedent Agreement is declared null and void or voidable by a government entity with such jurisdiction or by a court of competent jurisdiction, such declaration will in no way affect the validity or effectiveness of the other provisions of this Precedent Agreement, which will remain in full force and effect, and the parties will thereafter use their commercially reasonable efforts to agree upon an equitable adjustment of the provisions of this Precedent Agreement with a view to effecting its purpose.

22. LIMITATION OF LIABILITY. NO PARTY WILL BE LIABLE TO ANY OTHER PARTY UNDER THIS AGREEMENT OR UNDER THE TSA TO BE EXECUTED PURSUANT TO THIS AGREEMENT, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY NATURE, OR FOR ANY LOST PROFITS, HOWEVER ARISING, EVEN IF SUCH PARTY HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES OR LOST PROFITS. THE PROVISIONS OF THIS SECTION 22 WILL NOT APPLY TO SHIPPER'S OBLIGATIONS SET FORTH IN SECTION 12, ABOVE.

23. Drafting Presumption. No presumption will operate in favor of or against any party as a result of any responsibility or role that any Party may have had in the drafting of this Precedent Agreement.

24. Counterparts. This Precedent Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one and the same Precedent Agreement.

25. No Third Party Beneficiary. Except as otherwise provided in this Precedent Agreement, nothing expressed or implied herein will confer on any person other than Millennium or Shipper any rights or remedies under or by reason of this Precedent Agreement.

26. Capitalized Terms. To the extent any capitalized term used herein is not defined, it will have the meaning set forth in Millennium's FERC Gas Tariff.

**IN WITNESS WHEREOF**, the Parties have caused this Precedent Agreement to be executed by their duly authorized representatives as of the date first written above.

MILLENNIUM PIPELINE COMPANY, L.L.C.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# EXHIBIT C



## Binding Service Request Form

**Shipper Information:**

Company Name: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Address: \_\_\_\_\_

Shipper Type: (circle one) LDC                  Producer                  Marketer                  End User                  Other

**FT-1 Capacity:**

Service Commencement Date: \_\_\_\_\_

Primary Receipt Point(s): (Stagecoach and points east)	Primary Delivery Point: (Algonquin at Ramapo and points west)

Reservation Charge (Dth/day/day): \_\_\_\_\_

Maximum Daily Quantity (MDQ) (Dth/day): \_\_\_\_\_

Primary Contract Term: \_\_\_\_\_ Years (minimum of 10 following Project In-Service Date)

**NOTE: Annual MDQ can vary on an annualized basis with one ramp up and one ramp down schedule over the term of the service request. The maximum MDQ requested cannot be more than 2.5 times the minimum MDQ requested. Different Monthly and/or Seasonal MDQ's are not permitted.**

**If you want to exercise this right please include a qualifying ramp up schedule as an attachment to this request form.**

**Examples:**

**Permitted Bid:**

**Year 1 MDQ 10,000 Year 2 MDQ 20,000 Year 3- 7 MDQ 25,000 Year 8 MDQ 20,000 Year 9-10 MDQ 10,000**

**Not Permitted:**

**Year 1 MDQ 10,000 Year 2 MDQ 20,000 Year 3- 7 MDQ 30,000 Year 8 MDQ 20,000 Year 9-10 MDQ 10,000**

**Not Permitted:**

**Year 1 MDQ 20,000 Year 2 MDQ 10,000 Year 3- 7 MDQ 25,000 Year 8 MDQ 10,000 Year 9-10 MDQ 20,000**

**BH-1 Capacity:**

Service Commencement Date: \_\_\_\_\_

Primary Receipt Point(s): (Algonquin at Ramapo and points west)	Primary Delivery Point: (National Fuel at Independence and points east)

Reservation Charge (Dth/day/day): \_\_\_\_\_

Maximum Daily Quantity (MDQ) (Dth/day): \_\_\_\_\_

Primary Contract Term: \_\_\_\_\_ Years (minimum of 10 years following Project In-Service Date)

**General :**

Additional Information to Clarify Request Attached (Circle one):            Yes    No

Willing to accept an award of capacity which may be less than the amounts listed above:            Yes    No

Credit Information: Attached \_\_\_\_\_ Sent Separately \_\_\_\_\_

Signature: \_\_\_\_\_

Company: \_\_\_\_\_

Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Please return this form and executed precedent agreement to:

Stan Brownell, Millennium Pipeline Company, LLC, 1 Blue Hill Plaza, P.O. Box 1565, Pearl River, New York 10965,  
Fax: 845-620-1320 email: [brownell@millenniumpipeline.com](mailto:brownell@millenniumpipeline.com)