

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

AGL RESOURCES INC., NICOR INC., and )  
 NORTHERN ILLINOIS GAS COMPANY )  
 d/b/a NICOR GAS COMPANY )  
 ) Docket No. 11-0046  
 Application for Approval of a Reorganization )  
 pursuant to Section 7-204 of the Illinois Public )  
 Utilities Act. )

AGREED STIPULATION BETWEEN  
JOINT APPLICANTS AND STAFF

AGL Resources Inc. ("AGL"), Nicor Inc. ("Nicor"), Northern Illinois Gas Company, d/b/a Nicor Gas Company ("Nicor Gas") (collectively "Joint Applicants"), and the Staff of the Illinois Commerce Commission ("Commission") hereby submit to the Commission the attached draft Operating Agreement ("Agreement"). This Stipulation reflects the efforts of the Joint Applicants and Staff to narrow the matters at issue pertaining to the Agreement. The attached Agreement incorporates language that has been agreed to between the Joint Applicants and Staff, and resolves all but one issue raised in this proceeding (and in Docket No. 09-0301) relating to the terms and provisions of the Agreement. For the convenience of the Administrative Law Judge and the Commission, the language in the Agreement that remains at issue has been identified in the attached Agreement.

In the attached, the Joint Applicants and Staff have identified their respective proposals to Section 2.2(e) of the Agreement. It is the position of the Joint Applicants that the underlined language should remain in the Agreement, and it is Staff's position that the underlined language should be removed from the Agreement. The Joint Applicants and Staff will seek to enter this Stipulation into the evidentiary record at the hearing scheduled for May 23, 2011. Counsel for Staff has authorized the Joint Applicants' counsel to file this Stipulation.

**OFFICIAL FILE**

I.C.C. DOCKET NO. 11-0280 + 11-028

IGS Cross Exhibit No. 16

Witness David Sackett

Date 9/1/11 Reporter 70

**Dated: May 20, 2011**

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**Respectfully submitted,**

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AND NORTHERN ILLINOIS GAS COMPANY  
D/B/A NICOR GAS COMPANY**

**By: /s/ John E. Rooney  
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May 20, 2011

Respectfully submitted,

  
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Docket No. 11-0046

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**DRAFT**

**OPERATING AGREEMENT**

Dated as of \_\_\_\_\_, 2011

Among

AGL Resources Inc.

Northern Illinois Gas Company

d/b/a Nicor Gas Company

and

**Each of the Entities Identified on Exhibit A Hereto**

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## OPERATING AGREEMENT

THIS OPERATING AGREEMENT (this "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2011 among AGL Resources Inc., a Georgia corporation ("AGLR"), Northern Illinois Gas Company, an Illinois corporation doing business as Nicor Gas Company ("Nicor Gas"), and each of the entities identified on Exhibit A hereto, as such Exhibit A may be amended from time to time in accordance with the provisions of this Agreement.

### WITNESSETH:

WHEREAS, the parties are related by virtue of common ownership, directly or indirectly, of their equity securities by AGLR; and

WHEREAS, the parties believe that the central management of certain services, the provision to each other of certain services and facilities, and the transfer of certain property are or may be efficient and cost-effective, and the parties desire to make provision for these and other transactions as between Nicor Gas and an AGLR Entity or Entities;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree as follows:

### ARTICLE I Definitions and Interpretation

**Section 1.1. Definitions.** As used in this Agreement, the following terms shall have the respective meanings set forth below unless the context otherwise requires:

*"Acquiring Party"* means a Party who desires to acquire real property, interests in real property, tangible personal property or Intangible Assets from a Selling Party.

*"Corporate Support"* means corporate oversight and governance involving administrative services (including travel administration, security, printing, graphics, custodial services, secretarial support, mail services, and records management), financial management services (including accounting, treasury, internal audit, tax, and financial reporting and planning), data processing, shareholder services, human resources, employee benefits, regulatory affairs, legal services, lobbying, and non-marketing research and development activities. Corporate support also includes strategic planning.

*"ICC"* means the Illinois Commerce Commission.

**"Intangible Assets"** means items, other than tangible assets and real property, for which costs have been incurred to create future economic benefits that may or may not be recorded as assets on the Selling Party's financial statements. Intangible Assets include, but are not limited to, operational knowledge, software or intellectual property derived from internal research and development efforts.

**"Party"** means each, and **"Parties"** means all, of the entities who are from time to time a party to this Agreement.

**"Provider"** means a Party who has been requested to, and who is able and willing to, furnish facilities, provide services or both to a Requestor under the terms of this Agreement.

**"Requestor"** means a Party who desires to use facilities, receive services or both, and has requested another Party to furnish such facilities, provide such services or both.

**"Sub-agreement"** means an agreement in writing executed by duly authorized representatives of Nicor Gas and one or more of the other Parties to this Agreement that is intended by all Providers and Requestors to serve as the legally enforceable and complete statement of all of the terms and conditions for the use of particular facilities or provision of particular services to be undertaken in reliance on the authorization granted in Article II of this Agreement but excluding any such written agreement that relates to (i) the use of facilities or the provision of services for Corporate Support, (ii) the use of Nicor Gas facilities or the provision of services by Nicor Gas for such other Party or Parties pursuant to terms of Nicor Gas' tariff or (iii) the Customer Select program. Any written agreements pertaining to the use of facilities or the provision of services for Corporate Support will be made available for review if requested by Staff.

**"Selling Party"** means a Party who is willing to sell and transfer real property, interests in real property, tangible personal property or Intangible Assets to an Acquiring Party.

**"AGLR Entity"** means any of AGLR and the entities identified on Exhibit A hereto, as amended from time to time.

**Section 1.2. Purpose and Intent; Interpretation.** (a) The purposes and intent of this Agreement are to set forth procedures and policies to govern (i) certain transactions between an AGLR Entity and Nicor Gas, whether such transactions occur directly or indirectly as the end result of a series of related transactions and (ii) the allocation of certain joint service costs. It is not intended to govern (i) transactions between AGLR Entities that do not involve Nicor Gas (although such entities may elect to apply the provisions of this Agreement to specific transactions), (ii) transactions between AGLR Entities and Nicor Gas that may occur pursuant to the terms of agreements or arrangements other than this Agreement that have been specifically approved by the ICC or (iii) transactions between AGLR Entities and Nicor Gas that may occur without the approval of the ICC under provisions of any applicable law including the Illinois Public Utilities Act and the ICC's regulations promulgated under that Act. This Agreement shall be interpreted in accordance with such purposes and intent and no qualifications, limitations or exclusions contained in this Agreement relating to any transactions authorized hereunder shall be construed to qualify, limit or exclude any transactions undertaken pursuant to the terms of

agreements or arrangements other than this Agreement that have been approved by the ICC or that are permitted to occur under applicable law without the approval of the ICC.

(b) The headings of Articles and Sections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. References to Articles, Sections and Exhibits refer to articles, sections and exhibits of this Agreement unless otherwise stated. Words such as "herein," "hereinafter," "hereof," "hereto," "hereby" and "hereunder," and words of like import, unless the context requires otherwise, refer to this Agreement (including the Exhibits hereto).

**ARTICLE II**  
**Use of Facilities and Services**

**Section 2.1. Facilities.** Upon the terms and subject to the conditions of this Agreement, a Requestor may request a Provider or Providers to make available or provide, and, subject to the provisos at the end of this Section, such Provider or Providers may make available or provide to such Requestor, the use of:

(a) facilities, office space, warehouse and storage space, transportation, repair facilities, manufacturing and production facilities, fixtures and office furniture and equipment;

(b) computer equipment (both stand-alone and mainframe) and networks, peripheral devices, storage media, and software;

(c) communications equipment, audio and video equipment, radio equipment, telecommunications equipment and networks, and transmission and switching capability;

(d) vehicles, automobiles, trucks, vans, trailers, railcars, marine vessels, aircraft, transport equipment, material handling equipment and construction equipment; and

(e) machinery, equipment, tools, parts and supplies;

*provided, however*, that a Provider shall have no obligation to provide any of the foregoing, considering such factors as the extent that such item or items are not available (either because such Provider does not possess the item or the item is otherwise being used); and *provided further*, it is understood that a Provider has sole discretion in scheduling the use by a Requestor of facilities, equipment or capabilities so as to avoid interference with such Provider's operations.

**Section 2.2. Services.** Upon the terms and subject to the conditions of this Agreement, a Requestor may request a Provider or Providers to provide, and, subject to the provisos at the end of this Section, such Provider or Providers may provide to such Requestor:

(a) administrative and management services, accounting, bookkeeping, budgeting, forecasting, billing, accounts receivable and accounts payable administration, and financial reporting, audit, executive, finance, cash management, electronic fund transfers, cash receipts processing, managing

short-term borrowings and investments with third parties, and short-term borrowing and investing between Parties to this Agreement subject to the limitations and at the interest rates specified in the Addendum to this Agreement, governmental affairs, insurance, information systems services, investment advisory services, legal, library, record keeping, secretarial and other general office support, real estate management, security holder services, tax, and treasury;

(b) personnel services, recruiting, training and evaluation services, payroll processing, employee benefits administration and processing and labor negotiations and management;

(c) purchasing services, preparation and analysis of product specifications, requests for proposals and similar solicitations, vendor and vendor-product evaluations, purchase order processing, receipt, handling, warehousing and disbursement of purchased items, contract negotiation and administration and inventory management and disbursement;

(d) operational services, drafting and technical specification development and evaluation, consulting, engineering, environmental, construction, design, resource planning, economic and strategic analysis, research, testing, training and public and governmental relations; and

Joint Applicants' Proposed (e)

(e) customer support services, printing, mailing and bill insert services, public communications services, customer relations services, call center services provided by Nicor Gas and call center services provided to Nicor Gas as long as customers are clearly informed by call center representatives when the utility portion of the call is concluded and the customer is given the opportunity to terminate the call before being solicited to purchase any products or services of a Party other than Nicor Gas, utility service enrollment and termination processing, complaint resolution and customer inquiry referral services, sales and marketing services on behalf of Nicor Enerchange LLC ("Nicor Enerchange") to purchase service offered by Nicor Enerchange made by employees who are assigned on a full-time basis to work for Nicor Enerchange, administration of ICC Rate 21 and Nicor Gas FERC Operating Statement services and provision of customer lists and other customer-related information;

[REDACTED]

*provided, however,* that (i) a Provider shall have no obligation to provide any of the foregoing, considering such factors as the extent that it is not capable of providing such service (either because such Provider does not have personnel capable of providing the requested service or the service is otherwise being used); (ii) a Provider has sole discretion in scheduling the use by a Requestor of services so as to avoid interference with such Provider's operations; and (iii) this Agreement does not authorize (A) Nicor

Gas, acting in a capacity as agent or contractor to Nicor Energy Services Company ("NES"), to perform repair services in fulfillment of obligations of NES to its customers under the Gas Line ComfortGuard program although nothing in this Agreement shall be considered to preclude Nicor Gas from performing any repair services for any such customer as long as it bills such customer, and not NES, for such repair services, (B) Nicor Gas to include on utility bills issued after the applicable Trigger Date, charges for products or services of a Party unless Nicor Gas also offers to provide billing services, on terms and conditions that it reasonably determines to be substantially similar to the terms and conditions available to such Party, to non-affiliated participants in the Customer Select program or their affiliates for products and services that Nicor Gas reasonably determines to be substantially similar to the products or services of such Party for which it is providing billing services or (C) utilization of any website link that transfers a user from a webpage describing Nicor Gas products or services directly to a webpage soliciting the products or services of another Party without clearly and conspicuously disclosing that the user is transferring to a webpage that is offering products or services of an affiliate of Nicor Gas. As used in clause (B) above, the term "Trigger Date" means, with respect to specific products or services of a Party included on utility bills issued by Nicor Gas, the 270<sup>th</sup> day after the date on which two participants in the Customer Select program or their affiliates have agreed to purchase billing services for substantially similar products and services (as reasonably determined by Nicor Gas) on terms and conditions offered by Nicor Gas in accordance with clause (B) above. For avoidance of doubt, Gas Line ComfortGuard and other warranty products and services offered by NES shall not be considered to be substantially similar to the Fixed Bill offered by Nicor Solutions, LLC.

**Section 2.3. Joint Purchasing.** A Party may also request that another Party or Parties enter into arrangements to effect the joint purchase of goods or services from third parties; *provided, however*, that if Nicor Gas is so requested to enter into and agrees to participate in such arrangements, it shall do so only if its fully distributed cost for such goods or services is not thereby increased. In the event that any such arrangements are established, one Party may be designated as, or serve as, agent for the other Parties to the arrangement and may administer the arrangement (including billing and collecting amounts due the vendor(s)) for the other Parties.

**Section 2.4. Agreements, Etc.** A Provider and Requestor may, at their sole discretion, evidence their agreement with respect to the availability, provision or use of the facilities, services and activities described in this Article II by entering into a sub-agreement, lease, license or other written memorandum or evidence; *provided* such sub-agreement, lease, license or other written memorandum or evidence shall not contain terms inconsistent with this Agreement; and *further provided* that neither this Section 2.4 nor any other provision of this Agreement shall be deemed to require any such sub-agreement, lease, license or other written memorandum or evidence. At least ten days prior to its effective date, Nicor Gas will file with the ICC's Accounting Manager and on the ICC's e-Docket system in Docket No. 11-0046, each sub-agreement executed after the date of this Agreement.

### ARTICLE III Asset Sales

**Section 3.1. Real Property Transfers.** Upon the terms and subject to the conditions of this Agreement, an Acquiring Party may purchase from a Selling Party, and the Selling Party may sell to the Acquiring Party, real property or interests in real property.

**Section 3.2. *Tangible Personal Property.*** Upon the terms and subject to the conditions of this Agreement, an Acquiring Party may purchase from a Selling Party, and the Selling Party may sell to the Acquiring Party, tangible personal property. This Section 3.2 shall not apply to joint purchasing arrangements (and the transactions thereunder) entered into pursuant to Section 2.3 of this Agreement.

**Section 3.3. *Intangible Assets.*** An Acquiring Party may enter into an agreement with a Selling Party to purchase, and the Acquiring Party may purchase from the Selling Party and the Selling Party may sell to the Acquiring Party pursuant to such agreement, Intangible Assets.

**Section 3.4. *AGLR Stock.*** Upon the terms and subject to the conditions of this Agreement, AGLR may issue and sell to Nicor Gas shares of AGLR Common Stock for the sole purpose of enabling Nicor Gas to meet its obligations to its directors and employees in respect of compensation (it being understood that Nicor Gas would cause any shares so purchased and received to be reissued to such directors and employees in payment of such compensation obligations).

**Section 3.5. *Agreements, Etc.*** An Acquiring Party and a Selling Party may evidence their agreement with respect to the sale of real property and/or tangible personal property described in Sections 3.1 or 3.2 by entering into an agreement or other written memorandum or evidence; *provided* such agreement or other written memorandum or evidence shall not contain terms inconsistent with this Agreement; and *further provided* that this Section 3.5 shall not be deemed to require any such agreement or other written memorandum or evidence.

#### ARTICLE IV Charges; Payment

**Section 4.1. *Charges.*** (a) Charges for assets sold and transferred under Sections 3.1, 3.2 and 3.4 shall be determined in accordance with the provisions of Section 5.1(a); charges for the use of facilities, equipment, capabilities or services under Sections 2.1 and 2.2 shall be determined in accordance with Section 5.1(b); and charges for assets sold and transferred under Section 3.3 shall be determined in accordance with the provisions of Section 5.1(c). By acquiring real property, interests therein, tangible personal property or Intangible Assets in accordance with the provisions of Article III, an Acquiring Party shall be deemed to have agreed to pay, and shall pay, to the Selling Party the charge determined therefore in accordance with Section 5.1(a) or, in the case of Intangible Assets, Section 5.1(c). By requesting the use of facilities, equipment, capabilities and/or services, a Requestor shall be deemed to have agreed to pay, and shall pay, to the Provider or Providers the charge determined therefore in accordance with Section 5.1(b).

(b) Charges related to arrangements under Section 2.3 for the joint purchase of goods or services shall be determined in accordance with Section 5.1(a), in the case of asset transfers, and Section 5.1(b), in the case of services and overhead, administrative and other costs.

**Section 4.2. *Accounting.*** Each Party shall maintain adequate books and records with respect to the transactions subject to this Agreement and shall establish unique account numbers in its general ledger system which shall be used to record the costs to be apportioned to the other Parties. Each

Party shall be responsible for maintaining internal controls to ensure the costs associated with transactions covered by this Agreement are properly and consistently allocated and billed in accordance with the terms and provisions of this Agreement.

**Section 4.3. Invoicing, Payment.** Invoicing and payment for the facilities and services specified in Article II, the asset sales specified in Article III or the joint services costs specified in Section 5.3(a) shall be as follows:

(a) for the use of facilities, equipment or capabilities specified in Section 2.1 or the provision of services specified in Section 2.2, a Provider shall invoice the Requestor on a monthly basis for the charges therefore as provided in Section 4.1(a), and such invoices shall be payable within thirty days of receipt;

(b) for joint purchasing arrangements specified in Section 2.3, a Party participating in any such arrangement shall be invoiced for charges as provided in Section 4.1(b), which invoices will be payable according to the terms set by the vendor(s) providing the purchased goods or services, or if a Party has been selected to administer such arrangement, pursuant to invoices rendered by such Party or the vendor of the goods or services, which invoices will be payable no later than thirty days of receipt;

(c) for the sale of real property or interests in real property specified in Section 3.1, the Acquiring Party shall pay the charges therefore as provided in Section 4.1(a) to the Selling Party upon the closing of the sale and transfer of such real property or interests therein;

(d) for the sale of tangible personal property specified in Section 3.2, or intangible assets specified in Section 3.3, the Selling Party shall invoice the Acquiring Party for the charges therefore as provided in Section 4.1(a), and such invoices shall be payable within thirty days of receipt;

(e) for the transfer of AGLR Common Stock specified in Section 3.4, Nicor Gas shall pay the charges therefore as provided in Section 4.1(a) and such payment shall be made to AGLR concurrently with the issuance and delivery of the shares of such stock; and

Late payments shall bear a rate of interest representing AGLR's cost of funds, as determined by contacting AGLR's commercial paper dealers, but shall in no event exceed the then-effective rate of interest announced by Bank of America Illinois in Chicago, Illinois. The interest shall be based on the period of time that the payment is late.

## ARTICLE V

### Cost Apportionment Methodology

**Section 5.1. General Principles.** The following general principles shall be used in setting charges for transactions between Nicor Gas and AGLR Entities (with the exception of charges from AGL Services Company ("AGSC")):

(a) **Sales of Assets.** Asset sales between Nicor Gas and an AGLR Entity shall be charged by the Selling Party to the Acquiring Party at: (i) the fair market value of the transferred asset, as

evidenced by (1) the prevailing price for which the same or similar assets are offered for sale to the general public by the Selling Party (e.g., for Nicor Gas, the tariffed charge or other pricing mechanism approved by the ICC) or, if no such prevailing price exists, (2) the price at which nonaffiliated vendors offer the same or similar assets for sale by reference to quoted market prices, independent appraisals or other objectively determinable evidence or, if no such fair market value is objectively or practicably determinable, (ii) the historical cost of the asset to the Selling Party, less all applicable valuation reserves.

**(b) Use of Facilities or Services.**

(i) Facilities or services provided by Nicor Gas to an AGLR Entity other than AGSC under this Agreement shall be charged by the Provider to the Requestor at the tariffed rate or other pricing mechanism approved by the ICC for the particular facilities or services provided by Nicor Gas. If no such tariffed rate or ICC approved pricing mechanism exists for the provision of such facilities or services then (1) Corporate Support shall be charged by the Provider to the Requestor at an amount equal to or greater than the fully distributed cost (determined as provided in Section 5.2) incurred by the Provider in providing such Corporate Support to the Requestor and (2) facilities or services other than Corporate Support shall be charged by the Provider to the Requestor at an amount equal to or greater than the higher of (a) the fully distributed cost (determined as provided in Section 5.2) incurred by the Provider in providing such facility or service to the Requestor or (b) if one exists, the Prevailing Price (as defined in clause (iv) below) for the facilities or services.

(ii) Facilities or services provided by Nicor Gas to AGSC under this Agreement shall be charged by the Provider to the Requestor at an amount equal to the fully distributed cost (determined as provided in Section 5.2) incurred by the Provider in providing such facilities or services.

(iii) Facilities or services provided by an AGLR Entity to Nicor Gas under this Agreement that are (1) Corporate Support shall be charged by the Provider to the Requestor at an amount no more than the fully distributed cost (determined as provided in Section 5.2) incurred by the Provider in providing such Corporate Support to the Requestor and (2) facilities or services other than Corporate Support shall be charged by the Provider to the Requestor at the lower of (a) the fully distributed cost (determined as provided in Section 5.2) incurred by the Provider in providing such facility or service to the Requestor or (b) if one exists, the Prevailing Price (as defined in clause (iv) below) for the facilities or services.

(iv) For purposes of this Section 5.2(b), the term "Prevailing Price" shall mean, with respect to the provision of particular facilities or services: (x) if the Provider provides such facilities or services to the general public other than at a tariffed rate or under another pricing mechanism approved by the ICC and a substantial part of the Provider's revenues associated with provision of such facilities or services are derived from transactions with nonaffiliates, the price the Provider charges to the general public for such facilities or services or (y) if the Provider does not provide such facilities or services to the general public other than at a tariffed rate or under another pricing mechanism approved by the ICC or does not derive a substantial part of its revenues associated with provision of such

facilities or services to nonaffiliates, the objectively determinable lowest price, if any, at which a qualified nonaffiliated vendor at the request of Nicor Gas has offered in writing on a firm basis to provide to the Requestor substantially the same facilities or services on the substantially the same terms as the Provider is providing such facilities or services to the Requestor; provided, however, that (a) if neither clause (x) nor clause (y) applies to particular facilities or services provided by a Provider, there shall not be deemed to be a Prevailing Price for such facilities or services hereunder and (b) Nicor Gas shall be under no obligation to seek to obtain prices from nonaffiliated vendors for any facilities or services but continues to have the burden to demonstrate that its rates are just and reasonable and based on prudent reasonable affiliated interest transactions. The Commission's consent to an affiliate interest agreement under Section 7-101(3) of the Act does not constitute approval of payments thereunder for the purpose of computing expense of operations in any rate proceeding.

(c) **Sales of Intangible Assets.** Intangible Asset sales between Nicor Gas and an AGLR Entity shall be charged by the Selling Party to the Acquiring Party (i) under a mechanism to reflect the fair market value of the asset as determined by an appraisal or other fair market value study or, if no such fair market value is objectively or practicably determinable, (ii) at the fully distributed cost incurred to purchase or develop the asset, adjusted to reflect imputed amortization of, if applicable, any carrying costs on the unrecorded asset.

(d) Costs shall be charged to a Party in accordance with these general principles using either a direct charge or an allocation methodology. Costs of assets or services specifically attributable to a Party should be charged directly to such Party. Joint and common costs not specifically attributable to a Party should be charged to the appropriate Parties based on specific allocation methodologies. The Parties intend to develop and implement a set of guidelines to address applications of the foregoing general principles.

**Section 5.2. Fully Distributed Costs.** With the exception of charges from AGSC, costs charged on a fully distributed cost basis shall reflect the amounts of direct labor, direct materials and direct purchased services associated with the related asset or service as provided in subsections (a) and (b). These amounts shall be increased by a portion of indirect costs to reflect labor, administrative and general and other overhead amounts as provided in subsection (c).

(a) **Direct Costs.** Costs incurred that are specifically attributable to a Party shall be directly charged to the appropriate account.

(i) **Direct Labor:** Amounts of direct labor charged to a Party shall be based on actual direct labor, reflecting the effects of overtime and nonproductive time.

For most employees, direct labor shall be charged to a Party pursuant to the following methodology: an employee shall report each month the number of hours incurred in performing activities for such Party. Based on the time reported each month, the regular, predetermined account distribution for the employee shall be adjusted to reflect the distribution of direct labor charges to the appropriate affiliate function.

Some individuals, departments or organizations may provide a recurring, predictable level of services to a Party or Parties. For these individuals, departments or organizations, at a minimum annual reviews shall be performed to determine a normal distribution of time to such Party or Parties. The distribution percentages derived from such reviews shall then be used to allocate time with respect to each month. Significant deviations of actual activity from these predetermined percentages shall be reported and shall result in adjustments to the predetermined distribution of direct labor charges to the affiliate accounts.

Overtime shall be reflected in the direct labor rates charged to a Party. For bargaining unit employees, direct labor shall be charged based on the base and overtime pay amounts under a Party's collective bargaining agreements. Likewise, for non-bargaining employees who are compensated for overtime, direct labor shall be charged based on the base pay amounts incurred for such employees, including overtime. For management employees not compensated for overtime, direct labor charged to affiliates shall be adjusted, on a departmental or organizational basis, to reflect estimated overtime incurred based on an overtime review performed annually.

All direct labor charges shall be increased by a factor to reflect nonproductive time. The nonproductive time factor shall be developed based on a review of actual nonproductive time incurred for the previous year. The nonproductive time factor reflects time incurred for vacations, holidays, disability, jury duty and other paid absences.

(ii) Direct Materials and Purchased Services. Amounts incurred for materials or purchased services directly attributable to a Party shall be charged directly to the appropriate account for that Party.

(b) Allocated Costs. Costs incurred that are not specifically attributable to a Party but that have joint benefit to two or more Parties shall be charged to the appropriate Parties based on specified allocation methodologies. The allocation methodologies and factors used as reflected in Exhibit B shall be reasonably based on cost causative measures to ensure an equitable allocation among such Parties. At least sixty (60) days prior to any change to Exhibit B, the Parties shall provide to each other and file on the ICC's e-Docket system with a copy to the ICC's Accounting Department Manager and to the Office of the Chief Clerk a revised version of Exhibit B along with an indication of what change(s) will be made.

(c) Indirect Costs. The direct and allocated costs apportioned to a Party or Parties shall be increased to reflect indirect labor, administrative and general and other overhead amounts. These indirect costs are not specifically identifiable or attributable to the direct costs incurred on behalf of a Party.

All direct labor charges apportioned to a Party (either apportioned directly or using an allocation methodology) shall be increased by a loading factor to reflect indirect labor-driven costs. For each Party, this loading factor shall be determined annually based on actual indirect labor-driven charges incurred during the prior year as a percentage of total direct labor charges incurred in that year. The labor loading shall include payroll taxes; medical, dental and vision insurance costs; pension and other postretirement health care benefits costs; incentive compensation plan costs; employee savings plans costs; training costs; other employee benefits; the employee benefits department costs; communications and

computer support and facilities costs.

Facilities costs include buildings and related property, such as equipment, machinery, furniture and fixtures, and related services, such as mail delivery and library services. These indirect charges shall include an amount to reflect the cost of such assets (e.g., depreciation, operations, maintenance, utilities, insurance, real estate taxes, etc.) and, for owned assets or assets leased under capital leases, a return equal to the rate of return on rate base most recently authorized for Nicor Gas by the ICC.

**Section 5.3. *Costs Charged to/from AGSC.*** All costs incurred by the Parties related to corporate activities that may jointly benefit all of the Parties shall be charged to AGSC. Charges from AGSC to the Parties shall be as provided pursuant to AGSC agreement(s).

**Section 5.4. *Allocations Among Parties Other Than Nicor Gas.*** Nothing in this article, or any other article, shall limit or restrict the rights of Parties other than Nicor Gas to allocate costs among themselves, so long as it does not adversely impact Nicor Gas, such as by increasing Nicor Gas' costs. If an AGLR Entity (with the exception of AGSC) charges Nicor Gas based upon its fully distributed costs, and such costs include any intercompany charges from affiliates, such intercompany charges shall be determined in accordance with the cost apportionment methodology described in this Agreement.

## ARTICLE VI Limitations of Liability

**Section 6.1. *No Warranties For Facilities or Services.*** Each Party acknowledges and agrees that any facilities, equipment or capabilities made available, and any services provided, by a Provider to a Requestor hereunder, are so made available or provided WITHOUT ANY WARRANTY (WHETHER EXPRESS, IMPLIED OR STATUTORY AND NOTWITHSTANDING ANY ORAL OR WRITTEN STATEMENT BY A PARTY'S EMPLOYEES, REPRESENTATIVES OR AGENTS TO THE CONTRARY) WHATSOEVER. ALL SUCH WARRANTIES (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY DISCLAIMED AND EXCLUDED.

**Section 6.2. *Limited Warranties For Asset Sales.*** (a) Except as provided in Section 6.2(b), each Party acknowledges and agrees that any real property, interests in real property, tangible personal property or Intangible Assets sold and transferred in accordance with Article III is so sold and transferred WITHOUT ANY WARRANTY (WHETHER EXPRESS, IMPLIED OR STATUTORY AND NOTWITHSTANDING ANY ORAL OR WRITTEN STATEMENT BY A SELLING PARTY'S EMPLOYEES, REPRESENTATIVES OR AGENTS TO THE CONTRARY) WHATSOEVER. ALL SUCH WARRANTIES (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY DISCLAIMED AND EXCLUDED.

(b) In connection with a sale and transfer of real property, interests in real property, tangible personal property, Intangible Assets or AGLR stock pursuant to Article III, the Selling Party shall be deemed to have represented and warranted to the Acquiring Party that: (i) title conveyed is good, (ii) conveyance of such title is authorized and rightful, and (iii) the title so conveyed is free and clear of

all liens, claims, encumbrances or security interests of persons or entities claiming by or through the Selling Party, except, in the case of this clause (iii), as the Acquiring Party and the Selling Party may otherwise agree.

**Section 6.3. *No Partnership.*** The Parties acknowledge and agree that this Agreement does not create a partnership between, or a joint venture of, a Party and any other Party. Each Party is an independent contractor and nothing contained in this Agreement shall be construed to constitute any Party as the agent of any other Party except as expressly set forth in Section 2.3.

**Section 6.4. *No Third Party Beneficiaries.*** This Agreement is intended for the exclusive benefit of the Parties hereto and is not intended, and shall not be deemed or construed, to create any rights in, or responsibilities or obligations to, third parties.

## ARTICLE VII

### Term

**Section 7.1. *Term.*** This Agreement will be effective on the date it is approved by the ICC and shall continue, unless terminated as provided in Section 7.2.

**Section 7.2. *Termination.*** Any Party may terminate this Agreement as to it by providing at least 30 days prior written notice to the other Parties of the effective date of such termination. In addition, this Agreement shall terminate as to a Party upon the date that AGLR determines that such Party shall no longer be a party to this Agreement and shall automatically terminate as to a Party upon the date that AGLR ceases, directly or indirectly, to own equity securities in such Party. Any such termination shall not affect the terminating Party's accrued rights and obligations under this Agreement arising prior to the effective date of termination or its obligations under Section 9.4.

## ARTICLE VIII

### Confidential Information

Each Party shall treat in confidence all information which it shall have obtained regarding the other Parties and their respective businesses during the course of the performance of this Agreement. Such information shall not be communicated to any person other than the Parties to this Agreement, except to the extent disclosure of such information is required by a governmental authority. If a Party is required to disclose confidential information to a governmental authority, such Party shall take reasonable steps to make such disclosure confidential under the rules of such governmental authority. Information provided hereunder shall remain the sole property of the Party providing such information. The obligation of a Party to treat such information in confidence shall not apply to any information which (i) is or becomes available to such Party from a source other than the Party providing such information, or (ii) is or becomes available to the public other than as a result of disclosure by such Party or its agents.

## ARTICLE IX

Miscellaneous

**Section 9.1. *Entire Agreement; Amendments.*** Upon its effectiveness as provided in Section 7.1, this Agreement shall constitute the sole and entire agreement among the Parties with respect to the subject matter hereof and shall supersede all previous agreements, proposals, oral or written, negotiations, representations, commitments and all other communications between some or all of the Parties. Except as provided in Section 9.2 with respect to new Parties and except that AGLR may amend Exhibit A to this Agreement to delete any terminated Party, this Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of the Parties hereto.

**Section 9.2. *New Parties.*** Any other entity which is or may become an affiliate of AGLR or any of the other Parties to this Agreement may become a party to this Agreement by executing an agreement adopting all of the terms and conditions of this Agreement. Such agreement must be signed by AGLR in order to become effective, but need not be signed by any other Party to this Agreement. Upon such execution, such entity shall be deemed to be a Party and shall be included within the definition of "Party" for all purposes hereof, and Exhibit A shall be amended to add such entity. Nicor Gas shall notify the ICC by means of an informational filing each time a new Party becomes eligible to receive or provide services and facilities under this Agreement. This informational filing should include the name and business purpose of the Party and its relationship to Nicor Gas.

**Section 9.3. *Assignment.*** This Agreement may not be assigned by any Party without the prior written consent of AGLR.

**Section 9.4. *Access to Records.*** During the term of this Agreement and for a period of seven years after the expiration or termination of this Agreement as to a Party, such Party shall have reasonable access to and the right to examine any and all books, documents, papers and records which pertain to services and facilities provided by the other Parties under this Agreement to such Party, and such Party shall provide access to, and the opportunity to examine, all such records which pertain to services and facilities provided to the other Parties under this Agreement by such Party. Each Party shall maintain all such records for a period of seven years after expiration or termination of this Agreement as to such Party. In addition, during the term of this Agreement and for a period of seven years after the expiration or termination of this Agreement as to an AGLR Entity, the ICC shall have access to the books and records of such AGLR Entity as they relate to transactions between such AGLR Entity and Nicor Gas to the extent allowed under Section 7-101 of the Illinois Public Utilities Act and subject to Section 5-108 of the Illinois Public Utilities Act.

**Section 9.5. *Partial Invalidity.*** Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable. In the event that it is determined that the charges for a particular transaction covered by this Agreement were not determined properly for any reason, such determination and/or finding shall not affect the validity of such transaction; *provided, however*, that if the transaction involved Nicor Gas and

an AGLR Entity, AGLR (or, if AGLR so determines, such AGLR Entity) shall pay to or reimburse Nicor Gas, or Nicor Gas shall pay to or reimburse such AGLR Entity, as the case may be, for the difference between the amount that was charged in connection with the transaction and the charge that is determined to be proper under the provisions of Article V.

**Section 9.6. Waiver.** Failure by any Party to insist upon strict performance of any term or condition herein shall not be deemed a waiver of any rights or remedies that such Party may have against any other Party nor in any way affect the validity of this Agreement or any part hereof or the right of such Party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

**Section 9.7. Governing Law.** This Agreement shall be governed by, construed and interpreted pursuant to the laws of the State of Illinois.

**Section 9.8. Executed Operating Agreement.** The final executed copy of this Agreement as approved by the Commission shall be filed on the ICC's e-Docket system with a copy to the ICC's Accounting Department Manager and to the Office of the Chief Clerk of the ICC within thirty (30) days of the execution date. Further, Nicor Gas shall submit a status report to the ICC on e-Docket with a copy to the Manager of Accounting within six months of the order date of the proceeding approving this Agreement and every six months thereafter until this Agreement has been executed.

**ARTICLE X**  
**Internal Audit**

**Section 10.1. Annual Internal Audit.** Nicor Gas shall file an internal audit report annually with the ICC's Accounting Department Manager no later than July 1, that reflects the results of an internal audit which tests compliance with the following terms of this Agreement:

- 1) Joint purchasing arrangements undertaken pursuant to this Agreement shall not increase Nicor Gas' fully distributed cost for goods or services;
- 2) All agreements for the provision or use of facilities, services and activities or the sale of real property and/or personal property undertaken pursuant to this Agreement shall have no terms inconsistent with this Agreement;
- 3) Every Party to this Agreement shall maintain adequate books and records with respect to this Agreement and each such Party shall maintain sufficient internal controls to ensure that costs associated with transactions undertaken pursuant to this Agreement are properly and consistently allocated and billed in accordance with the terms and provisions of this Agreement;
- 4) All sales of assets between Nicor Gas and an AGL Entity made pursuant to this Agreement are charged at a price in compliance with Section 5.1(a) of this Agreement;
- 5) The provision of facilities or services between Nicor Gas and an AGL Entity made

pursuant to this Agreement are charged at a price in compliance with Section 5.1(b) of this Agreement;

- 6) All costs charged between the Parties pursuant to this Agreement are determined in accordance with either a direct charge or a consistent, predetermined allocation methodology based upon current cost studies;
- 7) The fully distributed cost for the use of facilities and the provision of services under this Agreement are determined in compliance with Section 5.2 of this Agreement and all allocated costs are based on a consistent predetermined allocation methodology and the allocation factors set forth in Exhibit B to this Agreement. This item includes specific testing of the transactions under this Agreement between Nicor Gas and Nicor Enerchange;
- 8) Exhibit A to this Agreement accurately reflects the Parties to this Agreement; and
- 9) All sub-agreements required, pursuant to this Agreement, to have been filed with the ICC's Accounting Manager and on the ICC's e-Docket system have been so filed on a timely basis.

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be executed by a duly authorized representative as of the day and year first above written.

AGL RESOURCES INC.

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

NORTHERN ILLINOIS GAS COMPANY

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

BIRDSALL, INC.

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

TROPIC EQUIPMENT LEASING INC.

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

TROPICAL SHIPPING AND  
CONSTRUCTION COMPANY LIMITED

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

NICOR ENERGY VENTURES COMPANY

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

NICOR ENERGY SERVICES COMPANY

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

NICOR ENERCHANGE L.L.C.

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

NICOR HOME SERVICES, L.L.C.

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

NICOR HORIZON, INC.

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

NICOR OIL & GAS CORPORATION

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

NICOR NATIONAL INC.

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

NICOR MINING INC.

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

NICOR PURCHASING, L.L.C.

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

NICOR SOLUTIONS, L.L.C.

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

NI-GAS EXPLORATION INC.

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

PRAIRIE POINT ENERGY, L.L.C.

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

IBT SOLUTIONS, L.L.C.

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

SEVEN SEAS INSURANCE COMPANY, INC.

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

CYPRESS CREEK GAS STORAGE, L.L.C.

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

CENTRAL VALLEY GAS STORAGE, L.L.C.

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

AGL SERVICES COMPANY

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

**Parties to the Operating Agreement**

AGL Resources Inc. (Parent)  
Northern Illinois Gas Company  
Birdsall, Inc.  
Tropic Equipment Leasing Inc.  
Tropical Shipping and Construction Company Limited  
NICOR Energy Ventures Company  
NICOR Energy Services Company  
NICOR Enerchange L.L.C.  
NICOR Home Services, L.L.C.  
NICOR Horizon, Inc.  
NICOR Oil & Gas Corporation  
NICOR National Inc.  
NICOR Mining Inc.  
NICOR Purchasing, L.L.C.  
NICOR Solutions, L.L.C.  
NI-Gas Exploration Inc.  
Prairie Point Energy, L.L.C.  
IBT Solutions, L.L.C.  
Seven Seas Insurance Company, Inc.  
Cypress Creek Gas Storage, L.L.C.  
Central Valley Gas Storage, L.L.C.  
AGL Services Company

Exhibit B

Cost Allocations

Where a prevailing price does not exist, and an AGLR Entity (with the exception of AGSC) will charge the fully distributed cost of a facility or service in accordance with Section 5.1 of this Agreement, such costs will be allocated utilizing a tiered approach.

First, costs will be directly charged whenever appropriate and practicable. Direct charging is essentially a "100% allocation" of costs related to a particular facility or service to the AGLR Entity (with the exception of charges from AGSC) receiving the benefit of that facility or service. Direct charges shall reflect direct labor, direct materials and direct purchased services as specified in Section 5.2(a) of this Agreement.

Second, in accordance with Section 5.2(b) of this Agreement, where direct charging is not appropriate or practicable, and a facility or service jointly benefits two or more parties, allocated portions of the related costs shall be charged (with the exception of charges from AGSC) to the appropriate AGLR Entities using cost-causative allocation factors. Table A, below, lists the allocation factors used by the AGLR Entities (with the exception of AGSC) for all annual allocations that exceed (or could exceed using other reasonable allocation factors) \$500,000.

<b>Service Provider</b>	<b>Customer</b>	<b>Description of Facility or Service</b>	<b>Allocation Factor (listed by type of cost allocated)</b>
Nicor Gas	Nicor Services*	Billing and Cash Remittance Services	All costs – space made available on the bill
Nicor Services*	Nicor Gas	Customer move requests	Overhead costs – employee headcount
Nicor Enerchange	Nicor Gas	Chicago Hub administration – marketing and other administrative functions	Facility-related costs – square footage and employee headcount

Third, all direct labor charged to an AGLR Entity (with the exception of charges from AGSC) under the two preceding paragraphs shall be increased by a portion of indirect costs to reflect indirect labor, administrative and general, and other overhead amounts (such as, without limitation and to the extent applicable, all of the items listed in Table B, below). Indirect costs shall be summed and allocated on the basis of direct labor dollars utilizing a loading factor (referred to as a "payroll additive"), as specified in Section 5.2(c) of this Agreement.

Payroll taxes	Facilities
Employee benefits	Machinery and Equipment
Employee benefits administration	Furniture and Fixtures
Communications and computer support	

\* - Nicor Energy Services Company, also known as Nicor Services (d/b/a Nicor National), including its subsidiaries

**ADDENDUM**  
**Short-term Borrowing and Investment between Parties**

Cash advances made by an AGLR Entity to Nicor Gas pursuant to this Agreement shall be in accordance with the following terms and in accordance with 83 Ill. Administrative Code Part 340 (Money Pool Agreements) as adopted by ICC Order effective June 15, 2004 in Docket No. 02-0581, as the same may be amended or modified by the ICC from time to time:

(a) The balance of cash advances shall not at any time exceed the unused balance of funds actually available to Nicor Gas under Nicor Gas' existing bank credit agreement(s) or commercial paper facility(ies) entered into between Nicor Gas and an unaffiliated third party or parties; and

(b) the interest rate on cash advances from an AGLR Entity to Nicor Gas shall be calculated at the lower of (i) the interest rate at which Nicor Gas could have borrowed the funds pursuant to an existing bank agreement(s) or commercial paper facility(ies) entered into between Nicor Gas and an unaffiliated third party or parties, or (ii) the AGLR Entity's actual interest cost, including issuance costs, for the funds obtained or used to provide the cash advance to Nicor Gas.