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FORM 10-K
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Annual Report Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934
For the fiscal year ended DECEMBER 31, 2003
 or

Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
 For the transition period from _____ to _____

| Commission File Number | Exact name of registrant as specified in its charter and principal office address and telephone number | State of Incorporation | I.R.S. Employer ID. Number |
|------------------------|--|------------------------|----------------------------|
| 1-14514 | Consolidated Edison, Inc. 4 Irving Place, New York, New York 10003 (212) 460-4600 | New York | 13-3965100 |
| 1-1217 | Consolidated Edison Company of New York, Inc. 4 Irving Place, New York, New York 10003 (212) 460-4600 | New York | 13-5009340 |
| 1-4315 | Orange and Rockland Utilities, Inc. One Blue Hill Plaza, Pearl River, New York 10965 (914) 352-6000 | New York | 13-1727729 |

Securities Registered Pursuant to Section 12(b) of the Act:

| Title of each class | Name of each exchange on which registered |
|--|---|
| Consolidated Edison, Inc., Common Shares (\$.10 par value) | New York Stock Exchange |
| 7.25% Public Income NotES (7.25% Debentures, Series 2002A) due 2042 | New York Stock Exchange |
| Consolidated Edison Company of New York, Inc., 7.35% Public Income NotES (7.35% Debentures, Series 1999A) due 2039 | New York Stock Exchange |
| 7.50% Public Income NotES (7.50% Debentures, Series 2001A) due 2041 | New York Stock Exchange |
| \$5 Cumulative Preferred Stock, without par value | New York Stock Exchange |
| Cumulative Preferred Stock, 4.65% Series C (\$100 par value) | New York Stock Exchange |

Securities Registered Pursuant to Section 12(g) of the Act:

| Title of each class |
|--|
| Consolidated Edison Company of New York, Inc. Cumulative Preferred Stock, 4.65% Series D (\$100 par value) |

Indicate by check mark whether each Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months, and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark if the disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in the definitive proxy statement incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Consolidated Edison, Inc. (Con Edison) Yes No

Consolidated Edison Company of New York, Inc. (Con Edison of New York) Yes No

Orange and Rockland Utilities, Inc. (O&R) Yes No

The aggregate market value of the common equity of Con Edison held by non-affiliates of Con Edison, as of June 30, 2003, was approximately \$9.3 billion.

As of January 31, 2004, Con Edison had outstanding 226,014,244 Common Shares (\$.10 par value).

All of the outstanding common equity of Con Edison of New York and O&R is held by Con Edison.

O&R meets the conditions specified in general instruction (I) (1) (a) and (b) of the Form 10-K and is therefore filing this form with the reduced disclosure format.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of Con Edison's definitive proxy statement and Con Edison of New York's definitive information statement, for their respective Annual Meetings of Stockholders to be held on May 17, 2004, to be filed with the Commission pursuant to Regulation 14A and Regulation 14C, respectively, not later than 120 days after December 31, 2003, are incorporated in Part III of this report.

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Filing Format

This Annual Report on Form 10-K is a combined report being filed separately by three different registrants: Consolidated Edison, Inc. (Con Edison), Consolidated Edison Company of New York, Inc. (Con Edison of New York) and Orange and Rockland Utilities, Inc. (O&R). Con Edison of New York and O&R are referred to in this report as the "Utilities." The Utilities are subsidiaries of Con Edison and together with Con Edison are referred to in this report as the "Companies." Neither Con Edison of New York nor O&R makes any representation as to the information contained in this report relating to Con Edison or the subsidiaries of Con Edison other than itself.

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* O&R is omitting this information pursuant to General Instruction I of Form 10-K.

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Glossary of Terms

The following is a glossary of frequently used abbreviations or acronyms that are found throughout this report:

Con Edison Companies

| | |
|---------------------------|---|
| Con Edison | Consolidated Edison, Inc. |
| Con Edison Communications | Con Edison Communications, LLC. |
| Con Edison Development | Consolidated Edison Development, Inc. |
| Con Edison Energy | Consolidated Edison Energy, Inc. |
| Con Edison of New York | Consolidated Edison Company of New York, Inc. |
| Con Edison Solutions | Consolidated Edison Solutions, Inc. |
| O&R | Orange and Rockland Utilities, Inc. |
| Pike | Pike County Light & Power Company |
| RECO | Rockland Electric Company |
| The Companies | Con Edison, Con Edison of New York and O&R |
| The Utilities | Con Edison of New York and O&R |

Regulatory and State Agencies

| | |
|---------|--|
| DEC | New York State Department of Environmental Conservation |
| ECAR | East Central Area Reliability Council |
| EPA | Environmental Protection Agency |
| FERC | Federal Energy Regulatory Commission |
| NEPOOL | New England Power Pool |
| NJBPU | New Jersey Board of Public Utilities |
| NYISO | New York Independent System Operator |
| NYPA | New York Power Authority |
| NYSERDA | New York State Energy Research and Development Authority |
| PJM | PJM Interconnection |
| PSC | New York State Public Service Commission |
| PPUC | Pennsylvania Public Utility Commission |
| SEC | Securities and Exchange Commission |

Other

| | |
|-------|---|
| ABO | Accumulated Benefit Obligation |
| APB | Accounting Principles Board |
| AFDC | Allowance for Funds used During Construction |
| CO2 | Carbon Dioxide |
| EITF | Emerging Issues Task Force |
| ERISA | Employee Retirement Income Security Act of 1974 |
| FASB | Financial Accounting Standards Board |
| FIN | FASB Interpretation No. |
| GHG | Greenhouse Gases |
| KV | Kilovolts |
| kWh | Kilowatt-hour |
| MD&A | Management's Discussion and Analysis of Financial Condition and Results of Operations |
| mdths | Thousand dekatherms |
| MVA | Megavolt amperes |
| MW | Megawatts or thousand kilowatts |
| NJSC | New Jersey Superior Court |
| NYAG | New York Attorney General |
| NUGs | Non-utility generators |
| OCI | Other Comprehensive Income |
| PCBs | Polychlorinated biphenyls |
| POLR | Provider of last resort |
| PRP | Potentially responsible party |
| PUHCA | Public Utility Holding Company Act of 1935 |

| | |
|-----------|---|
| RTO | Regional Transmission Organizations |
| SFAS | Statement of Financial Accounting Standards |
| SMD | Standard Market Design |
| Superfund | Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 and similar state statutes |
| VaR | Value-at-Risk |

PART I**ITEM 1. BUSINESS CONTENTS OF ITEM 1**

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Incorporation by Reference

Information in other Items of this report as to which reference is made in this Item 1 is hereby incorporated by reference in this Item 1. The use of terms such as "see" or "refer to" shall be deemed to incorporate into this Item 1 the information to which such reference is made.

Available Information

Con Edison, Con Edison of New York and O&R file annual, quarterly and current reports, proxy or information statements and other information with the Securities and Exchange Commission (SEC). The public may read and copy any materials that the companies file with the SEC at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. The address of that site is <http://www.sec.gov>.

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This information the Companies file with the SEC is also available free of charge on or through the Investor Information section of their websites as soon as reasonably practicable after the reports are electronically filed with, or furnished to, the SEC. Con Edison's internet website is at: <http://www.conedison.com>; Con Edison of New York's is at: <http://www.coned.com>; and O&R's is at: <http://www.oru.com>.

The Investor Information section of Con Edison's website also includes the company's code of ethics (and any waivers of the code for executive officers or directors), corporate governance guidelines and the charters of the following committees of the company's Board of Directors: Audit Committee, Management Development and Compensation Committee and Corporate Governance and Nominating Committee. This information is available in print to any shareholder who requests it. Requests should be directed to: Corporate Secretary, Consolidated Edison, Inc., 4 Irving Place, New York, NY 10003.

Information on the Companies' websites is not incorporated herein.

CON EDISON**Corporate Overview**

Consolidated Edison, Inc. (Con Edison), incorporated in New York State in 1997, owns all of the outstanding common stock of Consolidated Edison Company of New York, Inc. (Con Edison of New York) and Orange and Rockland Utilities, Inc. (O&R). Con Edison of New York and O&R, which are regulated utilities, are referred to in this report as the "Utilities" and, together with Con Edison, the "Companies." Con Edison has no significant business operations other than those of the Utilities and Con Edison's unregulated subsidiaries. See "Corporate Overview" in Item 7.

Operating Segments

Con Edison's principal business segments are Con Edison of New York's regulated electric, gas and steam utility segments, O&R's regulated electric and gas utility segments and the unregulated businesses of Con Edison's other subsidiaries. In 2003, the operating revenues of the Utilities were 90 percent of Con Edison's operating revenues. For a discussion of operating revenues and operating income for each segment, see "Results of Operations" in Item 7. For additional segment information see Note O to the financial statements in Item 8 and the discussions of Utilities below in this Item 1.

Regulation

The Utilities are subject to extensive federal and state regulation, including by state utility commissions and the Federal Energy Regulatory Commission (FERC). Con Edison, itself, is not subject to such regulation except to the extent that the rules or orders of these agencies impose restrictions on relationships between Con Edison and the Utilities. See "Regulation" in the discussion below of Con Edison of New York's business in this Item 1.

Con Edison is a "holding company" under the Public Utility Holding Company Act of 1935 (PUHCA). Con Edison is exempt from all provisions of PUHCA, except Section 9(a)(2) (which requires SEC approval for a direct or indirect acquisition of five percent or more of the voting

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securities of any other electric or gas utility company) on the basis that Con Edison and the Utilities are organized and carry on their utility businesses substantially in the State of New York and that it does not derive any material part of its income from a public utility company organized outside of the State of New York. This exemption is available even though Con Edison subsidiaries that are neither an "electric utility company" nor a "gas utility company," as defined, under PUHCA engage in interstate activities.

Con Edison has been and is expected to continue to be impacted by legislative and regulatory developments. The Utilities are subject to extensive regulation in New York, New Jersey and Pennsylvania. Changes in regulation or legislation applicable to Con Edison's subsidiaries could have a material adverse effect on the Companies. See "Regulatory Matters" in Item 7.

Competition

See "Competition," below in the discussion of the businesses of the Utilities in this Item 1 and "Unregulated Subsidiaries," below.

Unregulated Subsidiaries

Con Edison has four unregulated subsidiaries: Consolidated Edison Solutions, Inc. (Con Edison Solutions), a retail energy services company that sells electricity, gas and energy-related services to delivery customers of utilities, including Con Edison of New York and O&R; Consolidated Edison Energy, Inc. (Con Edison Energy), a wholesale energy supply company; Consolidated Edison Development, Inc. (Con Edison Development), a company that owns and operates generating plants and energy and other infrastructure projects; and Con Edison Communications, LLC (Con Edison Communications), a company that builds and operates fiber optic networks to provide telecommunications services. The unregulated subsidiaries participate in competitive supply and services businesses that are subject to different risks than those found in the businesses of the Utilities. The unregulated subsidiaries accounted for almost 10 percent of consolidated operating revenues and a reduction in consolidated net income of 18 percent in 2003, and 7 percent of consolidated total assets at December 31, 2003. For a discussion of the unregulated subsidiaries' operating revenues and operating income, see "Results of Operations—Unregulated Subsidiaries and Other" in Item 7.

Capital Requirements and Financing

For information about Con Edison's capital requirements, financing and securities ratings, see "Liquidity and Capital Resources—Capital Resources, Capital Requirements and Financial Market Risks" in Item 7. Securities ratings assigned by rating organizations are expressions of opinion and are not recommendations to buy, sell or hold securities. A securities rating is subject to revision or withdrawal at any time by the assigning rating organization. Each rating should be evaluated independently of any other rating.

State Anti-takeover Law

New York State law provides that a "domestic corporation," such as Con Edison, may not consummate a merger, consolidation or similar transaction with the beneficial owner of a 20 percent or greater voting stock interest in the corporation, or with an affiliate of the owner, for five

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years after the acquisition of voting stock interest, unless the transaction or the acquisition of the voting stock interest was approved by the corporation's board of directors prior to the acquisition of the voting stock interest. After the expiration of the five-year period, the transaction may be consummated only pursuant to a stringent "fair price" formula or with the approval of a majority of the disinterested stockholders.

Employees

Con Edison has no employees other than those of Con Edison of New York, O&R and Con Edison's unregulated subsidiaries (which at December 31, 2003 had 12,648, 1,028 and 403 employees, respectively).

The respective collective bargaining agreements covering about two-thirds of each of the Utilities' employees expire in June 2004.

CON EDISON OF NEW YORK

Corporate Overview

Con Edison of New York, incorporated in New York State in 1884, is a subsidiary of Con Edison and has no significant subsidiaries of its own. Con Edison of New York provides electric service in all of New York City (except part of Queens) and most of Westchester County, an approximately 660 square mile service area with a population of more than eight million. It also provides gas service in Manhattan, the Bronx and parts of Queens and Westchester, and steam service in parts of Manhattan.

Operating Segments

Con Edison of New York's principal business segments are its regulated electric, gas and steam businesses. In 2003, electric, gas and steam operating revenues were 78 percent, 16 percent and 6 percent, respectively, of its operating revenues. For a discussion of the company's operating revenues and operating income for each segment, see "Results of Operations" in Item 7. For additional information about the segments, see Note O to the financial statements in Item 8.

Electric Operations

Electric Sales. Electric operating revenues were \$6 billion in 2003 or 78 percent of Con Edison of New York's operating revenues. The percentages were 80 and 78 percent, respectively, in the two preceding years. In 2003, 57 percent of the electricity delivered by Con Edison of New York in its service areas was sold by the company to its full-service customers, 24 percent was sold by other suppliers, including Con Edison Solutions, an unregulated subsidiary of Con Edison, to the company's customers under its electric retail access program and the balance was delivered to the state and municipal customers of the New York Power Authority (NYPA) and the economic development customers of municipal electric agencies. The company charges for the delivery of electricity sold by itself and other suppliers to customers in its service area.

For additional information about electricity sales, see "Operating Statistics," below, and "Results of Operation—Electric" in Item 7.

Electric Peak Load. The electric peak load in Con Edison of New York's service area occurs during the summer air conditioning season. The 2003 service area peak load, which occurred on June 26, was 11,875 thousand kilowatts (MW). The 2003 peak load included an estimated 7,220 MW for Con Edison of New York's full-service customers, 2,725 MW for customers participating in its electric retail access program and 1,930 MW for NYPA's customers and municipal electric agency customers. If adjusted to historical design weather conditions, the 2003 peak load would have been 12,600 MW. The company estimates that, under design weather conditions, the 2004 service area peak load will be 12,825 MW, including an estimated 7,800 MW for its full-service customers, 2,930 for its electric retail access customers and 2,095 MW for NYPA's customers and municipal electric agency customers. "Design weather" for the electric system is a standard to which the actual peak load is adjusted for evaluation and planning purposes.

Electric Supply. Most of the electricity sold by Con Edison of New York to its customers in 2003 was purchased under firm power contracts or through the wholesale electricity market administered by the New York Independent System Operator (NYISO). The firm power contracts were primarily with non-utility generators (NUGs).

The company plans to meet its continuing obligation to supply electricity to its customers with electric energy purchased under contracts with NUGs or others, generated from its electric generating facilities or purchased through the NYISO's wholesale electricity market.

For additional information about electric power purchases, see "Regulatory Matters" and "Electric Power Requirements" in Item 7 and "Recoverable Energy Costs" in Note A to the financial statements in Item 8.

For information about the company's contracts with NUGs for approximately 3,200 MW of electric generating capacity, see Note I to the financial statements in Item 8.

For information about the company's 630 MW of electric generating facilities, see Item 2.

The NYISO is a not-for-profit organization that controls and operates most of the electric transmission facilities in New York State, including those of Con Edison of New York, as an integrated system and administers a wholesale market for electricity in New York State. Pursuant to criteria that are reviewed annually, the NYISO requires that entities supplying electricity to customers in New York State have generating capacity (either owned or contracted for) in an amount that is at least 18 percent above the expected peak load for their customers. In addition, the NYISO has determined that entities that serve customers in New York City must have enough New York City-located capacity to cover 80 percent of their New York City customer peak loads. Con Edison of New York met the requirements applicable to it in 2003 and expects to meet them in 2004.

Gas Operations

Gas Sales. Gas operating revenues in 2003 were \$1 billion or 16 percent of Con Edison of New York's operating revenues. The percentages were 15 percent in each of the two preceding years. In 2003, 51 percent of the gas delivered by the company in its service area was sold by the

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company to its full-service (firm and interruptible) customers and 49 percent was sold by other suppliers, including Con Edison Solutions. For additional information about gas sales, see "Operating Statistics," below, and "Results of Operations—Gas" in Item 7.

Gas Requirements. Firm demand for gas in Con Edison of New York's service area peaks during the winter heating season. The "design criteria" for the company's gas system assume severe weather conditions, which have not occurred since the 1933-34 winter. Under these criteria, the company estimated that its requirements to deliver gas to firm customers during the November 2003/March 2004 winter heating season would amount to 78,900 thousand dekatherms (mdths) (including 67,600 mdths to its firm sales customers and 11,300 mdths to its firm transportation customers). Through January 31, 2004, the company's peak throughput day in this heating season occurred on January 26, 2004 when it delivered 1,068 mdths of gas (including 750 mdths to its firm sales customers, 17 mdths to NYPA, 190 mdths to its transportation customers and 111 mdths for use by the company in generating electricity and steam).

Under its design criteria, the company projects that for the November 2004/March 2005 winter heating season, its requirements for firm gas customers will amount to 79,500 mdths (including 67,800 mdths to firm sales customers and 11,700 mdths to firm transportation customers) and that the peak day requirements for these customers will amount to 978 mdths. The company expects to be able to meet these requirements.

Gas Supply. Con Edison of New York and O&R have established a combined gas supply and capacity portfolio. The combined portfolio is administered by, and related management services are provided by, Con Edison of New York (for itself and as agent for O&R) and costs are allocated between the Utilities in accordance with provisions approved by the New York State Public Service Commission (PSC). See Note U to the financial statements in Item 8.

Charges from suppliers for the firm purchase of gas, which are based on formulas or indexes or are subject to negotiation, are generally designed to approximate market prices. The contracts are for various terms extending to 2008. The Utilities have contracts with interstate pipeline companies for the purchase of firm transportation and storage services. Charges under these contracts are approved by the FERC. The contracts are for various terms extending to 2013. The Utilities are required to pay certain charges under the supply, transportation and storage contracts whether or not the contracted capacity is actually used. These fixed charges amounted to approximately \$129 million in 2003. See "Contractual Obligations" in Item 7. In addition, the Utilities purchase gas on the spot market and have interruptible gas transportation contracts. See "Recoverable Energy Costs" in Note A to the financial statements in Item 8.

Steam Operations

Steam Sales. Con Edison of New York sells steam in Manhattan south of 96th Street, mostly to large office buildings, apartment houses and hospitals. In 2003, steam operating revenues were \$537 million or 6 percent of the company's operating revenues. The percentages were 6 percent in the two preceding years.

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For additional information about Con Edison of New York's steam operations, see "Regulatory Matters—Steam" and "Results of Operations—Steam" in Item 7, the discussion of Con Edison of New York's steam facilities in Item 2 and "Operating Statistics," below.

Steam Peak Load and Capacity. Demand for steam in Con Edison of New York's service area peaks during the winter heating season. The one-hour peak load during the winter of 2003/2004 (through January 31, 2004) occurred on January 16, 2004 when the load reached 10.1 million pounds (mlbs) per hour. The company's estimate for the winter of 2004/2005 peak demand of its steam customers is 10.5 mlbs per hour under design criteria, which assume severe weather.

On December 31, 2003, the steam system had the capability of delivering about 12.6 mlbs of steam per hour. Con Edison of New York estimates that the system will have the capability to deliver 12.8 mlbs of steam per hour in the 2004/2005 winter.

Steam Supply. 52 percent of the steam sold by Con Edison of New York in 2003 was produced in the company's steam-only generating stations; 36 percent was produced in the company's steam/electric generating stations, where it is first used to generate electricity; and 12 percent was purchased from others. See Item 2 for a discussion of Con Edison of New York's steam facilities.

Regulation

The PSC regulates, among other things, Con Edison of New York's electric, gas and steam rates, the siting of its transmission lines and the issuance of its securities. Certain activities of the company are subject to the jurisdiction of the FERC. In addition, various matters relating to the construction and operations of the company's facilities are subject to regulation by other governmental agencies. Changes in regulation or legislation applicable to the company could have a material adverse effect on the company. For additional information, including information about the company's electric, gas and steam rates, see "Regulatory Matters" in Item 7.

The PSC from time to time conducts "generic" proceedings to consider issues relating to all electric and gas utilities operating in New York State. Pending proceedings include those relating to utilities exiting the business of selling electric energy and gas at retail (including an examination of utilities' provider of last resort responsibility and consumer protections); the State's goal of increasing to 25 percent (from approximately 18 percent at the end of 2003) the portion of electricity used in the State provided from renewable energy resources; and addressing any rate disincentives against the promotion of energy efficiency and distributed generation. The company typically is an active participant in such proceedings. The company does not expect that the pending proceedings will have a material adverse effect on its financial position, results of operation or liquidity.

Competition

Con Edison of New York is primarily a "wires and pipes" energy delivery company that:

- has sold most of its electric generating capacity;

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-
- provides its customers the opportunity to buy electricity and gas from other suppliers;
 - purchases most of the electricity and all of the gas supplies it sells to its full-service customers (the cost of which is recovered pursuant to provisions approved by the PSC); and
 - provides energy delivery services to customers pursuant to rate provisions approved by the PSC.

See "Rates and Restructuring Agreements" in Note B and "Recoverable Energy Costs" in Note A to the financial statements in Item 8.

The company's electric, gas and steam rates are among the highest in the country.

Competition from suppliers of oil and other sources of energy, including distributed generation (such as fuel cells and micro-turbines) may provide alternatives for Con Edison of New York delivery customers. The company does not consider it reasonably likely that another company would be authorized to provide utility delivery service where the company already provides service. Any such other company would need to obtain PSC consent, satisfy applicable local requirements and install facilities to provide the service. The new company would also be subject to extensive ongoing regulation by the PSC.

Capital Requirements and Financing

For information about Con Edison of New York's capital requirements, financing and securities ratings, see "Liquidity and Capital Resources—Capital Resources, Capital Requirements and Financial and Commodity Market Risks" in Item 7.

Securities ratings assigned by rating organizations are expressions of opinion and are not recommendations to buy, sell or hold securities. A securities rating is subject to revision or withdrawal at any time by the assigning rating organization. Each rating should be evaluated independently of any other rating.

Environmental Matters

Hazardous substances, such as asbestos, polychlorinated biphenals (PCBs) and coal tar, have been used or generated in the course of operations of Con Edison of New York and its predecessors and are present at sites and in facilities and equipment they currently or previously owned, including sites at which gas was manufactured or stored. See "Asbestos" and "Superfund" in the discussion of Con Edison of New York's legal proceedings in Item 3 and Note G to the financial statements in Item 8.

Con Edison of New York's capital expenditures for environmental protection facilities and related studies were \$87 million in 2003 and are estimated to be \$76 million in 2004.

In April 2000, Con Edison of New York entered into a Stipulation and Order of Consent with the United States Attorney for the Southern District of New York in connection with its response to the release of PCB's during the September 1998 transformer fire at the Arthur Kill Generating

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Station site that it sold in 1999. Among other things, the company agreed to maintain an effective environmental compliance program.

Toxic Substances Control Act. Virtually all electric utilities, including Con Edison of New York, own equipment containing PCBs. PCBs are regulated under the Federal Toxic Substances Control Act of 1976.

Water Quality. Certain governmental authorities are investigating contamination in the Hudson River and the New York Harbor. These waters run through portions of Con Edison of New York's service area. Governmental authorities could require entities that released hazardous substances that contaminated these waters to bear the cost of investigation and remediation, which could be substantial.

Greenhouse Gas Emissions. The potential for adverse effects from global warming associated with the atmospheric release of greenhouse gases (GHG), particularly carbon dioxide (CO₂), from industrial sources may result in legislation or regulations requiring utilities to reduce GHG emissions from power plants and take other steps to offset GHG emissions from other sources. Con Edison of New York minimizes GHG emissions from its generating plants through the use of oil and gas fuels and the application of cogeneration technologies that reduce GHG emissions per unit of energy output. The company's GHG emissions also include sulfur hexafluoride (used for arc suppression at substations) and methane (from operation of its gas delivery system), which the company is working voluntarily with EPA to reduce. The cost to comply with any new legislation or regulations limiting the company's GHG emissions could be substantial.

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Con Edison of New York

OPERATING STATISTICS

Year Ended December 31,

| | <i>2003</i> | <i>2002</i> | <i>2001</i> | <i>2000</i> | <i>1999</i> |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|
| ELECTRIC ENERGY (MWH) | | | | | |
| Generated (a) | 1,077,681 | 1,259,533 | 6,793,393 | 3,259,790 | 15,266,628 |
| Purchased from others | 31,717,254 | 32,712,723 | 27,877,154 | 35,780,429 | 29,303,386 |
| TOTAL GENERATED AND PURCHASED | 32,794,935 | 33,972,256 | 34,670,547 | 39,040,219 | 44,570,014 |
| Less: Used by Company | 175,965 | 172,873 | 187,773 | 191,445 | 151,090 |
| Distribution losses and other variances | 1,893,403 | 2,008,530 | 1,931,694 | 2,768,249 | 2,682,632 |
| NET GENERATED AND PURCHASED | 30,725,567 | 31,790,853 | 32,551,080 | 36,080,525 | 41,736,292 |
| Electric Energy Sold | | | | | |
| Residential | 12,440,663 | 12,481,689 | 12,048,743 | 11,637,167 | 11,854,995 |
| Commercial and industrial | 18,033,468 | 19,110,770 | 19,839,340 | 19,930,376 | 20,238,777 |
| Railroads and railways | 18,193 | 55,186 | 16,003 | 95,457 | 71,447 |
| Public authorities | 135,758 | 125,651 | 150,069 | 257,706 | 465,287 |
| Con Edison of New York full service customers | 30,628,082 | 31,773,296 | 32,054,155 | 31,920,706 | 32,630,506 |
| Off-System Sales (b) | 97,485 | 17,557 | 496,925 | 4,159,819 | 9,105,786 |

| | | | | | |
|---|------------|------------|------------|------------|------------|
| TOTAL ELECTRIC ENERGY SOLD | 30,725,567 | 31,790,853 | 32,551,080 | 36,080,525 | 41,736,292 |
| ELECTRIC ENERGY DELIVERED | | | | | |
| Con Edison of New York full service customers | 30,628,082 | 31,773,296 | 32,054,155 | 31,920,706 | 32,630,506 |
| Delivery service for retail access customers | 12,636,520 | 11,925,752 | 10,520,219 | 9,321,630 | 7,935,827 |
| Delivery service to NYPA customers and others | 9,823,018 | 9,504,526 | 9,815,259 | 9,631,618 | 9,335,230 |
| Delivery service for municipal agencies | 647,388 | 762,660 | 660,220 | 526,816 | 624,229 |
| TOTAL DELIVERIES IN FRANCHISE AREA | 53,735,008 | 53,966,234 | 53,049,853 | 51,400,770 | 50,525,792 |
| AVERAGE ANNUAL KWHR USE PER RESIDENTIAL CUSTOMER (c) | | | | | |
| | 4,622 | 4,652 | 4,502 | 4,372 | 4,487 |
| AVERAGE REVENUE PER KWHR SOLD (CENTS) | | | | | |
| RESIDENTIAL (c) | 19.4 | 17.0 | 18.1 | 18.5 | 15.9 |
| COMMERCIAL AND INDUSTRIAL (c) | 16.3 | 14.4 | 15.6 | 15.5 | 12.7 |

(a) Con Edison of New York has sold most of its electric generating assets. See Note J to the financial statements.

(b) For 2000 and 1999, included sales to Con Edison Solutions. See "Unregulated Subsidiaries," above.

(c) Includes Municipal Agency sales.

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Con Edison of New York

OPERATING STATISTICS (CONTINUED)

Year Ended December 31,

| | 2003 | 2002 | 2001 | 2000 | 1999 |
|---|--------------|--------------|--------------|--------------|--------------|
| GAS (DTH) | | | | | |
| Purchased | 145,325,065 | 134,126,768 | 140,633,193 | 157,800,083 | 245,496,798 |
| Storage - net change | (5,516,703) | 5,728,684 | (6,474,137) | 774,660 | 1,964,581 |
| Used as boiler fuel at Electric and Steam Stations (a) | (27,362,620) | (29,386,788) | (27,725,598) | (27,674,312) | (67,331,325) |
| GAS PURCHASED FOR RESALE | 112,445,742 | 110,468,664 | 106,433,458 | 130,900,431 | 180,130,054 |
| Less: Gas used by the company | 383,312 | 323,915 | 299,057 | 294,937 | 369,938 |
| Off-System Sales & NYPA | 4,007,592 | 16,120,307 | 12,666,668 | 29,563,339 | 92,072,772 |
| Distribution losses and other variances | 4,023,631 | 4,555,763 | (2,887,761) | 7,060,117 | 1,998,637 |
| TOTAL GAS PURCHASED FOR CON EDISON OF NEW YORK CUSTOMERS | 104,031,207 | 89,468,679 | 96,355,494 | 93,982,038 | 85,688,707 |
| GAS SOLD | | | | | |
| Firm Sales | | | | | |
| Residential | 51,943,706 | 44,162,920 | 46,506,365 | 47,602,792 | 44,705,689 |
| General | 36,840,304 | 32,681,926 | 35,118,342 | 30,468,676 | 27,271,134 |
| TOTAL FIRM SALES | 88,784,010 | 76,844,846 | 81,624,707 | 78,071,468 | 71,976,823 |
| Interruptible Sales | 15,247,197 | 12,623,833 | 14,730,787 | 15,910,570 | 13,711,884 |
| TOTAL GAS SOLD TO CON EDISON OF NEW YORK CUSTOMERS | 104,031,207 | 89,468,679 | 96,355,494 | 93,982,038 | 85,688,707 |
| Transportation of customer-owned gas | | | | | |
| Firm transportation | 16,485,309 | 15,695,403 | 14,279,816 | 18,215,120 | 17,382,490 |
| NYPA | 23,360,162 | 25,466,325 | 13,762,339 | 19,857,321 | 11,268,947 |
| Other | 61,575,954 | 99,815,203 | 78,709,049 | 97,155,425 | 22,560,029 |

| | | | | | |
|---------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Off-System Sales | 459,088 | 8,354,940 | 6,206,522 | 23,067,713 | 32,942,436 |
| TOTAL SALES AND TRANSPORTATION | 205,911,720 | 238,800,550 | 209,313,220 | 252,277,617 | 169,842,609 |
| AVERAGE REVENUE PER DTH SOLD | | | | | |
| RESIDENTIAL | \$ 13.02 | \$ 12.30 | \$ 14.25 | \$ 11.62 | \$ 11.20 |
| GENERAL | \$ 10.23 | \$ 8.90 | \$ 10.76 | \$ 8.44 | \$ 7.70 |
| STEAM SOLD (MLBS) | 26,248,361 | 24,519,476 | 25,327,694 | 26,733,260 | 26,532,797 |
| AVERAGE REVENUE PER MLB SOLD | | | | | |
| | \$ 19.47 | \$ 15.52 | \$ 18.86 | \$ 16.37 | \$ 12.80 |
| CUSTOMERS - AVERAGE FOR YEAR | | | | | |
| Electric | 3,137,301 | 3,117,542 | 3,100,642 | 3,078,648 | 3,054,693 |
| Gas | 1,053,946 | 1,054,312 | 1,051,540 | 1,051,555 | 1,046,133 |
| Steam | 1,825 | 1,838 | 1,853 | 1,861 | 1,879 |

(a) Con Edison of New York has sold most of its electric generating assets. See Note J to the financial statements.

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O&R

General Nature and Scope of Business

O & R, a subsidiary of Con Edison incorporated in New York State in 1926, has two wholly-owned utility subsidiaries, Rockland Electric Company (RECO), a New Jersey corporation, and Pike County Light & Power Company (Pike), a Pennsylvania corporation.

O&R and its utility subsidiaries provide electric service in southeastern New York and in adjacent sections of New Jersey and northeastern Pennsylvania, an approximately 1,350 square mile service area. They also provide gas service in southeastern New York and Pennsylvania. O&R's business is subject to regulation by the PSC, the New Jersey Board of Public Utilities (NJBPU), Pennsylvania Public Utility Commission (PPUC) and the FERC. Changes in regulation or legislation applicable to O&R could have a material adverse effect on the company's financial position, results of operations or liquidity.

O&R's principal business segments are its regulated electric and gas utility businesses. In 2003, electric and gas operating revenues were 73 percent and 27 percent, respectively, of its operating revenues.

Competition

O&R is primarily a "wires and pipes" energy delivery company that:

- has sold its electric generating capacity;
- provides its customers the opportunity to buy electricity and gas from other suppliers;
- purchases the electricity and gas it supplies to its full-service customers (the cost of which is recovered pursuant to provisions approved by the PSC, NJBPU or PPUC); and
- provides energy delivery services to customers pursuant to rate provisions approved by the PSC.

See "Rates and Restructuring Agreements" in Note B and "Recoverable Energy Costs" in Note A to the financial statements in Item 8.

Competition from suppliers of oil and other sources of energy, including distributed generation (such as fuel cells and micro-turbines) may provide alternatives for O&R delivery customers. The company does not consider it reasonably likely that another company would be authorized to provide utility delivery service where the company already provides service. Any such other company would need to obtain the consent of the applicable state utility commission, satisfy applicable local requirements and install facilities to provide the service. The new company would also be subject to extensive ongoing regulation by the applicable state utility commission.

For additional information about O&R's business, see the discussion of O&R's results of operations in Item 7 and the notes to the financial statements in Item 8. For information about O&R's legal proceedings, see Item 3.

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Year Ended December 31,

| | 2003 | 2002 | 2001 | 2000 | 1999 |
|--|------------------|------------------|------------------|------------------|------------------|
| ELECTRIC ENERGY (MWH) | | | | | |
| Generated (a) | -- | -- | -- | -- | 1,871,898 |
| Purchased from others | 4,388,804 | 4,506,217 | 4,565,551 | 4,879,400 | 3,153,359 |
| TOTAL GENERATED AND PURCHASED | 4,388,804 | 4,506,217 | 4,565,551 | 4,879,400 | 5,025,257 |
| Less: Supplied without direct charge | 11 | 9 | 6 | 20 | 23 |
| Used by company | 15,511 | 13,435 | 14,572 | 19,337 | 134,587 |
| Distribution losses and other variances | 215,615 | 173,397 | 101,461 | 410,469 | 369,433 |
| NET GENERATED AND PURCHASED | 4,157,667 | 4,319,376 | 4,449,512 | 4,449,574 | 4,521,214 |
| ELECTRIC ENERGY SOLD | | | | | |
| Residential | 1,769,421 | 1,815,241 | 1,772,552 | 1,881,680 | 1,942,347 |
| Commercial and industrial | 2,276,973 | 2,393,039 | 2,566,651 | 2,463,744 | 2,373,415 |
| Public authorities | 111,273 | 111,096 | 110,309 | 104,150 | 96,294 |
| Total sales to Orange & Rockland customers | 4,157,667 | 4,319,376 | 4,449,512 | 4,449,574 | 4,412,056 |
| Off-System Sales | - | - | - | - | 109,158 |
| TOTAL ELECTRIC ENERGY SOLD | 4,157,667 | 4,319,376 | 4,449,512 | 4,449,574 | 4,521,214 |
| Total sales to Orange & Rockland customers | 4,157,667 | 4,319,376 | 4,449,512 | 4,449,574 | 4,412,056 |
| Delivery service for Retail Choice customers | 1,454,794 | 1,235,048 | 798,814 | 606,794 | 589,223 |
| TOTAL SALES IN FRANCHISE AREA | 5,612,461 | 5,554,424 | 5,248,326 | 5,056,368 | 5,001,279 |
| AVERAGE ANNUAL KWH USE PER RESIDENTIAL CUSTOMER | | | | | |
| | 8,955 | 8,801 | 8,506 | 7,854 | 8,065 |
| AVERAGE REVENUE PER KWH SOLD (CENTS) | | | | | |
| RESIDENTIAL | 12.17 | 11.23 | 12.79 | 12.22 | 11.84 |
| COMMERCIAL AND INDUSTRIAL | 9.81 | 8.65 | 10.04 | 9.93 | 8.18 |

(a) O&R sold its electric generating facilities prior to its acquisition by Con Edison in July 1999.

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O&R

OPERATING STATISTICS (CONTINUED)

Year Ended December 31,

| | 2003 | 2002 | 2001 | 2000 | 1999 |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|
| GAS (DTH) | | | | | |
| Purchased | 16,546,568 | 19,723,917 | 18,588,275 | 25,042,346 | 36,711,658 |
| Storage - net change | 1,112,011 | (2,139,045) | 854,482 | (1,099,134) | 890,604 |
| Used as boiler fuel at O&R electric generating stations (a) | - | - | - | - | (15,252,652) |
| GAS PURCHASED FOR RESALE | 17,658,579 | 17,584,872 | 19,442,757 | 23,943,212 | 22,349,610 |
| Less: Gas used by the company | 52,377 | 56,939 | 45,979 | 57,828 | 77,613 |
| Distribution losses and other variances | 376,605 | 856,036 | 578,187 | 841,295 | 705,213 |
| TOTAL GAS PURCHASED FOR O&R CUSTOMERS | 17,229,597 | 16,671,897 | 18,818,591 | 23,044,089 | 21,566,784 |

| GAS SOLD | | | | | |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|
| Firm Sales | | | | | |
| Residential | 10,810,384 | 10,203,403 | 11,724,341 | 14,281,013 | 13,702,735 |
| General | 3,314,154 | 3,294,624 | 3,750,851 | 4,080,178 | 4,389,977 |
| TOTAL FIRM SALES | 14,124,538 | 13,498,027 | 15,475,192 | 18,361,191 | 18,092,712 |
| Interruptible Sales | 3,105,059 | 3,173,870 | 3,343,399 | 3,653,684 | 3,474,072 |
| Sales to Con Edison | - | - | - | 1,029,214 | - |
| TOTAL GAS SOLD TO O&R CUSTOMERS | 17,229,597 | 16,671,897 | 18,818,591 | 23,044,089 | 21,566,784 |
| Transportation of customer-owned gas | | | | | |
| Firm transportation | 8,497,814 | 6,367,990 | 4,723,695 | 3,415,804 | 2,207,541 |
| Interruptible transportation | 3,728,018 | 4,192,062 | 3,920,901 | 4,222,835 | 1,905,807 |
| Sales for resale | 1,133,649 | 1,057,156 | 1,039,083 | 1,138,937 | 17,740 |
| Sales to divested electric generating stations | 2,833,322 | 13,983,048 | 11,427,428 | 11,640,751 | - |
| Off-System Sales | 373,686 | 2,883,913 | 2,526,829 | 4,984,794 | 264,277 |
| TOTAL SALES AND TRANSPORTATION | 33,796,086 | 45,156,066 | 42,456,527 | 48,447,210 | 25,962,149 |

AVERAGE REVENUE PER DTH SOLD

| | | | | | | | | | | |
|-------------|----|-------|----|------|----|-------|----|------|----|------|
| RESIDENTIAL | \$ | 10.41 | \$ | 8.29 | \$ | 10.29 | \$ | 8.32 | \$ | 7.77 |
| GENERAL | \$ | 10.00 | \$ | 7.87 | \$ | 9.73 | \$ | 7.65 | \$ | 6.92 |

CUSTOMERS - AVERAGE FOR YEAR

| | | | | | |
|----------|---------|---------|---------|---------|---------|
| Electric | 288,746 | 285,519 | 282,191 | 278,851 | 275,640 |
| Gas | 122,565 | 121,437 | 120,108 | 118,707 | 117,283 |

(a) O&R sold its electric generating facilities prior to its acquisition by Con Edison in July 1999.

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ITEM 2. PROPERTIES

CON EDISON

Con Edison has no significant properties other than those of the Utilities and Con Edison's unregulated subsidiaries.

At December 31, 2003, the capitalized cost of the Companies' utility plant, net of accumulated depreciation, was as follows (in millions of dollars):

| | Con Edison of New York | | O&R | | Con Edison | |
|----------------------------------|---------------------------|-------------|---------------|-------------|------------------|-------------|
| | Amount | Percent | Amount | Percent | Amount | Percent |
| Electric | | | | | | |
| Generation | \$ 374 | 3% | \$ - | -% | \$ 374 | 3% |
| Transmission | 1,200 | 9% | 106 | 12% | 1,306 | 9% |
| Distribution | 7,118 | 53% | 428 | 50% | 7,546 | 53% |
| Gas | 1,941 | 14% | 242 | 28% | 2,183 | 15% |
| Steam | 607 | 5% | - | -% | 607 | 4% |
| General | 926 | 7% | 76 | 9% | 1,002 | 7% |
| Held for future use | 5 | -% | 2 | -% | 7 | -% |
| Construction work in progress | 1,247 | 9% | 29 | 3% | 1,276 | 9% |
| Unallocated depreciation reserve | - | -% | (17) | (2)% | (17) | -% |
| NET UTILITY PLANT | \$ 13,418 | 100% | \$ 866 | 100% | \$ 14,284 | 100% |

CON EDISON OF NEW YORK

Electric Facilities

Generating Facilities. Con Edison of New York's electric generating facilities consist of plants located in New York City with an aggregate capacity of 630 MW. The company expects to have sufficient amounts of gas and fuel oil available in 2004 for use in these facilities. The company intends to add incremental generating capacity of approximately 200 MW based on a winter nominal rating (or approximately 125 MW based on a summer nominal rating) through the repowering of its East River station and the closing of its Waterside station.

Transmission Facilities. Con Edison of New York's transmission facilities, other than those located underground, are controlled and operated by the NYISO. See "Electric Operations—Electric Supply" in Item 1 (which information is incorporated herein by reference). At December 31, 2003, Con Edison of New York's transmission system had 432 miles of overhead circuits operating at 138, 230, 345 and 500 kV and 138 miles of underground circuits operating at 138 and 345 kV. There are 267 miles of radial subtransmission circuits operating at 69 kV and above. The company's 14 transmission substations supplied by circuits operated at 69kV and above, have a total transformer capacity of 15,731 MVA. The company's transmission facilities are located in New York City and Westchester, Orange, Rockland, Putnam and Dutchess counties in New York State.

Con Edison of New York has transmission interconnections with Niagara Mohawk, Central Hudson Gas & Electric Corporation, O&R, New York State Electric and Gas Corporation, Connecticut Light

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and Power Company, Long Island Power Authority, NYPA and Public Service Electric and Gas Company.

Distribution Facilities. Con Edison of New York owns various distribution substations and facilities located throughout New York City and Westchester County. At December 31, 2003, the company's distribution system had a transformer capacity of 24,400 MVA, with 32,840 miles of overhead distribution lines and 90,218 miles of underground distribution lines.

Gas Facilities

Natural gas is delivered by pipeline to Con Edison of New York at various points in its service territory and is distributed to customers by the company through 4,261 miles of mains and 374,622 service lines. The company owns a natural gas liquefaction facility and storage tank at its Astoria property in Queens, New York. The plant can store approximately 1,000 mdth of which a maximum of about 250 mdth can be withdrawn per day. The company has about 1,230 mdth of additional natural gas storage capacity at a field in upstate New York, owned and operated by Honeoye Storage Corporation, a corporation 28.8 percent owned by Con Edison of New York.

Steam Facilities

Con Edison of New York generates steam for distribution at three steam/electric generating stations and five steam-only generating stations and distributes steam to customers through approximately 87 miles of mains and 18 miles of service lines. For information about the planned repowering of the East River steam-electric station, see "Electric Facilities—Generating Facilities," above.

O&R

Electric Transmission and Distribution Facilities

O&R and its utility subsidiaries, RECO and Pike, own, in whole or in part, transmission and distribution facilities which include 602 circuit miles of transmission lines, 14 transmission substations (with a total transformer capacity of 3,762 MVA), 59 distribution substations (with a transformer capacity of 1,987 MVA), 93,536 in-service line transformers, 5,120 pole miles of overhead distribution lines and 2,688 miles of underground distribution lines.

Gas Facilities

O&R and Pike own their gas distribution systems, which include 1,805 miles of mains.

RECO & Pike Mortgages

Substantially all of the utility plant and other physical property of O&R's utility subsidiaries, RECO and Pike, is subject to the liens of the respective indentures securing first mortgage bonds of each company.

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UNREGULATED SUBSIDIARIES

Con Edison's unregulated subsidiaries own interests of 1,668 MW of capacity in electric generating facilities, most of which use gas and/or oil as fuel. These interests, the capitalized costs of which at December 31, 2003 amounted to \$859 million (net of accumulated depreciation), are as follows:

| <i>Name</i> | <i>Power Plant Type Base/Peak/Intermediate</i> | <i>Power Pool/Location</i> | <i>Aggregate Capacity (in MW)</i> |
|----------------------------|--|----------------------------|---|
| Newington | Base | NEPOOL/New Hampshire | 525 |
| ADA | Base | ECAR/Michigan | 29(a) |
| GENOR | Base | Central America/Guatemala | 42 |
| Total Base Capacity | | | 596 |
| CEEMI | Intermediate | NEPOOL/Massachusetts | 185 |
| Lakewood | Intermediate | PJM/New Jersey | 236(b) |

| | | | |
|------------------------------------|---------|----------------------|-----------------|
| Total Intermediate Capacity | | | 421 |
| CEEMI | Peaking | NEPOOL/Massachusetts | 96 |
| Ocean Peaking | Peaking | PJM/New Jersey | 330 |
| Rock Springs | Peaking | PJM/Maryland | 335 |
| Total Peaking Capacity | | | 761 |
| Total Capacity | | | 1,778(c) |

- (a) Subject to a power purchase agreement expiring in 2026.
- (b) Subject to a power purchase agreement expiring in 2014.
- (c) Con Edison Development's interest in these facilities amounts to 1,668 MW.

Con Edison's unregulated subsidiaries are also engaged in two leasing transactions involving gas distribution and electric generating facilities in the Netherlands. See Note K to the financial statements in Item 8 (which information is incorporated herein by reference).

Con Edison Communications' properties, the capitalized cost of which at December 31, 2003 amounted to \$30 million (net of the impairment charge discussed in Note H to the financial statements in Item 8, which information is incorporated herein by reference), are included in Con Edison's financial statements as non-utility property and construction work in progress. The properties include network facilities and nearly 400 miles of fiber optic cable that has been installed in the New York City metropolitan area primarily through Con Edison of New York underground conduits and other rights of way. Con Edison Communication's pays a fee for the use of such conduits and rights of way.

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ITEM 3. LEGAL PROCEEDINGS

CON EDISON

Northeast Utilities

For information about legal proceedings relating to Con Edison's October 1999 agreement to acquire Northeast Utilities, see Note Q to the financial statements in Item 8 (which information is incorporated herein by reference).

Newington Project

For a description of the Newington Project, see Note T to the financial statements included in Item 8 (which information is incorporated herein by reference). In September 2002, Duke/Fluor Daniel, the general contractor for the Newington Project, initiated an arbitration proceeding with respect to its contract claims for an additional payment to it of approximately \$100 million for alleged project costs and a 176-day extension of the project's scheduled substantial completion date. In September 2002, the general contractor commenced an action in Superior Court in the State of New Hampshire, and obtained a pre-judgment attachment on the project as security for the payment of its claim for additional project costs. The New Hampshire Superior Court subsequently ruled that the attachment was impermissible and ordered it to be removed. This ruling has been stayed pending an appeal before the New Hampshire Supreme Court.

CON EDISON OF NEW YORK

Nuclear Generation

In February 2004, the PSC approved the December 2003 settlement among Con Edison of New York, the staff of the PSC and other parties regarding the PSC proceeding investigating a February 2000 to January 2001 outage of the nuclear generating unit the company sold in 2001, its causes and the prudence of Con Edison of New York's actions regarding the operation and maintenance of the generating unit. The proceeding covered, among other things, Con Edison of New York's inspection practices, the circumstances surrounding prior outages, the basis for the company's decisions concerning replacement of the unit's steam generators and whether, and to what extent, increased replacement power costs and repair and replacement costs should be borne by Con Edison's shareholders. Pursuant to the settlement, the company will refund \$45.5 million to its customers and provide \$2.5 million to fund one or more energy efficiency programs for its low-income customers. In 2000, the company accrued a \$40 million liability for possible refund to customers in connection with this proceeding. In addition, under the settlement, the company will forego recovery of \$89.5 million of replacement power costs that the company had incurred in 2000 but not billed to customers and as to which no customer account receivable or regulatory asset was established and no income previously recognized. The settlement reduced 2003 net income by \$8 million (\$5 million after tax).

Asbestos

For information about legal proceedings relating to exposure to asbestos, see Note G to the financial statements in Item 8 (which information is incorporated herein by reference).

Plaintiff has agreed with Con Edison of New York to settle for \$350,000 the action in New York State Supreme Court, New York County, entitled Robert Creteau v. A.C.& S., Inc. et al. In March 2003, the jury in this action awarded plaintiff \$47 million for asbestos-related injuries. The plaintiff was employed by a subcontractor who did work in the 1970s on two power plants being constructed for Con Edison of New York.

Superfund

The Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 and similar state statutes (Superfund) impose joint and several liability, regardless of fault, upon generators of hazardous substances for investigation, remediation costs and environmental damages. The sites at which Con Edison of New York has been asserted to have liability under Superfund include its and its predecessor companies' former manufactured gas sites, its Astoria PCB storage facility, the Arthur Kill Generating Station site that it sold in 1999 and other Superfund sites discussed below. There may be additional sites as to which assertions will be made that the company has liability. For a further discussion of claims and possible claims against the company under Superfund, including with respect to its manufactured gas sites, estimated liability accrued for Superfund claims and recovery from customers of site investigation and remediation costs, see Note G to the financial statements in Item 8 (which information is incorporated herein by reference).

Manufactured Gas Sites. Con Edison of New York and its predecessors formerly manufactured gas and maintained storage holders for manufactured gas at sites in New York City and Westchester County, New York (MGP Sites). Many of these sites are now owned by parties other than Con Edison of New York and have been redeveloped by them for other uses, including schools, residential and commercial developments and hospitals. The New York State Department of Environmental Conservation (DEC) is requiring the company to investigate and, if necessary to protect public health and the environment from any MGP-related contamination that may be present at them, and to develop and implement remediation programs for the MGP Sites, which include 33 manufactured gas plant sites and 17 storage holder sites.

The information available to Con Edison of New York for most of the MGP Sites is incomplete as to the extent of contamination and remediation and monitoring methods, if any, to be used. Investigation at most of the MGP Sites has not yet started and has been completed at only two of the MGP Sites. Coal tar and/or other manufactured gas plant-related environmental contaminants have been detected at 12 MGP Sites, including sites in Manhattan and other parts of New York City and in Westchester County.

Astoria Site. Con Edison of New York is permitted by the DEC to operate a PCB storage facility on property the company owns in the Astoria section of Queens, New York. Apart from the PCB storage facility, portions of the property were the former location of an MGP and have been used or are being used for, among other things, electric generation operations, electric substation operations, the storage of fuel oil and liquefied natural gas, and the maintenance and storage of electric equipment. As a condition of its DEC permit, the company is required to investigate the property and, where environmental contamination is found, and where necessary, to conduct corrective action to remediate the contamination. The company has investigated various sections of the property, but has not yet begun investigating

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the former MGP area. The company has submitted to the DEC and the New York State Department of Health a report identifying the known areas of PCB contamination. The company estimates that its undiscounted potential liability for the cleanup of the known PCB contamination on the property will be at least \$19 million.

Arthur Kill Transformer Site. Following a September 1998 transformer fire at Con Edison of New York's former Arthur Kill Generating Station, it was determined that oil containing high levels of PCBs was released to the environment during the incident. The company has completed DEC-approved cleanup programs for the station's facilities and various soil and pavement areas of the site affected by the PCB release. Pursuant to a July 1999 DEC consent order, the company completed a DEC-approved Remedial Investigation/Feasibility Program to assess the nature and extent of the contamination in, and to recommend a proposed remediation program for, the waterfront area of the station. DEC has selected the remediation program for the waterfront area and the company will implement it pursuant to an additional consent order expected to be entered into during 2004. The company estimates that its undiscounted potential liability for the cleanup of PCB contamination at the site will be at least \$3.5 million. See "Con Edison of New York—Environmental Matters" in Item 1.

Other Superfund Sites. Con Edison of New York is a potentially responsible party (PRP) with respect to other Superfund sites where there are other PRPs and it is not managing the site investigation and remediation. Work at these sites is in various stages, with the company participating in PRP groups at some of the sites. Investigation, remediation and monitoring at some of these sites has been, and is expected to continue to be, conducted over extended periods of time. The company does not believe that it is reasonably likely that monetary sanctions, such as penalties, will be imposed upon it by any governmental authority with respect to these sites.

The following table lists each of Con Edison of New York's other Superfund sites for which the company anticipates it may have a liability. The table also shows for each such site, its location, the year in which the company was designated or alleged to be a PRP or to otherwise have responsibilities with respect to the site (shown in table under "Start"), the name of the court or agency in which proceedings with respect to the site are pending, and the company's current estimate of its potential liability for investigation, remediation and monitoring and environmental damages at the site or the unpaid share of any payments it is required to make under a settlement agreement resolving its liability for the site.

| Site | Location | Start | Court or Agency | Estimated Liability (a) | % of Total (a) |
|-----------------------|----------------------|-------|-----------------|-------------------------|----------------|
| Maxey Flats Nuclear | Morehead, KY | 1986 | EPA | \$ 118,403 | 0.8% |
| Curcio Scrap Metal | Saddle Brook, NJ | 1987 | EPA | 159,712 | 100% |
| Metal Bank of America | Philadelphia, PA | 1987 | EPA | 100,368 | 1.0% |
| Cortese Landfill | Narrowsburg, NY | 1987 | EPA | 744,821 | 6.0% |
| Global Landfill | Old Bridge, NJ | 1988 | EPA | 115,183 | 0.3% |
| PCB Treatment, Inc. | Kansas City, KS & MO | 1994 | EPA | 2,908,126 | 6.1% |
| Borne Chemical | Elizabeth, NJ | 1997 | NJSC | 117,375 | 0.7% |

- (a) Superfund liability is joint and several. Estimated liability shown is the company's estimate of its anticipated share of the total liability determined pursuant to consent decrees, settlement agreements or otherwise and in light of financial condition of other PRPs.

Washington Heights Power Outage

Lawsuits relating to a July 1999 interruption of electric service to customers served by Con Edison of New York's Washington Heights distribution network were brought in New York State Supreme and Civil Courts, New York County. A number of cases, including purported class action lawsuits, have been dismissed, discontinued or settled for *de minimis* amounts. At December 31, 2003, 14 cases relating to the outage were pending, including suits by the New York City Transit Authority seeking \$20 million and by Columbia University and New York and Presbyterian Hospital seeking \$23 million. The company does not expect that the remaining cases will have a material adverse effect on its financial position, results of operation or liquidity.

East 11th Street Accident

For a description of the East 11th Street accident, see Note W to the financial statements included in Item 8 (which information is incorporated herein by reference).

O&R

Asbestos

For information about legal proceedings relating to exposure to asbestos, see Note G to the financial statements in Item 8 (which information is incorporated herein by reference).

Superfund

The sites at which O&R has been asserted to have liability under Superfund include its manufactured gas sites, its West Nyack site and other Superfund sites discussed below. There may be additional sites as to which assertions will be made that the company has liability. For a further discussion of claims and possible claims against the company under Superfund, including with respect to its manufactured gas sites, estimated liability accrued for Superfund claims and recovery from customers of site investigation and remediation costs, see Note G to the financial statements in Item 8 (which information is incorporated herein by reference).

Manufactured Gas Sites. O&R and its predecessors formerly owned and operated manufactured gas plants at seven sites (O&R MGP Sites) in Orange County and Rockland County, New York. Four of these sites are now owned by parties other than O&R, three of which have been redeveloped by them for residential, commercial or industrial uses. The DEC is requiring O&R to develop and implement remediation programs for the O&R MGP Sites.

O&R has investigated and detected soil and/or groundwater contamination to varying degrees at all of the O&R MGP Sites. In November 2002, O&R initiated an Interim Remedial Measure at one MGP site that is currently 80% complete. In addition, the DEC has developed a proposed remedial action plan for another O&R MGP site that will be distributed for comment in 2004. Additional investigation and determination of the remediation and monitoring methods will be required at the other O&R MGP Sites.

West Nyack Site. In 1994 and 1997, O&R entered into consent orders with the DEC pursuant to which O&R agreed to conduct a remedial investigation and remediate certain property it owns in West Nyack, New York at which PCBs were discovered. Petroleum contamination related to a leaking

underground storage tank was found as well. O&R has completed all remediation at the site that the DEC has required to date. The DEC is expected to determine whether any additional groundwater remediation will be required.

Other Superfund Sites. O&R is a PRP with respect to other Superfund sites where there are other PRPs and it is not managing the site investigation and remediation. Work at these sites is in various stages, with the company participating in PRP groups at some of the sites. Investigation, remediation and monitoring at some of these sites has been, and is expected to continue to be, conducted over extended periods of time. The company does not believe that it is reasonably likely that monetary sanctions, such as penalties, will be imposed upon it by any governmental authority with respect to these sites.

The following table lists each of O&R's other Superfund Sites for which the company anticipates it may have liability. The table also shows for each such site, its location, the year in which the company was designated or alleged to be a PRP or to otherwise have responsibilities with respect to the site (shown in table under "Start"), the name of the court or agency in which proceedings with respect to the site are pending and the company's current estimate of its potential liability for investigation, remediation and monitoring and environmental damages at the site.

| Site | Location | Start | Court or Agency | Estimated Liability (a) | % of Total(a) |
|------------------------|------------------|-------|-----------------|-------------------------|---------------|
| Metal Bank of America | Philadelphia, PA | 1987 | EPA | \$ 642,701 | 4.6% |
| Borne Chemical | Elizabeth, NJ | 1997 | EPA | 100,000 | 2.5% |
| Orange County Landfill | Goshen, NY | 2000 | NYAG | 125,000 | (b) |
| Ramapo Landfill | Ramapo, NY | 2000 | DEC | 50,000 | (b) |
| Clarkstown Landfill | Clarkstown, NY | 2003 | NYAG | 70,000 | (b) |

Superfund liability is joint and several. Estimated liability shown is the company's estimate of its anticipated share of the total liability determined pursuant to consent decrees, settlement agreements or otherwise and in light of financial condition of other PRPs.

(b) Not ascertainable.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None

EXECUTIVE OFFICERS OF THE REGISTRANT

The following table sets forth certain information about the executive officers of Con Edison and Con Edison of New York, as of February 1, 2004. As indicated, certain of the executive officers are executive officers of each of Con Edison and Con Edison of New York and others are executive officers of Con Edison or Con Edison of New York. The term of office of each officer is until the next election of directors (trustees) of their company and until his or her successor is chosen and qualifies. Officers are subject to removal at any time by the board of directors (trustees) of their company. Mr. McGrath has an employment agreement with Con Edison, which provides that he will serve as Chairman of the Board and Chief Executive Officer of Con Edison and Con Edison of New York through August 31, 2005

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(subject to one year extensions unless terminated on six months prior notice). Messrs. Burke and McMahon and Ms. Freilich have employment agreements with Con Edison, which provide that they will serve in senior executive positions through August 31, 2005.

| Name | Age | Offices and Positions During Past Five Years |
|--|-----|---|
| Executive Officers of Con Edison and Con Edison of New York | | |
| Eugene R. McGrath | 62 | 10/97 to present—Chairman, President, Chief Executive Officer and Director of Con Edison 3/98 to present—Chairman, Chief Executive Officer and Trustee of Con Edison of New York |
| Kevin Burke | 53 | 9/00 to present—President of Con Edison of New York 7/99 to 8/00—President of O&R 7/98 to 6/99—Senior Vice President—Customer Service of Con Edison of New York 3/98 to 6/98—Senior Vice President—Corporate Planning of Con Edison of New York |
| Joan S. Freilich | 62 | 3/98 to present—Executive Vice President, Chief Financial Officer and Director (Trustee) of Con Edison and Con Edison of New York |
| Frances A. Resheske | 43 | 2/02 to present—Senior Vice President—Public Affairs of Con Edison of New York 5/99 to 2/02—Vice President—Public Affairs of Con Edison of New York 2/99 to 4/99—Director—Public Affairs of Con Edison of New York 6/95 to 2/99—General Manager—Government Relations and Community Development, Brooklyn Union |
| Charles E. McTiernan, Jr. | 59 | 1/03 to present—General Counsel of Con Edison and Con Edison of New York 10/85 to 12/02—Associate General Counsel of Con Edison of New York |
| Edward J. Rasmussen | 55 | 12/00 to present—Vice President and Controller of Con Edison and Con Edison of New York 12/00 to 12/03—Vice President, Controller and Chief Financial Officer of O&R 4/93 to 11/00—Assistant Controller of Con Edison of New York |
| Hyman Schoenblum | 55 | 12/00 to present—Vice President—Corporate Planning of Con Edison of New York 12/97 to 11/00—Vice President and Controller of Con Edison and Con Edison of New York 7/99 to 11/00—Vice President and Chief Financial Officer of O&R |
| Robert P. Stelben | 61 | 12/97 to present—Vice President and Treasurer of Con Edison and Con Edison of New York 7/99 to 3/03—Vice President and Treasurer of O&R |
| Executive Officers of Con Edison but not Con Edison of New York | | |
| Stephen B. Bram | 61 | 1/03 to present—Group President, Energy and Communications of Con Edison 9/00 to 12/02—President and Chief Executive Officer of O&R 4/95 to 8/00—Senior Vice President—Central Operations of Con Edison of New York |

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| | | |
|--|----|---|
| John D. McMahon | 52 | 1/03 to present—President and Chief Executive Officer of O&R 8/98 to 12/02—Senior Vice President and General Counsel of Con Edison and Con Edison of New York |
| Executive Officers of Con Edison of New York but not Con Edison (all offices and positions listed are with Con Edison of New York) | | |
| Louis L. Rana | 55 | 2/03 to present—Senior Vice President—Electric Operations 10/01 to 1/03—Vice President—Manhattan Electric Operations 4/00 to 9/01—Vice President—Manhattan Customer Service 3/98 to 3/00—Vice President—System and Transmission Operations |
| Mary Jane McCartney | 55 | 10/93 to present—Senior Vice President—Gas |
| Robert A. Saya | 62 | 9/01 to present—Senior Vice President—Central Operations 4/00 to 8/01—Vice President—System and Transmission Operations 1/95 to 3/00—Chief Engineer, Substation and Transmission Engineering |
| Luther Tai | 55 | 9/01 to present—Senior Vice President—Central Services 9/00 to 8/01—Senior Vice President—Central Operations 7/98 to 8/00—Vice President—Corporate Planning |
| Marilyn Caselli | 49 | 8/98 to present—Vice President—Customer Operations |

PART II

ITEM 5. Market for the Registrant's Common Equity and Related Stockholder Matters

CON EDISON

Con Edison's Common Shares (\$.10 par value), the only class of common equity of Con Edison, are traded on the New York Stock Exchange. As of January 31, 2004, there were 93,760 holders of record of Con Edison's Common Shares.

The market price range for Con Edison's Common Shares during 2003 and 2002, as reported in the consolidated reporting system, and the dividends paid by Con Edison in 2003 and 2002 were as follows:

| | 2003 | | | 2002 | | |
|-------------|----------|----------|----------------|----------|----------|----------------|
| | High | Low | Dividends Paid | High | Low | Dividends Paid |
| 1st Quarter | \$ 46.02 | \$ 36.55 | \$ 0.56 | \$ 42.66 | \$ 39.30 | \$ 0.555 |
| 2nd Quarter | \$ 44.26 | \$ 38.20 | \$ 0.56 | \$ 45.40 | \$ 40.10 | \$ 0.555 |
| 3rd Quarter | \$ 43.78 | \$ 38.55 | \$ 0.56 | \$ 43.80 | \$ 32.65 | \$ 0.555 |
| 4th Quarter | \$ 43.48 | \$ 38.80 | \$ 0.56 | \$ 45.16 | \$ 39.02 | \$ 0.555 |

On January 22, 2004, Con Edison's Board of Directors declared a quarterly dividend of 56¹/₂ cents per Common Share. The first quarter 2004 dividend will be paid on March 15, 2004.

Con Edison expects to pay dividends to its shareholders primarily from dividends and other distributions it receives from its subsidiaries. The payment of future dividends, which is subject to approval and declaration by Con Edison's Board of Directors, will depend on a variety of factors, including business, financial and regulatory considerations. For additional information see "Dividends" in Note C to the financial statements in Item 8 (which information is incorporated herein by reference).

The information required by Item 201(d) of Regulation S-K is incorporated by reference in Item 10 of this report from Con Edison's definitive proxy statement for its Annual Meeting of Stockholders to be held on May 17, 2004.

CON EDISON OF NEW YORK

The outstanding shares of Con Edison of New York's Common Stock (\$2.50 par value), the only class of common equity of Con Edison of New York, are held by Con Edison and are not traded.

The dividends declared by Con Edison of New York in 2003 and 2002 are shown in its Consolidated Statement of Common Shareholder's Equity included in Item 8 (which information is incorporated herein by reference). For additional information about the payment of dividends by Con Edison of New York, and restrictions thereon, see "Dividends" in Note C to the financial statements in Item 8 (which information is incorporated herein by reference).

O&R

The outstanding shares of O&R's Common Stock (\$5.00 par value), the only class of common equity of O&R, are held by Con Edison and are not traded.

The dividends declared by O&R in 2003 and 2002 are shown in its Consolidated Statement of Common Shareholder's Equity included in Item 8 (which information is incorporated herein by reference). See Note C to the financial statements in Item 8 for information about restrictions on the payment of dividends by O&R.

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ITEM 6. Selected Financial Data

CON EDISON

| | For the Year Ended December 31 | | | | |
|--------------------|--------------------------------|----------|----------|----------|----------|
| | 2003 | 2002 | 2001 | 2000 | 1999 |
| Operating revenues | \$ 9,827 | \$ 8,502 | \$ 9,389 | \$ 9,317 | \$ 7,491 |

(Millions of Dollars)

| | | | | | |
|---|--------|--------|--------|--------|--------|
| Purchased power | 3,926 | 3,201 | 3,380 | 3,536 | 1,824 |
| Fuel | 504 | 289 | 394 | 351 | 430 |
| Gas purchased for resale | 847 | 596 | 860 | 789 | 485 |
| Operating income | 934 | 1,060 | 1,128 | 1,016 | 1,020 |
| Income before cumulative effect of changes in accounting principles | 525 | 668 | 682 | 583 | 701 |
| Cumulative effect of changes in accounting principles | 3 | (22) | - | - | - |
| Net income for common stock | 528 | 646 | 682 | 583 | 701 |
| Total assets | 20,966 | 19,667 | 17,901 | 17,661 | 16,491 |
| Long-term debt | 6,733 | 6,166 | 5,501 | 5,415 | 4,525 |
| Preferred stock subject to mandatory redemption | - | - | 37 | 37 | 37 |
| Common shareholders' equity | 6,423 | 5,921 | 5,666 | 5,472 | 5,412 |

BASIC EARNINGS PER SHARE

| | | | | | |
|--|---------|-----------|---------|---------|---------|
| Before cumulative effect of changes in accounting principles | \$ 2.37 | \$ 3.14 | \$ 3.22 | \$ 2.75 | \$ 3.14 |
| Cumulative effect of changes in accounting principles | \$ 0.02 | \$ (0.11) | - | - | - |
| After cumulative effect of changes in accounting principles | \$ 2.39 | \$ 3.03 | \$ 3.22 | \$ 2.75 | \$ 3.14 |

DILUTED EARNINGS PER SHARE

| | | | | | |
|--|---------|-----------|---------|---------|---------|
| Before cumulative effect of changes in accounting principles | \$ 2.36 | \$ 3.13 | \$ 3.21 | \$ 2.74 | \$ 3.13 |
| Cumulative effect of changes in accounting principles | \$ 0.02 | \$ (0.11) | - | - | - |
| After cumulative effect of changes in accounting principles | \$ 2.38 | \$ 3.02 | \$ 3.21 | \$ 2.74 | \$ 3.13 |
| Cash dividends per common share | \$ 2.24 | \$ 2.22 | \$ 2.20 | \$ 2.18 | \$ 2.14 |

| | | | | | |
|--|-----|-----|-----|-----|-----|
| Average common shares outstanding (millions) | 221 | 213 | 212 | 212 | 223 |
|--|-----|-----|-----|-----|-----|

CON EDISON OF NEW YORK

For the Year Ended December 31

| 2003 | 2002 | 2001 | 2000 | 1999 |
|------|------|------|------|------|
|------|------|------|------|------|

(Millions of Dollars)

| | | | | | |
|---|----------|----------|----------|----------|----------|
| Operating revenues | \$ 8,166 | \$ 7,224 | \$ 8,122 | \$ 8,001 | \$ 6,956 |
| Purchased power | 3,124 | 2,622 | 2,819 | 2,988 | 1,669 |
| Fuel | 358 | 232 | 351 | 322 | 430 |
| Gas purchased for resale | 715 | 472 | 666 | 491 | 352 |
| Operating income | 942 | 954 | 1,047 | 952 | 1,002 |
| Net income for common stock | 591 | 605 | 649 | 570 | 698 |
| Total assets | 17,764 | 16,837 | 15,347 | 15,405 | 14,602 |
| Long-term debt | 5,435 | 5,392 | 5,012 | 4,915 | 4,243 |
| Preferred stock subject to mandatory redemption | - | - | 37 | 37 | 37 |
| Common shareholder's equity | 5,482 | 4,890 | 4,666 | 4,480 | 4,394 |

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ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R)

This discussion and analysis relate to the consolidated financial statements of Consolidated Edison, Inc. (Con Edison), Consolidated Edison Company of New York, Inc. (Con Edison of New York) and Orange and Rockland Utilities, Inc. (O&R) and should be read in conjunction with the financial statements and the notes thereto. Con Edison of New York and O&R, which are regulated utilities, are subsidiaries of Con Edison and are referred to in this management's discussion and analysis of financial condition and results of operations (MD&A) as the "Utilities." The Utilities, together with Con Edison, are referred to in this MD&A as the "Companies."

Neither Con Edison of New York nor O&R makes any representation as to information in this report relating to Con Edison or the subsidiaries of Con Edison other than itself.

Information in the notes to the consolidated financial statements referred to in this discussion and analysis is hereby incorporated by reference herein. The use of terms such as "see" or "refer to" shall be deemed to incorporate by reference into this discussion and analysis the information to which reference is made.

CORPORATE OVERVIEW

Con Edison's principal business operations are those of the Utilities. Con Edison also has unregulated subsidiaries that compete in energy-related and telecommunications industries.

Certain financial data of Con Edison's subsidiaries is presented below:

Twelve months ended
December 31, 2003

At December 31, 2003

| <i>(Millions of Dollars)</i> | <i>Operating Revenues</i> | | | <i>Net Income</i> | | <i>Assets</i> | |
|------------------------------|---------------------------|-------------|---------------|-------------------|------------------|---------------|--|
| Con Edison of New York | \$ 8,166 | 83% | \$ 591 | 112% | \$ 17,764 | 85% | |
| O&R | 727 | 7% | 45 | 9% | 1,269 | 6% | |
| Total Utilities | 8,893 | 90% | 636 | 121% | 19,033 | 91% | |
| Con Edison Communications | 19 | -% | (108)(b) | (20)% | 35(b) | -% | |
| Con Edison Development | 303 | 3% | (9)(b) | (2)% | 1,275(b) | 6% | |
| Con Edison Energy | 54 | 1% | 1 | -% | 117 | -% | |
| Con Edison Solutions | 578 | 6% | 19 | 3% | 127 | 1% | |
| Other(a) | (20) | -% | (11) | (2)% | 379 | 2% | |
| Total Con Edison | \$ 9,827 | 100% | \$ 528 | 100% | \$ 20,966 | 100% | |

(a) Represents inter-company and parent company accounting.

(b) Reflects impairment charges discussed below.

Con Edison's net income for common stock in 2003 was \$528 million or \$2.39 a share. Net income for common stock in 2002 and 2001 was \$646 million or \$3.03 a share and \$682 million or \$3.22 a share,

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

respectively. Included in 2003 net income for common stock were impairment charges for certain unregulated telecommunications and generating assets (\$94 million after-tax or \$0.43 per share) and the impact of a regulatory settlement (\$5 million after-tax charge or \$0.03 per share), partially offset by the cumulative effect of changes in accounting principles (\$3 million after-tax gain or \$0.02 per share). Included in the 2002 results was the cumulative effect of changes in accounting principles (\$22 million after-tax charges or \$0.11 per share).

For additional segment financial information, see Note O to the financial statements and "Results of Operations," below.

The Companies are each subject to certain material contingencies, including certain Utility environmental matters and Con Edison's legal proceedings relating to its October 1999 agreement to acquire Northeast Utilities. See "Application of Critical Accounting Policies—Accounting for Contingencies," below.

Regulated Utility Subsidiaries

Con Edison of New York provides electric service to over 3.1 million customers and gas service to 1.1 million customers in New York City and Westchester County. The company also provides steam service in parts of Manhattan. O&R, along with its regulated utility subsidiaries, provides electric service to over 285,000 customers in southeastern New York and adjacent sections of New Jersey and northeastern Pennsylvania and gas service to over 120,000 customers in southeastern New York and northeastern Pennsylvania.

The Utilities are primarily "wires and pipes" energy delivery companies that are subject to extensive federal and state regulation. Pursuant to restructuring agreements, the Utilities have sold most of their electric generating capacity and provide their customers the opportunity to buy electricity and gas directly from other suppliers through the Utilities' retail access programs. The Utilities supply more than half of the energy delivered by them in their service areas and provide delivery service to their customers that buy energy from other suppliers. The Utilities purchase substantially all of the energy they supply to customers pursuant to firm contracts or through wholesale energy markets. In general, the Utilities recover on a current basis the fuel and purchased power costs they incur in supplying energy to their full-service customers, pursuant to approved rate plans.

Con Edison anticipates that the Utilities will provide substantially all of its earnings over the next few years. The Utilities' earnings will depend on various factors including demand for utility service and the Utilities' ability to charge rates for their services that reflect the costs of service, including a return on invested equity capital.

Demand for utility service is affected by weather, economic conditions and other factors. The Utilities have experienced increased customer demand in recent years. In June, July and August of 2002, both Con

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Edison of New York and O&R set new three-month electric delivery records of more than 17 million and 1.7 million megawatt hours, respectively. In June 2003, Con Edison of New York and O&R each experienced a new record electric peak load for that month. The June peak was an all-time peak electric load for O&R.

In January 2004, Con Edison of New York and O&R each experienced a new winter electricity peak load.

Because the energy delivery infrastructure must be adequate to meet demand in peak periods with a high level of reliability, the Utilities' capital investment plans reflect in great part actual growth in electric peak load adjusted to summer design weather conditions, as well as forecast growth in peak loads. On this basis, Con Edison of New York's weather-adjusted peak load in the summer of 2003 was 12,600 MW, 1.6 percent higher than the adjusted peak load in 2002. The forecast annual growth in the electric peak load over the next five years is 1.6 percent. The company anticipates an ongoing need for substantial capital investment in order to meet this load growth with the exceptionally high level of reliability that it currently provides (see "Capital Requirements," below).

The Utilities have rate plans approved by state utility regulators that cover the rates they can charge their customers. Con Edison of New York has an electric rate agreement (approved in November 2000) that ends March 2005 and gas and steam rate agreements (approved in April 2002 and November 2000, respectively) that end in September 2004. These agreements do not reflect all of the increased construction expenditures and related costs incurred and expected to be incurred to meet increasing customer demand and reliability needs that have been experienced since the date of those agreements (see "Capital Requirements," below). The company filed petitions in November 2003 to increase rates for gas and steam service effective October 2004 and expects to file a petition in April 2004 to increase rates for electric service effective April 2005. O&R has rate agreements for its electric and gas services in New York that extend through October 2006. The rate plans generally require the Utilities to share with customers earnings in excess of specified rates of return on equity. Changes in energy sales and delivery volumes are reflected in operating income (except to the extent that weather-normalization provisions apply to the gas businesses). Rates charged to customers, pursuant to these agreements, may not be changed during the respective terms of these agreements other than for recovery of energy costs and limited other exceptions. See "Regulatory Matters" below and "Recoverable Energy Costs" and "Rate and Restructuring Agreements" in Notes A and B, respectively, to the financial statements.

Accounting rules and regulations for public utilities include Statement of Financial Accounting Standards (SFAS) No. 71, "Accounting for the Effects of Certain Types of Regulation," pursuant to which the economic effects of rate regulation are reflected in financial statements. See "Application of Critical Accounting Policies," below.

The respective collective bargaining agreements covering about two-thirds of each of the Utilities' employees expire in June 2004.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Unregulated Businesses

Con Edison's unregulated subsidiaries participate in competitive businesses and are subject to different risks than the Utilities. In view of conditions affecting certain of its competitive activities, the company recognized impairment charges of \$159 million (\$94 million after-tax) for its unregulated telecommunications and generation businesses in the fourth quarter of 2003. See "Application of Critical Accounting Policies," below and Note H to the financial statements. At December 31, 2003, Con Edison's investment in its unregulated subsidiaries was \$703 million and the unregulated subsidiaries' assets amounted to \$1.6 billion, including \$339 million related to Con Edison Development's Newington project. See Note T to the financial statements.

Consolidated Edison Solutions, Inc. (Con Edison Solutions) sells electricity and gas to delivery customers of Con Edison of New York, O&R and other utilities and also offers energy related services. As of December 31, 2003, the company served approximately 30,000 electric customers with an estimated aggregate peak load of 1,400 MW.

Consolidated Edison Development, Inc. (Con Edison Development) owns and operates generating plants and energy and other infrastructure projects. At December 31, 2003, the company owned interests of 1,668 MW of capacity in electric generating facilities of which 244 MW are sold under long-term purchase power agreements and the balance is sold on the wholesale electricity markets.

Consolidated Edison Energy, Inc. (Con Edison Energy) provides energy and capacity to Con Edison Solutions and others and markets the output of plants owned or operated by Con Edison Development. The company also provides risk management services to Con Edison Solutions and Con Edison Development and offers these services to others.

Con Edison Communications, LLC (Con Edison Communications) builds and operates fiber optic networks to provide telecommunications services. The company's properties (the capitalized cost of which at December 31, 2003 amounted to \$30 million, net of the impairment charge discussed above and in Note H to the financial statements) include network facilities and nearly 400 miles of fiber optic cable that has been installed in the New York City metropolitan area primarily through Con Edison of New York's underground conduits and other rights of way. Con Edison is evaluating strategic alternatives for its telecommunications business.

Con Edison anticipates investing \$59 million in its unregulated businesses over the next two years and will focus on maximizing the value of their existing assets. See "Capital Requirements" and "Capital Resources," below.

Results of Operations - Summary

Con Edison's earnings per share in 2003 were \$2.39 (\$2.38 on a diluted basis). Earnings per share in 2002 and 2001 were \$3.03 (\$3.02 on a diluted basis) and \$3.22 (\$3.21 on a diluted basis).

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Earnings per share for 2003 and 2002, before the cumulative effect of changes in accounting principles of \$3 million and \$(22) million after tax, respectively, were \$2.37 (\$2.36 on a diluted basis) and \$3.14 (\$3.13 on a diluted basis), respectively.

Earnings for the years ended December 31, 2003, 2002 and 2001 were as follows:

(Millions of Dollars)

| | 2003 | 2002 | 2001 |
|---------------------------|---------------|---------------|---------------|
| Con Edison of New York | \$ 591 | \$ 605 | \$ 649 |
| O&R | 45 | 45 | 40 |
| Con Edison Communications | (108)(b) | (22) | (12) |
| Con Edison Development | (9)(c) | (4)(d) | 21 |
| Con Edison Energy | 1 | 2 (e) | 5 |
| Con Edison Solutions | 19 | 22 | (2) |
| Other(a) | (11) | (2) | (19) |
| CON EDISON | \$ 528 | \$ 646 | \$ 682 |

- (a) Represents inter-company and parent company accounting including interest expense on debt, non-operating income tax expense and goodwill amortization in 2001. See Note L to the financial statements.
- (b) Includes a charge for the impairment of unregulated telecommunications assets in accordance with SFAS No. 144 totaling \$84 million after tax. See Note H to the financial statements.
- (c) Includes a charge for the impairment of two unregulated generating assets totaling \$10 million after tax. In addition, a benefit for the cumulative effect of changes in accounting principles for mark-to-market gains related to power sales contracts at certain generating plants, partially offset by the impact of the financial statement consolidation of the Newington plant totaling \$3 million after tax. See Note H to the financial statements.
- (d) Includes a charge for the cumulative effect of a change in accounting principle for goodwill impairment of certain unregulated generating assets totaling \$20 million after tax. See Note L to the financial statements.
- (e) Includes a charge for the cumulative effect of a change in accounting principle for the rescission of Emerging Issues Task Force (EITF) Issue No. 98-10 totaling \$2 million after-tax. See Note P to the financial statements.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Con Edison's earnings in 2003 were \$118 million lower than in 2002, reflecting the following factors (after tax, in millions):

| | |
|---|-----------------|
| Con Edison of New York: | |
| Impact of weather in 2003 on net revenues versus 2002 (estimated) | \$ (6) |
| Sales, normalized for weather (estimated) | 34 |
| Lower operating organizational expense | 25 |
| Regulatory accounting/amortizations | 14 |
| Reduced net credit for pensions & other postretirement benefits | (54) |
| Higher depreciation and property tax expense | (27) |
| Settlement regarding nuclear generating unit sold in 2001 | (5) |
| Regional power outage (estimated) | (6) |
| Lower sales and use tax | 7 |
| Other | 4 |
| Total Con Edison of New York | (14) |
| O&R | - |
| Unregulated subsidiaries including parent company | (34) |
| Unregulated telecommunications asset impairment | (84) |
| Unregulated generating asset impairments | (10) |
| Cumulative effect of changes in accounting principles | 25 |
| Other | (1) |
| TOTAL | \$ (118) |

Con Edison's earnings in 2002 were \$36 million lower than in 2001, reflecting the following factors (after tax, in millions):

| | |
|---|-------|
| Con Edison of New York: | |
| Lower operation and maintenance expenses (excluding nuclear operations) | \$ 22 |
| Impact of weather in 2002 on net revenues versus 2001 (estimated) | 18 |
| Reserve for electric excess earnings | (26) |

| | |
|--|---------|
| Amortization of divestiture gain in 2001 | (25) |
| Reduction in gas base rates and lower non-firm gas sales | (21) |
| Economic conditions (estimated) | (8) |
| Other | (4) |
| <hr/> | |
| Total Con Edison of New York | (44) |
| O&R | 5 |
| Unregulated subsidiaries including parent company | 14 |
| Cessation of goodwill amortization | 11 |
| Cumulative effect of changes in accounting principles | (22) |
| <hr/> | |
| Total | \$ (36) |

See "Results of Operations" below for further discussion and analysis of results of operations.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

APPLICATION OF CRITICAL ACCOUNTING POLICIES

The Companies' financial statements reflect the application of their accounting policies, which conform to accounting principles generally accepted in the United States of America. The Companies' critical accounting policies include industry-specific accounting applicable to regulated public utilities and accounting for pensions and other postretirement benefits, contingencies, long-lived assets, derivative instruments, goodwill and leases.

The critical accounting policies are as follows:

Accounting for Regulated Public Utilities—SFAS No. 71

The Utilities are subject to SFAS No. 71, "Accounting for the Effects of Certain Types of Regulation," and, in accordance with SFAS No. 71, are subject to the accounting requirements of the Federal Energy Regulatory Commission (FERC) and state public utility regulatory authorities having jurisdiction.

SFAS No. 71 specifies the economic effects that result from the cause and effect relationship of costs and revenues in the rate-regulated environment and how these effects are to be accounted for by a regulated enterprise. Revenues intended to cover some costs may be recorded either before or after the costs are incurred. If regulation provides assurance that incurred costs will be recovered in the future, these costs would be recorded as deferred charges or "regulatory assets" under SFAS No. 71. If revenues are recorded for costs that are expected to be incurred in the future, these revenues would be recorded as deferred credits or "regulatory liabilities" under SFAS No. 71.

The Utilities' principal regulatory assets and liabilities are detailed in Note B to the financial statements. The Utilities are each receiving or being credited with a return on all regulatory assets for which a cash outflow has been made. The Utilities are each paying or being charged with a return on all regulatory liabilities for which a cash inflow has been received. The regulatory assets and liabilities will be recovered from customers, or applied for customer benefit, in accordance with rate provisions approved by the applicable public utility regulatory commission.

Accounting for Pensions and Other Postretirement Benefits

The Utilities provide pensions and other postretirement benefits to substantially all of their employees and retirees. Con Edison's unregulated subsidiaries also provide such benefits to certain of their employees. The Companies account for these benefits in accordance with SFAS No. 87, "Employers' Accounting for Pensions" and SFAS No. 106, "Employers' Accounting for Postretirement Benefits other than Pensions." In applying these accounting policies, the Companies have made critical estimates related to actuarial assumptions, including assumptions of expected returns on plan assets, future compensation, health care cost trends and appropriate discount rates. See Notes E and F to the financial statements for information about these assumptions, actual performance, amortization of investment and other actuarial gains and losses and calculated plan costs for 2003, 2002 and 2001.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Primarily because of the amortization of previous years' net investment gains, Con Edison of New York's pension expense for 2003, 2002 and 2001 was negative, resulting in a credit to and increase in net income in each year. Investment gains and losses on plan assets are fully recognized in expense over a 15-year period (20 percent of the gains and losses for each year begin to amortize in each of the following five years and the amortization period for each 20 percent portion of the gains and losses is ten years). This amortization is in accordance with the Statement of Policy issued by the New York Public Service Commission (PSC) and is permitted under SFAS No. 87.

The cost of pension and other postretirement benefits in future periods will depend on actual returns on plan assets and assumptions for future periods. Con Edison's current estimate for 2004 is a reduction, compared with 2003, in the pension and other postretirement benefits net credit of \$19 million after tax for Con Edison of New York and an increase, compared to 2003, in pension and other postretirement benefits expense of \$1 million for O&R. This reduction reflects, among other factors, the amortization of prior period actuarial losses associated with declines in the market value of assets in recent years, partially offset by the amortization of a gain on plan assets in 2003 and by the estimated impact in 2004 of recently enacted Medicare legislation (reduction in other postretirement benefit costs of \$10 million after tax, including \$9 million for Con Edison of New York and \$1 million for O&R).

Amortization of market gains and losses experienced in previous years is expected to reduce Con Edison of New York's pension and other post retirement benefit net credit by an additional \$25 million, after tax, in 2005. A 5.0 percentage point variation in the actual annual return in 2004 as compared with the expected annual asset return of 8.8 percent would change net income for Con Edison and Con Edison of New York by approximately \$5 million in 2005, assuming no change in regulatory treatment.

In accordance with SFAS No. 71 and consistent with rate provisions approved by the PSC, O&R defers as a regulatory asset any difference between expenses recognized under SFAS No. 87 and the amounts reflected in rates for such expenses. Con Edison of New York's pending petitions for gas and steam rate increases include, and the company anticipates that its petition for an electric rate increase will include, a proposal for deferred accounting treatment of such expenses. See "Regulatory Matters", below.

Pension benefits are provided through a pension plan maintained by Con Edison to which Con Edison of New York, O&R and the unregulated subsidiaries make contributions for their participating employees. Pension accounting by the Utilities includes an allocation of plan assets. An actuarial valuation of the plan's funded status as of December 31, 2003, showed that the fair value of the plan's assets exceeded, by \$712 million, the plan's accumulated benefit obligation (ABO) at that date. However, the fair market value of the plan assets could fall below the plan's ABO in future years. In that event, each of the Utilities would be required, under SFAS No. 87, to accrue a liability equal in amount to the difference between its share of the fair value of the plan assets and its portion of the ABO, plus, in the case of Con Edison of

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

New York, its total prepaid pension costs, through a non-cash charge to other comprehensive income (OCI). The charge to OCI, which would be net of taxes, would not affect net income for common stock.

The Companies were not required to make cash contributions to their pension plans in 2003 under funding regulations and tax laws. O&R made a discretionary contribution of \$18 million to the plan in 2003. In 2004, O&R and Con Edison's unregulated subsidiaries expect to make discretionary contributions of \$22 million and \$2 million, respectively. The Companies' policy is to fund its accounting cost to the extent it is tax deductible.

Accounting for Contingencies

SFAS No. 5, "Accounting for Contingencies," applies to an existing condition, situation or set of circumstances involving uncertainty as to possible loss that will ultimately be resolved when one or more future events occur or fail to occur. Known material contingencies include the Utilities' responsibility for hazardous substances, such as asbestos, polychlorinated biphenyls (PCBs) and coal tar that have been used or generated in the course of operations, workers' compensation claims and Con Edison's legal proceedings relating to its October 1999 merger agreement with Northeast Utilities. See Notes G, K, Q, R, S, T and W to the financial statements. In accordance with SFAS No. 5, the Companies have accrued estimates of losses relating to the contingencies as to which loss is probable and can be reasonably estimated and no liability has been accrued for contingencies as to which loss is not probable or cannot be reasonably estimated.

Accounting for Long-Lived Assets

SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" requires that certain long-lived assets must be tested for recoverability whenever events or changes in circumstances indicate their carrying amounts may not be recoverable. The carrying amount of a long-lived asset is deemed not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset. Under SFAS No. 144 an impairment loss is recognized if the carrying amount is not recoverable from such cash flows, and exceeds its fair value, which approximates market value.

The adverse market conditions affecting Con Edison's unregulated telecommunications and generation businesses led to the testing of their assets for impairment in 2003. A critical element of this test is the forecast of future undiscounted cash flows to be generated from the long-lived assets. Forecast of these cash flows requires complex judgments about future operations, which are particularly difficult to make with respect to evolving industries such as the energy-related and telecommunications businesses. Under SFAS No. 144, if alternative courses of action are under consideration or if a range is estimated for the amount of possible future cash flows, the probability of those possible outcomes must be weighted. As a result of the tests performed in 2003, Con Edison recognized impairment charges of \$159 million

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

(\$94 million after-tax) for the assets of its unregulated telecommunications and generation businesses. See Note H to the financial statements.

Accounting for Derivative Instruments

The Companies apply SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended, and other related accounting pronouncements to their derivative financial instruments. The Companies use derivative financial instruments to hedge market price fluctuations in related underlying transactions for the physical purchase and sale of electricity and gas and interest rate risk on certain debt securities. See "Financial and Commodity Market Risks" below and Note P to the financial statements.

Accounting for Goodwill

Con Edison adopted SFAS No. 142, "Goodwill and Other Intangible Assets" on January 1, 2002. In accordance with this standard, Con Edison ceased amortizing goodwill and began testing remaining goodwill balances for impairment on an annual basis. Con Edison completed initial goodwill impairment tests and recorded a loss of \$34.1 million (\$20.2 million after tax) as of January 1, 2002, relating to certain generation assets owned by an unregulated subsidiary. The unamortized goodwill of \$405.8 million, relating to the acquisition of O&R, was tested for impairment and determined not to be impaired. See Note L to the financial statements.

In determining whether or not its goodwill is impaired, Con Edison is required to make certain estimates and assumptions that could affect the results of the goodwill impairment test. Actual results could differ from the estimates used.

Accounting for Leases

The Companies apply SFAS No. 13, "Accounting for Leases" and other related accounting pronouncements to their leasing transactions. See Notes K and T to the financial statements.

LIQUIDITY AND CAPITAL RESOURCES

The Companies' liquidity reflects cash flows from operating, investing and financing activities, as shown on their respective consolidated statement of cash flows and as discussed below.

The principal factors affecting Con Edison's liquidity at the holding company level are its investments in the Utilities, the dividends it pays to its shareholders and the dividends it receives from the Utilities. In addition, in 2003 Con Edison issued 11.9 million shares of common stock for \$431 million (\$381 million of which it invested in Con Edison of New York) and \$200 million of five-year debt. In 2002, the company issued \$325 million of 40-year debt (most of which it invested in its unregulated subsidiaries).

The principal factors affecting the Utilities' liquidity are the cash flow generated from operations, construction expenditures and maturities of their debt securities. In addition, Con Edison of New York in 2003 received a \$381 million capital contribution from Con Edison; in 2002 and 2001 issued \$225 million and \$95 million, respectively, of additional debt net of redemptions; and in 2001 received

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

net proceeds of \$597 million from the sale of generating assets, net of a contribution to its nuclear decommissioning trust (see Note J to the financial statements). Also, since 2001, Con Edison of New York has incurred substantial, primarily capital, costs in connection with the attack on the World Trade Center and the subsequent restoration of lower Manhattan and to date has received reimbursement of such costs of \$29 million from the federal government (see Note R to the financial statements). In 2003, O&R redeemed \$35 million of debt at maturity with commercial paper.

The Companies each believes that it will be able to meet its reasonably likely short-term and long-term cash requirements, assuming that the Utilities' rate plans reflect their costs of service, including a return on invested capital. See "Regulatory Matters," below and "Application of Critical Accounting Policies—Accounting for Contingencies," above.

Changes in the Companies' cash and temporary cash investments resulting from operating, investing and financing activities for the years ended December 31, 2003, 2002 and 2001 are summarized as follows:

CON EDISON

(Millions of Dollars)

| | 2003 | 2002 | Variance 2003 vs. 2002 | 2001 | Variance 2002 vs. 2001 |
|--|----------|----------|---------------------------|----------|---------------------------|
| Operating activities | \$ 1,319 | \$ 1,522 | \$ (203) | \$ 1,587 | \$ (65) |
| Investing activities | (1,527) | (1,634) | 107 | (941) | (693) |
| Financing activities | 143 | (115) | 258 | (382) | 267 |
| Net change for the period | (65) | (227) | 162 | 264 | (491) |
| Balance at beginning of period | 132 | 359 | (227) | 95 | 264 |
| Balance at end of period (including restricted cash) | \$ 67 | \$ 132 | \$ (65) | \$ 359 | \$ (227) |

(Millions of Dollars)

| | 2003 | 2002 | Variance 2003 vs. 2002 | 2001 | Variance 2002 vs. 2001 |
|--|----------|----------|---------------------------|----------|---------------------------|
| Operating activities | \$ 1,169 | \$ 1,310 | \$ (141) | \$ 1,306 | \$ 4 |
| Investing activities | (1,337) | (1,273) | (64) | (569) | (704) |
| Financing activities | 113 | (214) | 327 | (542) | 328 |
| Net change for the period | (55) | (177) | 122 | 195 | (372) |
| Balance at beginning of period | 88 | 265 | (177) | 70 | 195 |
| Balance at end of period (including restricted cash) | \$ 33 | \$ 88 | \$ (55) | \$ 265 | \$ (177) |

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

O&R

(Millions of Dollars)

| | 2003 | 2002 | Variance 2003 vs. 2002 | 2001 | Variance 2002 vs. 2001 |
|--|--------|--------|---------------------------|--------|---------------------------|
| Operating activities | \$ 128 | \$ 104 | \$ 24 | \$ 107 | \$ (3) |
| Investing activities | (71) | (60) | (11) | (61) | 1 |
| Financing activities | (49) | (44) | (5) | (52) | 8 |
| Net change for the period | 8 | - | 8 | (6) | 6 |
| Balance at beginning of period | 2 | 2 | - | 8 | (6) |
| Balance at end of period (including restricted cash) | \$ 10 | \$ 2 | \$ 8 | \$ 2 | \$ - |

Cash Flows from Operating Activities

The Utilities' cash flows from operating activities reflect principally their energy sales and deliveries and cost of operations. The volume of energy sales and deliveries is dependent primarily on factors external to the Utilities, such as weather and economic conditions. The prices at which the Utilities provide energy to their customers are determined in accordance with rate plans approved by the state public utility regulatory authority having jurisdiction—the PSC, the New Jersey Board of Public Utilities (NJBPUC) and the Pennsylvania Public Utility Commission (PPUC). See "Regulatory Matters" below. In general, changes in the Utilities' cost of purchased power, fuel and gas may affect the timing of cash flows but not net income because the costs are recovered in accordance with rate plans. See "Recoverable Energy Costs" in Note A to the financial statements.

Net income for common stock is the result of cash and non-cash (or accrual) transactions. Only cash transactions affect the Companies' cash flows from operating activities. Principal non-cash charges include depreciation and deferred taxes, and for Con Edison in 2003, impairment charges. For Con Edison of New York, principal non-cash credits include prepaid pension costs. Pension credits result from past favorable performance in Con Edison of New York's pension fund and assumptions about future performance. See "Application of Critical Accounting Policies—Accounting for Pensions and Other Postretirement Benefits" and Notes E and F to the financial statements.

Net cash flows from operating activities in 2003 for Con Edison and Con Edison of New York were \$203 million and \$141 million lower than 2002, respectively. This decrease reflects lower net income at Con Edison of New York (due to a certain extent to costs not reflected in current rates) and for Con Edison (due to greater losses at the unregulated subsidiaries). This decrease also reflects Con Edison of New York's increase in the value of gas in storage (reflecting both higher unit costs and higher volumes) and a higher level of accrued construction commitments at year-end 2002 that were paid for in 2003. This decrease was partially offset by an increase in deferred income tax expense.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Net cash flows from operating activities in 2003 for O&R were \$24 million higher than in 2002 due primarily to increased deferred income tax expense, partially offset by the increased value of gas in storage (resulting from higher unit costs and volumes).

Net cash flows from operating activities in 2002 for Con Edison were \$65 million lower than in 2001. This decrease was due principally to higher energy costs and sales at the Utilities in December 2002 as compared with December 2001, resulting in increased customer accounts receivable and recoverable energy costs, offset in part by increased accounts payable balances. The net benefit to cash flows from these activities in 2001 was greater than the benefit in 2002 because high energy costs at year-end 2000 were collected in 2001 and energy purchases at year-end 2001 were lower than the prior year. The change in cash flows also reflects the timing of federal income tax payments and refunds for the Utilities and net cash received related to regulatory liabilities, such as transmission congestion contracts, offset by increased cash expended related to regulatory assets.

Net cash flows from operating activities in 2002 for Con Edison of New York were \$4 million higher than in 2001. The change in cash flows reflects the aforementioned impact of the timing of energy sales and cost recovery, the timing of federal income tax payments and refunds, and cash received or expended related to regulatory liabilities and regulatory assets, respectively.

Cash Flows Used in Investing Activities

Net cash flows used in investing activities for Con Edison were \$107 million lower in 2003 than in 2002, due primarily to lower construction expenditures by its unregulated subsidiaries, partially offset by increased construction expenditures by the Utilities. Cash flows used in investing activities were \$64 million and \$11 million higher in 2003 than in 2002 for Con Edison of New York and O&R, respectively, due primarily to increased construction expenditures.

Net cash flows used in investing activities for Con Edison and Con Edison of New York were \$693 million and \$704 million higher in 2002 compared with 2001, respectively, due primarily to the receipt in 2001 of net proceeds from generation divestiture. See Note J to the financial statements. In addition, Con Edison of New York construction expenditures increased in 2002 compared with 2001, principally to meet load growth on the company's electric distribution system, to effect permanent restoration of portions of the electric, gas and steam systems in lower Manhattan following the World Trade Center attack and for the ongoing project to add incremental generating capacity at Con Edison of New York's East River steam-electric generating plant (the East River Repowering Project).

Deferred real estate sale costs related to the demolition and remediation of a nine-acre development site in midtown Manhattan along the East River were \$134 million at December 31, 2002, compared with \$105 million at December 31, 2001. In 2000, Con Edison of New York agreed to sell this site for an expected price of \$576 million to \$680 million, depending on zoning and other adjustments. The sale is subject to PSC approval and other conditions. The buyer paid Con Edison of New York \$50 million in

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

2000 as a down payment, which Con Edison used to fund a portion of the demolition and remediation expenses. The down payment has been recorded as a regulatory liability.

Net cash flows used in investing activities for O&R were \$1 million lower in 2002 than in 2001.

Cash Flows from/(used in) Financing Activities

Net cash flows from financing activities in 2003 for Con Edison and Con Edison of New York increased \$258 million and \$327 million, respectively in 2003 compared with 2002.

Con Edison's cash flows from financing activities for the year ended December 31, 2003, reflect the issuance of 9.6 million Con Edison common shares (resulting in proceeds of \$381 million, which was invested by Con Edison in Con Edison of New York) and \$200 million of Con Edison's 3.625 percent 5-year Series 2003A Debentures (most of which was invested in the unregulated subsidiaries). Cash flows from financing activities in 2002 reflect the issuance of \$325 million of Con Edison's 7.25 percent 40-year Series 2002A Debentures (the proceeds of which were used to repay commercial paper). Cash flows from financing activities in both 2003 and 2002 also reflect the issuance of Con Edison common shares through its dividend reinvestment and employee stock plans (2003: 2.3 million shares for \$50 million; 2002: 1.7 million shares for \$25 million). In addition, common stock dividends paid in 2003 and 2002 were reduced by \$46 million and \$44 million, respectively, to reflect the amount of dividends reinvested in Con Edison common shares through the dividend reinvestment and employee stock plans.

Net cash flows used in financing activities for Con Edison and Con Edison of New York decreased \$267 million and \$328 million in 2002 compared with 2001, respectively. This decrease reflects principally increased debt financing for construction expenditures at Con Edison of New York and a reduction in the dividends paid by Con Edison of New York to Con Edison. In addition, in September 2001, Con Edison of New York used the proceeds from the sale of its nuclear plant to repay outstanding short-term borrowing.

Net cash flows used in financing activities for O&R were \$8 million lower in 2002 than 2001, due primarily to the retirement of short-term debt in excess of proceeds from issuances.

Net cash flows from financing activities during the years ending December 31, 2003, 2002 and 2001 also reflect Con Edison of New York's (unless otherwise noted) refunding and issuance of long-term debt and preferred stock as follows:

2003

- Redeemed in advance of maturity \$275 million 7.75 percent 35-year Series 1996A, Subordinated Deferrable Interest Debentures using cash held for that purpose at December 31, 2002;
- Redeemed at maturity \$150 million of 6.375 percent 10-year Series 1993D Debentures and issued \$175 million 5.875 percent 30-year Series 2003A Debentures;

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION
AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF
NEW YORK AND O&R) — CONTINUED**

- Redeemed \$380 million 7.5 percent 30-year Series 1993G Debentures using the net proceeds from the issuance of \$200 million 3.85 percent 10-year Series 2003B Debentures and \$200 million 5.10 percent 30-year Series 2003C Debentures;
- O&R redeemed at maturity its \$35 million 6.56 percent 10-year Series 1993D Debentures using proceeds from the issuance of commercial paper.

2002

- Redeemed at maturity \$150 million 6.625 percent 9-year Series 1993C;
- Redeemed at maturity \$150 million variable-rate 5-year Series 1997A and issued \$300 million of 5.625 percent 10-year Series 2002A Debentures;
- Redeemed at maturity \$37 million of Cumulative Preferred Stock \$100 par value 6.125 percent Series J;
- Issued \$500 million of 4.875 percent 10-year Series 2002B Debentures.

2001

- Redeemed at maturity \$150 million 6.5 percent 10-year Series 1993B;
- Issued \$400 million 7.5 percent 40-year Series 2001A;
- Issued \$225 million variable rate 35-year tax-exempt debt Series 2001A through the New York State Energy Research and Development Authority (NYSERDA) and redeemed in advance of maturity \$128 million 7.5 percent 25-year Series 1991A and \$100 million 6.75 percent 25-year Series 1992A NYSERDA bonds;
- Issued \$98 million variable rate 35-year tax-exempt debt through NYSERDA and redeemed in advance of maturity \$100 million 6.375 percent 25-year Series 1992B NYSERDA bonds;
- Redeemed at maturity \$150 million variable rate 5-year Series 1996B.

In 2002, Con Edison of New York changed the interest rate method applicable to \$224.6 million aggregate principal amount of its tax-exempt Facilities Revenue Bonds, Series 2001A from a variable weekly rate mode to a 10-year term mode, callable at par after three years with a 4.7 percent annual interest rate. In addition, Con Edison of New York entered into a swap agreement in connection with these bonds pursuant to which the company pays interest at a variable rate equal to the three-month LIBOR and is paid interest at a fixed rate of 5.375 percent. See Note P to the financial statements.

Cash flows from financing activities of the Companies also reflect commercial paper issuance (included on the consolidated balance sheets as "Notes payable"). The commercial paper amounts outstanding at

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**MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION
AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF
NEW YORK AND O&R) — CONTINUED**

December 31, 2003, 2002 and 2001 and the average daily balance for 2003, 2002 and 2001 for Con Edison, Con Edison of New York and O&R were as follows:

| <i>(Millions of Dollars, except Weighted Average Yield)</i> | <i>2003</i> | | <i>2002</i> | | <i>2001</i> | |
|---|---|----------------------|---|----------------------|---|----------------------|
| | <i>Outstanding at December 31</i> | <i>Daily average</i> | <i>Outstanding at December 31</i> | <i>Daily average</i> | <i>Outstanding at December 31</i> | <i>Daily average</i> |
| Con Edison | \$ 156 | \$ 326 | \$ 151 | \$ 256 | \$ 176 | \$ 242 |
| Con Edison of New York | \$ 99 | \$ 179 | \$ - | \$ 157 | \$ - | \$ 164 |
| O&R | \$ 15 | \$ 33 | \$ 1 | \$ 1 | \$ 17 | \$ 28 |
| Weighted average yield | 1.0% | 1.2% | 1.2% | 1.7% | 2.0% | 4.6% |

External borrowings are a source of liquidity that could be affected by changes in credit ratings, financial performance and capital markets. For information about the Companies' credit rating and certain financial ratios, see "Capital Resources," below.

In January 2004, Con Edison of New York issued \$245.3 million of its variable rate, tax-exempt Facilities Revenue Bonds, Series 2004A and B, the proceeds of which are being used to redeem in advance of maturity its fixed rate, tax-exempt Facilities Revenue Bonds, Series 1993A, B and C.

In February 2004, Con Edison of New York issued \$200 million of 4.7 percent 10-year Series 2004A Debentures and \$200 million of 5.7 percent 30-year Series 2004B Debentures, the proceeds of which were used to redeem in advance of maturity the company's \$150 million 7.125 percent Series 1994A Debentures and for general corporate purposes.

Changes in Assets and Liabilities

The following table shows changes in assets and liabilities at December 31, 2003, compared with December 31, 2002, that have impacted the Companies' consolidated statements of cash flows. The changes in these balances are utilized to reconcile income to cash flow from operations. With respect to regulatory liabilities, see Note B to the financial statements.

| <i>(Millions of Dollars)</i> | <i>Con Edison 2003 vs. 2002 Variance</i> | <i>Con Edison of New York 2003 vs. 2002 Variance</i> | <i>O&R 2003 vs. 2002 Variance</i> |
|--|--|--|---|
| Accounts receivable—customers, less allowance for uncollectible accounts | \$ 107 | \$ 90 | \$ 3 |
| Gas in storage | 69 | 52 | 13 |
| Prepaid pension costs | 233 | 233 | - |
| Accounts payable | (20) | (30) | 11 |
| Superfund and other environmental liabilities | 50 | 45 | 5 |
| Deferred income taxes—liability | 391 | 333 | 44 |
| Regulatory liabilities—transmission congestion contracts | 159 | 159 | - |

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Accounts receivable—customers, less allowance for uncollectible accounts increased due primarily to higher electric and gas sales revenue for the Utilities and higher electric purchased power and gas unit costs (which are recoverable from customers) for Con Edison of New York during December 2003 compared with December 2002. Energy sales and purchased power costs are discussed below under "Results of Operations."

Gas in storage increased at December 31, 2003 as compared with year-end 2002 due primarily to higher unit costs and volumes of gas in storage at December 31, 2003 as compared with year-end 2002.

Prepaid pension costs for Con Edison and Con Edison of New York increased at December 31, 2003 as compared with year-end 2002 due to the recognition of the current period's pension credits.

Accounts payable for Con Edison and Con Edison of New York decreased at December 31, 2003 as compared with year-end 2002 due primarily to a higher level of accrued construction commitments at year-end 2002. This decrease was offset in part by increased electric purchased power costs for Con Edison of New York at December 31, 2003 as compared with year-end 2002, reflecting higher unit costs.

Superfund and other environmental liabilities for the Companies increased at December 31, 2003 as compared with year-end 2002 reflecting increased estimates for investigation, removal and remediation costs.

Deferred income taxes—liability increased at December 31, 2003 as compared with year-end 2002 due primarily to accelerating tax deductions for capitalized indirect costs.

Transmission congestion contracts (See "Regulatory Assets and Liabilities" in Note B to the financial statements) increased at December 31, 2003 compared with year-end 2002 reflecting proceeds from the sale through the New York Independent System Operator (NYISO) of transmission rights on Con Edison of New York's transmission system. These proceeds are being retained for customer benefit.

Capital Resources

Con Edison is a holding company that operates only through its subsidiaries and has no material assets other than its interests in its subsidiaries. Con Edison expects to finance its capital requirements primarily from dividends it receives from its subsidiaries and through the sale of securities, including commercial paper. In addition, Con Edison's ability to make payments on its external borrowings and dividends on its common shares is dependent on its receipt of dividends from its subsidiaries or proceeds from the sale of its securities or its interests in its subsidiaries.

For information about restrictions on the payment of dividends by the Utilities and significant debt covenants, see Note C to the financial statements.

For information on the Companies' commercial paper program and revolving credit agreements with banks, see Note D to the financial statements.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

The Utilities expect to finance their operations, capital requirements and payment of dividends to Con Edison from internally generated funds and external borrowings.

In December 2001, the PSC authorized the Utilities to issue up to \$1.95 billion of debt securities prior to 2006, of which Con Edison of New York issued \$195 million and \$525 million of debt securities in 2003 and 2002, respectively. In addition, the PSC authorized the refunding of the Utilities' outstanding debt securities and preferred stock.

Con Edison's unregulated subsidiaries have financed their operations and capital requirements primarily with capital contributions from Con Edison, internally generated funds and external borrowings. See Note T to the financial statements.

In August 2002, Congress appropriated funds for which Con Edison of New York is eligible to apply, to recover costs it incurred in connection with the World Trade Center attack. In accordance with procedural guidelines for disbursement of the federal funds, Con Edison of New York submitted its initial application for funds in October 2003 and received the first installment of \$29 million on October 31, 2003. The Company will submit additional applications when appropriate. See Note R to the financial statements.

For each of the Companies, the ratio of earnings to fixed charges (Securities and Exchange Commission basis) for the years ended December 31, 2003, 2002, 2001, 2000 and 1999 was:

| | <i>Earnings to Fixed Charges</i> | | | | |
|------------------------|----------------------------------|-------------|-------------|-------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2001</i> | <i>2000</i> | <i>1999</i> |
| Con Edison | 2.7 | 3.1 | 3.3 | 3.0 | 3.8 |
| Con Edison of New York | 3.4 | 3.4 | 3.7 | 3.2 | 4.2 |
| O&R | 4.4 | 3.3 | 3.5 | 3.4 | 2.5 |

For each of the Companies, the common equity ratio at December 31, 2003, 2002 and 2001 was:

| | <i>As of December 31,</i> | | |
|------------------------|---------------------------|-------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2001</i> |
| Con Edison | 48.0 | 48.1 | 49.8 |
| Con Edison of New York | 49.3 | 46.6 | 47.2 |
| O&R | 55.1 | 53.6 | 50.0 |

The commercial paper of the Companies is rated P-1, A-1 and F1, respectively, by Moody's Investor Service, Inc. (Moody's), Standard & Poor's Rating Services (S&P) and Fitch Ratings (Fitch). Con Edison's unsecured debt is rated A2, A- and A-, respectively, by Moody's, S&P and Fitch. The unsecured debt of the Utilities is rated A1, A and A+, respectively, by Moody's, S&P and Fitch. A securities rating is subject to revision or withdrawal at any time by the assigning rating organization.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Capital Requirements

The following table compares the Companies' capital requirements for the years 2001 through 2003 and estimated amounts for 2004 and 2005.

| <i>(Millions of Dollars)</i> | <i>2001</i> | <i>2002</i> | <i>2003</i> | <i>2004</i> | <i>2005</i> |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|
| Regulated utility construction expenditures | | | | | |
| Con Edison of New York | \$ 984 | \$ 1,082 | \$ 1,167 | \$ 1,060 | \$ 1,362 |
| O&R | 59 | 58 | 71 | 83 | 81 |
| Total regulated construction expenditures | \$ 1,043 | \$ 1,140 | \$ 1,238 | \$ 1,143 | \$ 1,443 |
| Unregulated subsidiaries construction expenditures | 154 | 282 | 105 | 30 | 29 |
| Sub-total | 1,197 | 1,422 | 1,343 | 1,173 | 1,472 |
| Retirement of long-term securities at maturity | | | | | |

| | | | | | |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|
| Con Edison of New York | 628 | 337 | 805 | 150 | 450 |
| O&R | — | — | 35 | — | — |
| Unregulated subsidiaries | 10 | 11 | 16 | 16 | 17 |
| Total retirement of long-term securities at maturity | 638 | 348 | 856 | 166 | 467 |
| Total | \$ 1,835 | \$ 1,770 | \$ 2,200 | \$ 1,339 | \$ 1,939 |

Con Edison of New York's utility construction expenditures in 2003 and 2004 reflect programs to meet electric load growth and reliability needs, gas infrastructure expenditures, the East River Repowering Project and expenditures for permanent electric, gas and steam system restoration following the World Trade Center attack (see Note R to the financial statements). The increase for 2005 reflects an anticipated higher level of expenditures for electric substations and ongoing improvements and reinforcements of the electric distribution system.

The unregulated subsidiaries' construction expenditures declined in 2003 and are expected to continue to decline, consistent with there being no major construction or acquisition expected for those businesses. At December 31, 2003 and 2002, Con Edison's investment balance in these subsidiaries, on an unconsolidated basis, was \$703 million and \$790 million, respectively.

Contractual Obligations

The following tables summarize the Companies' material obligations at December 31, 2003, to make payments pursuant to contracts. Long-term debt, capital lease obligations and other long-term liabilities are included on their balance sheets. Operating leases and non-utility generator (NUG) contracts (for

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

which undiscounted future annual payments are shown) are disclosed in the notes to the financial statements.

Payments Due by Period

(Millions of Dollars)

| <i>Contractual Obligations</i> | <i>Total</i> | <i>Less than 1 year</i> | <i>1-3 years</i> | <i>4-5 years</i> | <i>After 5 years</i> |
|--|-----------------|-------------------------|------------------|------------------|----------------------|
| Long-term debt (Note C) | | | | | |
| Con Edison of New York | \$ 5,609 | \$ 150 | \$ 450 | \$ 610 | \$ 4,399 |
| O&R | 302 | — | — | 20 | 282 |
| Unregulated subsidiaries and parent | 1,012 | 16 | 37 | 245 | 714 |
| Total Long-term debt | \$ 6,923 | \$ 166 | \$ 487 | \$ 875 | \$ 5,395 |
| Capital lease obligations (Note K) | | | | | |
| Con Edison of New York | \$ 65 | \$ 8 | \$ 14 | \$ 15 | \$ 28 |
| Unregulated subsidiaries | 6 | 6 | — | — | — |
| Total Capital lease obligations | \$ 71 | \$ 14 | \$ 14 | \$ 15 | \$ 28 |
| Operating leases (Notes K and T) | | | | | |
| Con Edison of New York | \$ 82 | \$ 40 | \$ 13 | \$ 10 | \$ 19 |
| O&R | 28 | 3 | 4 | 4 | 17 |
| Unregulated subsidiaries | 48 | 8 | 14 | 16 | 10 |
| Total operating leases | \$ 158 | \$ 51 | \$ 31 | \$ 30 | \$ 46 |
| Purchase obligations: | | | | | |
| Non-utility generator contracts—Utilities (Note I) | | | | | |
| Con Edison of New York | \$ 8,112 | \$ 530 | \$ 1,065 | \$ 1,171 | \$ 5,346 |
| O&R | 105 | 57 | 48 | — | — |
| Total non-utility generator contracts | \$ 8,217 | \$ 587 | \$ 1,113 | \$ 1,171 | \$ 5,346 |
| Natural gas supply, transportation, and storage contracts—Utilities | | | | | |
| Con Edison of New York | \$ 298 | \$ 101 | \$ 87 | \$ 61 | \$ 49 |
| O&R | 122 | 41 | 36 | 25 | 20 |
| Total natural gas supply, transportation and storage contracts | \$ 420 | \$ 142 | \$ 123 | \$ 86 | \$ 69 |

| | | | | | | | |
|--|-----------|---------------|-----------|--------------|-----------|--------------|---------------------------|
| Other purchase obligations(a) | | | | | | | |
| Con Edison of New York | \$ | 1,136 | \$ | 228 | \$ | 455 | \$ 453 \$ — |
| O&R | | 80 | | 17 | | 32 | 31 — |
| Total other purchase obligations | \$ | 1,216 | \$ | 245 | \$ | 487 | \$ 484 \$ — |
| Unregulated subsidiary commodity and service agreements(b) | \$ | 661 | \$ | 254 | \$ | 173 | \$ 42 \$ 192 |
| Total | \$ | 17,666 | \$ | 1,459 | \$ | 2,428 | \$ 2,703 \$ 11,076 |

- (a) Other purchase obligations for the Utilities exclude amounts included in other contractual obligations shown on the table. Amounts shown for purchase obligations were derived from the Utilities' purchasing systems as the difference between the amounts authorized and the amounts paid (or vouchered to be paid) for each obligation. For most of its other purchase obligations, the Utilities are committed to purchase less than the amount authorized, typically a 10 percent commitment. These other purchase obligations reflect capital and operations and maintenance costs entered into by the Utilities in running their day to day operations. Payments of the other purchase obligations are assumed to be made ratably over the terms of the obligations.
- (b) Represents commitments to purchase electric energy and capacity, natural gas and natural gas pipeline capacity and operation and maintenance generation service agreements entered into by Con Edison's unregulated subsidiaries.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

The Companies' commitments to make payments in addition to these contractual commitments are their other liabilities reflected in their balance sheets and Con Edison's guarantees of certain obligations of its subsidiaries. See Notes S and T to the financial statements.

Electric Power Requirements

In 2003, the Utilities purchased substantially all of the energy they sold to customers pursuant to firm contracts with NUGs and others and through the NYISO's wholesale electricity market. Con Edison expects that these resources will again be adequate to meet the requirements of its customers in 2004.

In general, the Utilities recover prudently incurred purchase power costs pursuant to rate provisions approved by the state public utility regulatory authority having jurisdiction. See "Financial and Commodity Market Risks—Commodity Price Risk" below and "Recoverable Energy Costs" in Note A to the financial statements. From time to time certain parties have petitioned the PSC to review these provisions, the elimination of which could have a material adverse effect on the Companies' financial position, results of operations or liquidity.

To reduce the volatility of electric energy costs, the Utilities have firm contracts to purchase electric energy (including the output of the nuclear generating unit divested in 2001) and have entered into derivative transactions to hedge the costs of expected purchases, which together cover a substantial portion of the electric energy expected to be sold to customers in the summer of 2004. See Notes I and P to the financial statements. O&R's New Jersey subsidiary entered into firm contracts to purchase electric energy for a substantial portion of the electric energy expected to be sold to its customers in 2004. Con Edison of New York also owns approximately 630 MW of generating stations associated primarily with its steam system, located in New York City, the electricity output of which it sells through the NYISO's wholesale electricity market.

The East River Repowering Project will add incremental electric capacity of approximately 200 MW based on a winter nominal rating or approximately 125 MW based on a summer nominal rating. In a July 1998 order, the PSC indicated that it "agree(s) generally that Con Edison of New York need not plan on constructing new generation as the competitive market develops," but considers "overly broad" and did not adopt Con Edison of New York's request for a declaration that, solely with respect to providing generating capacity, it will no longer be required to engage in long-range planning to meet potential demand and, in particular, that it will no longer have the obligation to construct new generating facilities, regardless of the market price of capacity. Con Edison of New York monitors the adequacy of the electric capacity resources and related developments in its service area, and works with other parties on long-term resource adequacy issues within the framework of the NYISO.

Con Edison's unregulated subsidiaries sell electricity in the wholesale and retail NYISO and other markets. At December 31, 2003, Con Edison Development's interests in electric generating facilities amounted to 1,668 MW. Con Edison Energy sells the electricity from these generating facilities under

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

contract or on the wholesale electricity markets. See "Financial and Commodity Market Risks—Commodity Price Risk," below.

REGULATORY MATTERS

For additional information about the electric, gas and steam agreements discussed below, see "Rate and Restructuring Agreements" in Note B to the financial statements.

In July 2002, FERC issued a Notice of Proposed Rulemaking (NOPR) to establish a Standard Market Design (SMD) for wholesale electricity markets across the country. The proposed SMD has many of the elements of the markets that have been established in the Northeast, and if adopted, could facilitate transactions among energy markets across the country. After receiving over 1,000 comments on the proposals contained in its SMD NOPR, the FERC issued its Wholesale Market Platform "White Paper" on April 28, 2003. The White Paper built on the existing rules contained in Order 2000. Key among the attributes discussed in the White Paper are flexibility on the scope and configuration to allow for both Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs); the need for a regional planning process; the need for rate mechanisms that minimize cost shifts; the need to eliminate "seams" charges between ISOs and RTOs; the use of a real-time market for energy to resolve imbalances; and the need for an approach to manage congestion, which could include locational pricing with firm transmission rights, that protects against manipulation, utilizes the grid effectively and promotes the use of lower cost generation. In addition, each region within an RTO or ISO will determine how it will ensure that its region has sufficient resources to meet customers' needs. Since releasing its White Paper, the FERC has held technical conferences on various issues. However, it has not issued any specific orders for compliance. The energy bill introduced in Congress in 2003 contained a provision remanding SMD to the FERC and requiring that no new rule could be issued before October 31, 2006 or could become effective before December 31, 2006. The energy bill was not passed in 2003. The Senate leadership has stated its intent to bring the bill up for vote again in 2004.

In September 1997, the PSC approved a restructuring agreement among Con Edison of New York, the PSC staff and certain other parties (the 1997 Restructuring Agreement). Pursuant to the 1997 Restructuring Agreement, Con Edison of New York reduced electric rates on an annual basis by \$129 million in 1998, \$80 million in 1999, \$103 million in 2000 and \$209 million in 2001, divested most of its electric generating capacity, and enabled all of its electric customers to be served by competitive energy suppliers.

In November 2000, the PSC approved an October 2000 agreement (the 2000 Electric Rate Agreement) that, among other things, revised and extended the electric rate plan provisions of the 1997 Restructuring Agreement and addressed certain generation divestiture-related issues.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

The electric rate plan provisions of the 2000 Electric Rate Agreement cover the five-year period ending March 2005. Pursuant to the 2000 Electric Rate Agreement, Con Edison of New York reduced the distribution component of its electric rates by \$170 million on an annual basis, effective October 2000.

The 2000 Electric Rate Agreement continues the rate provisions pursuant to which Con Edison of New York recovers prudently incurred purchased power and fuel costs from customers. See "Recoverable Energy Costs" in Note A to the financial statements.

O&R has entered into settlement agreements or similar arrangements with the PSC, NJBPU and PPUC that provide for a transition to a competitive electric market.

In October 2003, the PSC approved agreements among O&R, the staff of the PSC and other parties with respect to the rates O&R can charge to its New York customers for electric service. The electric agreement, which covers the period from July 1, 2003 through October 31, 2006, provides for no changes to electric base rates and contains provisions for the amortization and offset of regulatory assets and liabilities, the net effect of which will reduce electric operating income by a total of \$11 million (pre-tax) between July 2003 and June 2006. During the second half of 2003, O&R amortized \$3.7 million of the \$11 million. The agreement continues to provide for recovery of energy costs from customers on a current basis and for O&R to share equally with customers earnings in excess of a 12.75 percent return on common equity during the three year period from July 2003 through June 2006. The period from July 2006 through October 2006 will not be subject to earnings sharing.

In July 2003, the NJBPU ruled on the petitions of Rockland Electric Company (RECO), the New Jersey utility subsidiary of O&R, for an increase in electric rates and recovery of deferred purchased power costs. See "Recoverable Energy Costs" and "Rate and Restructuring Agreements—Electric" in Notes A and B, respectively, to the financial statements. The NJBPU ordered a \$7 million decrease in RECO's electric base rates, effective August 2003, authorized RECO's recovery of approximately \$83 million of previously deferred purchased power costs and associated interest and disallowed recovery of approximately \$19 million of such costs and associated interest. At December 31, 2002, the company had accrued a reserve for \$13 million of the disallowance, and at June 30, 2003 reserved an additional \$6 million for the disallowance.

Gas

In November 2003, Con Edison of New York filed a request with the PSC to increase charges for gas service by \$108 million (9.8 percent), effective October 2004.

Con Edison of New York is currently operating under a gas rate agreement approved by the PSC in April 2002. The Agreement covers the three-year period ending September 30, 2004. The rate agreement reduced retail sales and transportation rates by \$25 million, on an annual basis.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

In November 2000, the PSC approved an agreement between Con Edison of New York, the PSC staff and certain other parties that revised and extended the 1996 gas rate settlement agreement through September 2001. The 1996 agreement, with limited exceptions, continued base rates at September 1996 levels through September 2000.

In October 2003, the PSC approved an agreement among O&R, the staff of the PSC and other parties with respect to the rates O&R can charge to its New York customers for gas service. The O&R gas agreement, which covers the period from November 1, 2003 through October 31, 2006, provides for annual increases in

gas base rates of \$9 million (5.8 percent) effective November 2003, \$9 million (4.8 percent) effective November 2004 and \$5 million (2.5 percent) effective November 2005. The O&R gas agreement also continues a weather normalization clause that moderates, but does not eliminate, the effect of weather-related changes on net income. The agreement continues to provide for recovery of energy costs from customers on a current basis and for O&R to share equally with customers earnings in excess of an 11 percent return on common equity over the term of the agreement. The agreement also contains incentives under which, among other things, the company earns additional amounts based on attaining specified targets for customer migration to its retail access programs and the achievement of certain net revenue targets for interruptible sales and transportation customers.

In November 2000, the PSC also approved a gas rate agreement between O&R, PSC Staff and certain other parties covering the three-year period November 2000 through October 2003.

Steam

In November 2003, Con Edison of New York filed a request with the PSC to increase annual charges for steam service by \$129 million (14.6 percent), effective October 2004.

Con Edison of New York is currently operating under a steam rate agreement that was approved by the PSC in December 2000. The agreement provided for a \$16.6 million steam rate increase, which took effect October 2000 and, with limited exceptions, provided for no further changes in steam rates prior to October 2004.

FINANCIAL AND COMMODITY MARKET RISKS

The Companies are subject to various risks and uncertainties associated with financial and commodity markets. The most significant market risks include interest rate risk, commodity price risk, credit risk and investment risk.

Interest Rate Risk

The interest rate risk relates primarily to variable rate debt and to new debt financing needed to fund capital requirements, including the construction expenditures of the Utilities and maturing debt securities. Con Edison and its subsidiaries manage interest rate risk through the issuance of mostly fixed rate-debt with varying maturities and through opportunistic refinancing of debt. Con Edison estimates that, as of December 31, 2003, each 10 percent variation in interest rates applicable to the Companies'

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

variable rate debt of \$816 million would result in a change in annual interest expense of \$1 million. For each 10 percent change in Con Edison of New York's and O&R's variable interest rates applicable to their variable rate debt of \$714 million and \$59 million, respectively, annual interest expense for Con Edison of New York would change by \$1 million and there would be no material impact for O&R.

In addition, Con Edison and its subsidiaries, from time to time, enter into derivative financial instruments to hedge interest rate risk on certain debt securities. See "Interest Rate Hedging" in Note P to the financial statements.

Commodity Price Risk

Con Edison's commodity price risk relates primarily to the purchase and sale of electricity, gas and related derivative instruments. The Utilities and Con Edison's unregulated subsidiaries have risk management strategies to mitigate their related exposures. See Note P to the financial statements.

Con Edison estimates that, as of December 31, 2003, each 10 percent change in market prices would result in a change in fair value of \$12 million for the derivative instruments used by the Utilities to hedge purchases of electricity and gas, of which \$8 million is for Con Edison of New York and \$4 million for O&R. Con Edison expects that any such change in fair value would be largely offset by directionally opposite changes in the cost of the electricity and gas purchased. In accordance with provisions approved by state regulators, the Utilities generally recover from customers the costs they incur for energy purchased for their customers, including gains and losses on certain derivative instruments used to hedge energy purchased and related costs. See "Recoverable Energy Costs" in Note A to the financial statements.

Con Edison's unregulated subsidiaries use a value-at-risk (VaR) model to assess the market risk of their electricity and gas commodity fixed price purchase and sales commitments, physical forward contracts and commodity derivative instruments. VaR represents the potential change in fair value of instruments or the portfolio due to changes in market factors, for a specified time period and confidence level. The unregulated subsidiaries estimate VaR across their electricity and natural gas commodity businesses using a delta-normal variance/covariance model with a 95 percent confidence level. Since the VaR calculation involves complex methodologies and estimates and assumptions that are based on past experience, it is not necessarily indicative of future results. VaR for transactions associated with hedges on generating assets and commodity contracts, assuming a one-day holding period, for the years ended December 31, 2003, and 2002, respectively, was as follows:

| <i>95% Confidence Level, One-Day Holding Period</i> | <i>2003</i> | <i>2002</i> |
|---|------------------------------|-------------|
| | <i>(Millions of Dollars)</i> | |
| Average for the period | \$ 1 | \$ 1 |
| High | \$ 3 | \$ 3 |
| Low | \$ - | \$ 1 |

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Credit Risk

The Companies are exposed to credit risk related to over-the-counter transactions entered into primarily for the various energy supply and hedging activities by the Utilities and the unregulated energy subsidiaries. Credit risk relates to the loss that may result from a counterparty's nonperformance. The Companies use credit policies to manage this risk, including an established credit approval process, monitoring of counterparty limits, master netting agreements and collateral or prepayment arrangements. The Companies measure credit risk exposure as the replacement cost for open energy commodity and derivative positions plus amounts owed from counterparties for settled transactions. The replacement cost of open positions represents unrealized gains, net of any unrealized losses where the company has a legally enforceable right of setoff.

Con Edison's unregulated energy subsidiaries had \$71 million of credit exposure, net of collateral and reserves, at December 31, 2003, of which \$63 million was with investment grade counterparties and \$8 million was with the New York Mercantile Exchange or independent system operators.

Investment Risk

The Companies' investment risk relates to the investment of the assets of their pension and other postretirement benefit plans. See "Application of Critical Accounting Policies—Accounting for Pensions and Other Postretirement Benefits," above. The Companies' current investment policy for pension plan assets includes investment targets of 65 percent equities and 35 percent fixed income and other securities. At December 31, 2003, the pension plan investments consisted of 64 percent equity and 36 percent fixed income and other securities. See Note E to the financial statements.

ENERGY TRADING ACTIVITIES

Unregulated subsidiaries of Con Edison engage in energy trading activities that are accounted for in accordance with SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended. See Note P to the financial statements.

Prior to October 2002, these contracts were accounted for under Emerging Issues Task Force (EITF) Issue No. 98-10, "Accounting for Contracts Involved in Energy Trading and Risk Management Activities." As of October 2002, energy and energy-related trading contracts that meet the definition of a derivative are accounted for under SFAS No. 133. Such contracts are marked to market with gains and losses recognized in earnings. For the years ended December 31, 2003 and 2002, Con Edison recognized in income net unrealized pre-tax losses of \$3 million and \$1 million, respectively, excluding the effect of a cumulative adjustment due to a change in accounting principle. Contracts that did not fall within the scope of SFAS No. 133 were included in the cumulative effect of a change in accounting principle recognized in December 2002. See Note P to the financial statements.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

The changes in fair value of energy trading net assets for the years ended December 31, 2003 and 2002 were as follows:

| <i>(Millions of Dollars)</i> | <i>Twelve months ended December 31,</i> | |
|--|---|-------------|
| | <i>2003</i> | <i>2002</i> |
| Fair value of net assets outstanding - beginning of period | \$ 5 | \$ 11 |
| Change in fair value during the period: | | |
| Unrealized gain at inception | - | 11 |
| Net premium paid/(received) | 2 | (2) |
| Cumulative effect of a change in accounting principle | - | (3) |
| Changes in fair value prior to settlement | 25 | 6 |
| Fair value realized at settlement of contracts | (28) | (18) |
| Total change in fair value during the period | (1) | (6) |
| Fair value of net assets outstanding—end of period | \$ 4 | \$ 5 |

As of December 31, 2003, the sources of fair value of the energy trading net assets were as follows:

| <i>(Millions of Dollars)</i> | <i>Fair Value of Net Assets at Period End</i> |
|------------------------------|---|
|------------------------------|---|

| <i>Source of Fair Value</i> | <i>Maturity less than 1 year</i> | | <i>Maturity 1-3 years</i> | | <i>Maturity 4-5 years</i> | | <i>Maturity in excess of 5 years</i> | | <i>Total fair value</i> |
|--|----------------------------------|----------|---------------------------|----------|---------------------------|----------|--------------------------------------|----------|-------------------------|
| Prices provided by external sources | \$ | 7 | \$ | - | \$ | - | \$ | - | \$ 7 |
| Prices based on models and other valuation methods | | (3) | | - | | - | | - | (3) |
| Total | \$ | 4 | \$ | - | \$ | - | \$ | - | \$ 4 |

"Prices provided by external sources" represent the fair value of exchange-traded futures and options and the fair value of positions for which price quotations are available through or derived from brokers or other market sources.

"Prices based on models and other valuation methods" represent the fair value of positions calculated using internal models when directly and indirectly quoted external prices or prices derived from external sources are not available. Internal models incorporate the use of options pricing and estimates of the present value of cash flows based on underlying contractual terms. The models reflect management's estimates, taking into account observable market prices, estimated market prices in the absence of quoted market prices, the risk-free market discount rate, volatility factors, estimated correlations of energy commodity prices and contractual volumes. Counterparty specific credit quality, market price uncertainty and other risks are also factored into the models.

ENVIRONMENTAL MATTERS

For information concerning potential liabilities arising from laws and regulations protecting the environment and from claims relating to alleged exposure to asbestos, see Note G to the financial statements.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

IMPACT OF INFLATION

The Companies are affected by the decline in the purchasing power of the dollar caused by inflation. Regulation permits the Utilities to recover through depreciation only the historical cost of their plant assets even though in an inflationary economy the cost to replace the asset upon their retirement will substantially exceed historical costs. The impact is, however, partially offset by the repayment of the Companies' long-term debt in dollars of lesser value than the dollars originally borrowed. Also, to the extent the Companies' prices change by more or less than inflation, the real price of the Companies' services will increase or decline. Over the past 20 years, for example, the real price of electric service has declined substantially.

MATERIAL CONTINGENCIES

For information concerning potential liabilities arising from the Companies' material contingencies, see "Application of Critical Accounting Policies—Accounting for Contingencies," above.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

RESULTS OF OPERATIONS

YEAR ENDED DECEMBER 31, 2003 COMPARED WITH YEAR ENDED DECEMBER 31, 2002

The Companies' results of operations (which were discussed above under "Results of Operations—Summary") in 2003 compared with 2002 were:

| <i>(Millions of Dollars)</i> | <i>Con Edison*</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|------------------------------|-------------------------------------|--------------------------------------|-------------------------------------|--------------------------------------|-------------------------------------|--------------------------------------|
| | <i>Increases (Decreases) Amount</i> | <i>Increases (Decreases) Percent</i> | <i>Increases (Decreases) Amount</i> | <i>Increases (Decreases) Percent</i> | <i>Increases (Decreases) Amount</i> | <i>Increases (Decreases) Percent</i> |
| Operating revenues | \$ 1,325 | 15.6% | \$ 942 | 13.0% | \$ 92 | 14.5% |
| Purchased power | 725 | 22.6 | 502 | 19.1 | 31 | 14.1 |

| | | | | | | |
|---|----------|-----------|------|----------|-----|-------|
| Fuel | 215 | 74.4 | 126 | 54.3 | — | — |
| Gas purchased for resale | 251 | 42.1 | 243 | 51.5 | 31 | 34.8 |
| Operating revenues less purchased power, fuel and gas purchased for resale (net revenues) | 134 | 3.0 | 71 | 1.8 | 30 | 9.2 |
| Other operations and maintenance | 138 | 10.2 | 45 | 4.0 | 27 | 18.9 |
| Impairment charges | 159 | N/A | - | - | - | - |
| Depreciation and amortization | 34 | 6.9 | 20 | 4.6 | - | - |
| Taxes, other than income tax | 2 | 0.2 | - | - | (2) | (3.8) |
| Income tax | (73) | (18.3) | 18 | 5.1 | 9 | 36.0 |
| Operating income | (126) | (11.9) | (12) | (1.3) | (4) | (5.6) |
| Other income less deductions and related federal income tax | (26) | (41.9) | (19) | (34.5) | (3) | Large |
| Net interest charges | (8) | (1.8) | (16) | (4.1) | (7) | 25.0 |
| Preferred stock dividend requirements | (1) | (8.3) | (1) | (8.3) | - | - |
| Cumulative effect of changes in accounting principles | 25 | Large | - | - | - | - |
| Net income for common stock | \$ (118) | (18.3)%\$ | (14) | (2.3)%\$ | - | -% |

*Represents the consolidated financial results of Con Edison and its subsidiaries.

A discussion of the results of operations by principal business segment follows. For additional business segment financial information, see Note O to the financial statements.

The results reflect the application of the Companies' accounting policies and rate plans that cover the rates the Utilities can charge their customers. In general, the Utilities recover on a current basis the fuel and purchased power costs they incur in supplying energy to their full-service customers. See "Recoverable Energy Costs" in Note A and "Regulatory Matters" in Note B to the financial statements.

CON EDISON OF NEW YORK

Electric

Con Edison of New York's electric operating revenues increased \$559 million in 2003 compared with 2002, due primarily to higher fuel and purchased power costs of \$503 million (which are recoverable

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

from customers), and a lower amount reserved for earnings in excess of a specified rate of return to be retained for customer benefit (\$31 million). Changes to operating revenues also reflect variations in electric sales.

Con Edison of New York's electric sales and deliveries, excluding off-system sales, in 2003 compared with 2002 were:

MILLIONS OF KWHS

| Description | Twelve Months Ended | | | |
|--|---------------------|-------------------|----------------|-------------------|
| | December 31, 2003 | December 31, 2002 | Variation | Percent Variation |
| Residential/Religious | 12,441 | 12,481 | (40) | (0.3)% |
| Commercial/Industrial | 18,033 | 19,111 | (1,078) | (5.6) |
| Other | 154 | 181 | (27) | (14.9) |
| Total Full Service Customers | 30,628 | 31,773 | (1,145) | (3.6) |
| Retail access customers | 12,637 | 11,926 | 711 | 6.0 |
| Sub-total | 43,265 | 43,699 | (434) | (1.0) |
| NYPA, Municipal Agency and Other Sales | 10,470 | 10,267 | 203 | 2.0 |
| Total Service Area | 53,735 | 53,966 | (231) | (0.4)% |

Electric delivery volumes in Con Edison of New York's service area decreased 0.4 percent in 2003 compared with 2002. The decrease in delivery volumes reflects the cool weather in the second quarter of 2003 and the lower than normal number of hot days during the summer of 2003 compared with an exceptionally warm summer in 2002, partially offset by the cold winter weather in 2003 compared with the mild winter in 2002. After adjusting for variations, principally weather and billing days in each period and the August 2003 regional power outage, electric delivery volumes in Con Edison of New York's service area increased 0.6 percent in 2003 compared with 2002. Weather-adjusted sales represent an estimate of the sales that would have been made if historical average weather conditions had prevailed.

Con Edison of New York's electric purchased power costs increased \$477 million in 2003 as compared with 2002, due to an increase in the average unit price of purchased power. This increase was offset in part by lower usage by the company's full service customers and higher volumes of electricity purchased from other suppliers by participants in the company's retail access programs. Electric fuel costs increased \$26 million, reflecting an increase in the average unit price of fuel.

Con Edison of New York's electric operating income decreased \$1 million in 2003 compared with 2002. The principal component of the decrease was an increase in other operations and maintenance expense (\$41 million—due primarily to a reduced net credit for pensions and other postretirement benefits), property taxes (\$17 million) and depreciation (\$16 million). The increase in expenses was offset in part

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

by higher net revenues (operating revenues less purchased power and fuel costs—\$56 million), lower state and local revenue taxes (\$7 million), sales and use tax (\$5 million) and payroll taxes (\$3 million).

Gas

Con Edison of New York's gas operating revenues in 2003 increased \$250 million compared with 2002, due primarily to the higher cost of purchased gas of \$244 million (which is recoverable from customers), and higher sales volumes.

Con Edison of New York's revenues from gas sales are subject to a weather normalization clause that moderates, but does not eliminate, the effect of weather-related changes on net income.

Con Edison of New York's gas sales and deliveries, excluding off-system sales, in 2003 compared with 2002 were:

THOUSANDS OF DTHS

| Description | Twelve Months Ended | | Variation | Percent Variation |
|--|---------------------|-------------------|-----------------|-------------------|
| | December 31, 2003 | December 31, 2002 | | |
| Firm Sales | | | | |
| Residential | 51,944 | 44,163 | 7,781 | 17.6% |
| General | 36,840 | 32,682 | 4,158 | 12.7 |
| Firm Transportation | 16,486 | 15,695 | 791 | 5.0 |
| Total Firm Sales and Transportation | 105,270 | 92,540 | 12,730 | 13.8 |
| Off Peak/Interruptible Sales | 15,247 | 12,622 | 2,625 | 20.8 |
| Non-Firm Transportation of Gas | | | | |
| NYPA | 23,360 | 25,467 | (2,107) | (8.3) |
| Generation Plants | 43,808 | 77,516 | (33,708) | (43.5) |
| Total NYPA and Generation Plants | 67,168 | 102,983 | (35,815) | (34.8) |
| Other | 17,766 | 22,301 | (4,535) | (20.3) |
| Total Sales and Transportation | 205,451 | 230,446 | (24,995) | (10.8)% |

Con Edison of New York's sales and transportation volumes for firm customers increased 13.8 percent in 2003 compared with 2002. The increase reflects the impact of the cold weather in the 2003 winter period compared with the mild weather in the 2002 winter period and increased new business. After adjusting for variations, principally weather and billing days in each period and the August 2003 regional power outage, firm gas sales and transportation volumes in the company's service area increased 3.6 percent in 2003.

Non-firm transportation of customer-owned gas to NYPA and electric generating plants decreased 34.8 percent in 2003 as compared with 2002 due to higher gas prices. In 2003, because of the relative prices of gas and fuel oil, electric generating plants in the company's gas service area utilized oil rather

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION
AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF
NEW YORK AND O&R) — CONTINUED**

than gas for a significant portion of their generation. The decline in gas usage had minimal impact on earnings due to the application of a fixed demand charge for local transportation.

Con Edison of New York's purchased gas cost increased \$244 million in 2003 compared with 2002, due to higher unit costs and increased sales volumes for firm sales customers.

Con Edison of New York's gas operating income decreased \$10 million in 2003 compared with 2002, reflecting primarily an increase in other operations and maintenance expense (\$4 million—due primarily to a reduced net credit for pensions and other postretirement benefits), depreciation (\$4 million), state and local taxes on revenues (\$5 million) and income tax (\$4 million). The increases in expenses were offset in part by higher net revenues (operating revenues less gas purchased for resale—\$7 million).

Steam

Con Edison of New York's steam operating revenues increased \$133 million and steam operating income decreased \$1 million in 2003 compared with 2002. The higher revenues reflect higher sales volumes due to the cold winter weather in 2003 as compared with the mild weather in 2002. The increase also includes higher fuel and purchased power costs (\$124 million) in 2003 compared with 2002. The decrease in steam operating income reflects primarily higher income taxes (\$10 million—due to higher taxable income and a lower level of removal costs in 2003) and operations and maintenance expense (\$3 million—due to a reduced net credit for pensions and other postretirement benefits) offset in part by an increase in net revenues (operating revenues less fuel and purchased power costs) of \$9 million and lower state and local taxes on steam revenues (\$4 million).

Con Edison of New York's steam sales and deliveries in 2003 compared with 2002 were:

MILLIONS OF POUNDS

| <i>Description</i> | <i>Twelve Months Ended</i> | | <i>Variation</i> | <i>Percent Variation</i> |
|--------------------|------------------------------|------------------------------|------------------|------------------------------|
| | <i>December 31, 2003</i> | <i>December 31, 2002</i> | | |
| General | 729 | 600 | 129 | 21.5% |
| Apartment house | 7,845 | 7,022 | 823 | 11.7 |
| Annual power | 17,674 | 16,897 | 777 | 4.6 |
| Total Sales | 26,248 | 24,519 | 1,729 | 7.1% |

Steam sales volumes increased 7.1 percent in 2003 compared with 2002, reflecting the impact of the cold weather in the 2003 winter period compared with the mild weather in the 2002 winter period. After adjusting for variations, principally weather and billing days in each period and the August 2003 regional power outage, steam sales increased 0.9 percent.

**MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION
AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF
NEW YORK AND O&R) — CONTINUED**

Taxes Other Than Income Taxes

At \$1 billion, taxes other than income taxes remain one of Con Edison of New York's largest operating expenses.

The principal components of, and variations in, taxes, other than income taxes were:

| <i>(Millions of Dollars)</i> | <i>2003</i> | <i>2002</i> | <i>Increase/ (Decrease)</i> |
|---|--------------------|--------------------|---------------------------------|
| Property taxes | \$ 651 | \$ 630 | \$ 21 |
| State and local taxes related to revenue receipts | 321 | 327 | (6) |
| Payroll taxes | 50 | 55 | (5) |
| Other taxes | 18 | 28 | (10) |
| Total | \$ 1,040(a) | \$ 1,040(a) | - |

- (a) Including sales tax on customers' bills, total taxes other than income taxes billed to customer in 2003 and 2002 were \$1,393 and \$1,352 million, respectively.

Effective January 2003, New York City increased Con Edison of New York's annual property taxes by \$94 million. Under the company's rate agreements, the company is deferring most of the property tax increase as a regulatory asset to be recovered from customers.

Other Income

Other income (deductions) decreased \$19 million in 2003 compared with 2002, reflecting \$27 million of interest income on a federal income tax refund claim recorded in 2002, partially offset by an increase in income tax expense in 2003 as a result of the recognition in 2002 of income tax benefits relating to the September 2001 sale of the company's nuclear generating unit.

Net Interest Charges

Net interest charges decreased \$16 million in 2003 compared with 2002 due primarily to the interest expense associated with a net federal income tax deficiency related to a prior period audit (\$19 million) recorded in 2002.

Income Taxes

Operating income taxes increased \$18 million in 2003 compared with 2002, primarily as a result of less flow-through (non-deferred) depreciation for tax purposes. In addition, lower operating income taxes in 2002 reflected a tax benefit from an Internal Revenue Service audit for tax years 1995 through 1997 and a write-off of excess deferred tax reserves.

O&R

Electric

Electric operating revenues increased \$54 million in 2003 compared with 2002. The increase is due primarily to higher purchased power costs in 2003 and accounting for the 2003 O&R electric rate agreement and the NJBPU ruling on the RECO rate petitions.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

O&R's electric sales and deliveries, excluding off-system sales, in 2003 compared with 2002 were:

MILLIONS OF KWHS

| Description | Twelve Months Ended | | Variation | Percent Variation |
|-------------------------------------|---------------------|-------------------|--------------|-------------------|
| | December 31, 2003 | December 31, 2002 | | |
| Residential/Religious | 1,769 | 1,815 | (46) | (2.5)% |
| Commercial/Industrial | 2,277 | 2,393 | (116) | (4.8) |
| Other | 111 | 111 | - | - |
| Total Full Service Customers | 4,157 | 4,319 | (162) | (3.8) |
| Retail access customers | 1,455 | 1,235 | 220 | 17.8 |
| Total Service Area | 5,612 | 5,554 | 58 | 1.0 |

Electric delivery volumes in O&R's service area increased 1.0 percent in 2003 compared with 2002 due to the growth in the number of customers, higher average customer usage, and the positive effect of the cooler-than-normal weather in the first quarter of 2003, partially offset by negative impact of weather on the last nine months of 2003. After adjusting for weather variations and the August 2003 regional power outage, electric delivery volumes in O&R's service area increased 2.5 percent in 2003.

O&R's purchased power cost increased \$31 million in 2003 as compared with 2002 due to an increase in the average unit cost and the regulatory actions referenced above. This increase was offset by lower energy usage by the company's full-service customers and higher volumes of electricity purchased from other suppliers by participants in O&R's retail access program.

O&R's electric operating income decreased \$6 million in 2003 as compared with 2002 due primarily to the referenced regulatory actions.

Gas

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

O&R's gas sales and deliveries, excluding off-system sales, in 2003 compared with 2002 were:

THOUSANDS OF DTHS

| <i>Description</i> | <i>Twelve Months Ended</i> | | <i>Variation</i> | <i>Percent Variation</i> |
|--|----------------------------|--------------------------|------------------|--------------------------|
| | <i>December 31, 2003</i> | <i>December 31, 2002</i> | | |
| Firm Sales | | | | |
| Residential | 10,810 | 10,203 | 607 | 5.9% |
| General | 3,314 | 3,295 | 19 | 0.6 |
| Firm Transportation | 8,498 | 6,368 | 2,130 | 33.4 |
| Total Firm Sales and Transportation | 22,622 | 19,866 | 2,756 | 13.9 |
| Off Peak/Interruptible Sales | 6,833 | 7,366 | (533) | (7.2) |
| Non-Firm Transportation of Gas | | | | |
| Generation Plants | 2,833 | 13,983 | (11,150) | (79.7) |
| Other | 1,134 | 1,057 | 77 | 7.3 |
| Total Sales and Transportation | 33,422 | 42,272 | (8,850) | (20.9)% |

O&R's sales and transportation volumes for firm customers increased 13.9 percent in 2003 compared with 2002. The increase reflects the impact of the cold weather in the 2003 winter period compared with the mild weather in the 2002 winter period. Revenues from gas sales in New York are subject to a weather normalization clause that moderates, but does not eliminate, the effect of weather-related changes on net income. After adjusting for weather variations in each period and the August 2003 regional power outage, total firm sales and transportation volumes were 3.0 percent higher in 2003 compared with 2002.

Non-firm transportation of customer-owned gas to electric generating plants decreased 79.7 percent in 2003 as compared with 2002 due to higher gas prices. In 2003, because of the relative prices of gas and fuel oil, power plants in the company's gas service area utilized oil rather than gas for a significant portion of their generation. In addition, one area power plant completed a construction project to directly connect to a gas transmission provider. The decline in gas usage had minimal impact on earnings due to the application of a fixed demand charge for local transportation.

O&R's cost of gas purchased for resale increased \$31 million in 2003 as compared with 2002 due to increased sales to firm customers and increased gas unit costs in 2003. The increase is offset in part by increased volumes of gas purchased from other suppliers by participants in O&R's retail access program. See "Recoverable Energy Costs" in Note A to the financial statements.

Gas operating income increased \$2 million in 2003 as compared with 2002. The increase reflects an increase in net gas revenues (operating revenues less purchased gas) of \$7 million, which is due primarily to increased sales and the referenced regulatory actions. The increase in net revenues was offset in part by increased gas operations and maintenance expenses of \$2 million and increased federal and state income tax of \$3 million.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Taxes Other Than Income Taxes

Taxes other than income taxes decreased \$2 million in 2003 compared with 2002.

The principal components of, and variation, in taxes, other than income taxes were:

| <i>(Millions of Dollars)</i> | <i>2003</i> | <i>2002</i> | <i>Increase/ (Decrease)</i> |
|---|-------------|-------------|-----------------------------|
| Property taxes | \$ 28 | \$ 27 | \$ 1 |
| State and local taxes related to revenue receipts | 19 | 21 | (2) |
| Payroll taxes | 4 | 4 | - |
| Other taxes | (1) | - | (1) |

| | | | | |
|-------|----|---------|---------|-----|
| Total | \$ | 50(a)\$ | 52(a)\$ | (2) |
|-------|----|---------|---------|-----|

(a) Including sales tax on customers' bills, total taxes other than income taxes, billed to customers in 2003 and 2002 were \$69 and \$71 million, respectively.

(b) Includes a sales and use tax refund of approximately \$800,000.

Income Taxes

Operating income taxes increased by \$9 million in 2003 compared with 2002 due primarily to the result of less flow-through (non-deferred) depreciation for tax purposes.

Other Income

O&R's other income (deductions) decreased \$3 million in 2003 compared with 2002, due primarily to the reclassification to other income (deductions) of losses previously recognized in other comprehensive income related to investments in marketable securities.

Net Interest Charges

O&R's net interest charges decreased by \$7 million in 2003 compared with 2002, due primarily to the company recording interest charges of \$5 million in 2002 as a result of a change by the NJBPU in the carrying charges allowed on the company's deferred purchased power balance in New Jersey and to lower interest on long-term debt as a result of the redemption of a \$35 million, 10-year debenture in March 2003 (see "Liquidity and Capital Resources," above).

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

UNREGULATED SUBSIDIARIES AND OTHER

Unregulated subsidiaries' operating income for 2003 was \$122 million lower than 2002. Operating revenues increased \$292 million in 2003 compared with 2002 due primarily to higher sales from Con Edison Development's increased generating capacity and increased retail electric sales at Con Edison Solutions.

Unregulated subsidiaries' operating expenses, excluding income taxes, increased by \$502 million, reflecting principally increased fuel and purchased power costs of \$260 million, impairment charges of \$159 million and increased operation and maintenance expenses of \$83 million. See Note H to the financial statements. The increase in operation and maintenance expenses was attributable to increased costs at Con Edison Development (\$51 million), primarily to operate the new generation assets, Con Edison Communications' increased operating costs reflecting expansion of the business (\$23 million), and higher depreciation for additional telecommunications facilities and generating assets placed in service (\$13 million), offset in part by lower operation and maintenance costs at Con Edison Solutions (\$6 million).

Operating income taxes decreased \$88 million for 2003 as compared with 2002 reflecting primarily lower taxable income (including the tax-effect of the aforementioned impairment charges).

Unregulated subsidiaries' other income (deductions) increased \$1 million and interest charges were lower by \$1 million for 2003 as compared with 2002.

Unregulated subsidiaries' earnings reflect an increase of \$25 million for 2003 as compared with 2002 resulting from the cumulative effect of changes in accounting principles adopted in each year. For 2003, the positive cumulative effect of changes in accounting principles of \$3 million (after tax) at Con Edison Development related to mark-to-market gains applicable to power sales contracts at certain generating plants, partially offset by the impact of the financial statement consolidation of its Newington plant. For 2002, the cumulative effect of changes in accounting principles included charges for goodwill impairment of certain generating assets at Con Edison Development, totaling \$20 million (after tax), and a charge of \$2 million (after tax) at Con Edison Energy relating to the accounting for certain contracts involved in energy trading and risk management activities.

Earnings attributable to Other, representing the parent company and inter-company transactions, were \$9 million lower for 2003 as compared with 2002 primarily reflecting higher interest expenses.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

YEAR ENDED DECEMBER 31, 2002 COMPARED WITH YEAR ENDED DECEMBER 31, 2001

The Companies' results of operations (which were discussed above under "Results of Operations—Summary") in 2002 compared with 2001 were:

| <i>(Millions of Dollars)</i> | <i>Increases (Decreases) Amount</i> | <i>Increases (Decreases) Percent</i> | <i>Increases (Decreases) Amount</i> | <i>Increases (Decreases) Percent</i> | <i>Increases (Decreases) Amount</i> | <i>Increases (Decreases) Percent</i> |
|---|---|--|---|--|---|--|
| Operating revenues | \$ (887) | (9.4)% | \$ (898) | (11.1)% | (101) | (13.7)% |
| Purchased power | (179) | (5.3) | (197) | (7.0) | (70) | (24.1) |
| Fuel | (105) | (26.6) | (119) | (33.9) | - | - |
| Gas purchased for resale | (264) | (30.7) | (194) | (29.1) | (40) | (31.0) |
| Operating revenues less purchased power, fuel and gas purchased for resale (net revenues) | (339) | (7.1) | (388) | (9.1) | 9 | 2.8 |
| Other operations and maintenance | (148) | (9.9) | (160) | (12.6) | 2 | 1.4 |
| Depreciation and amortization | (31) | (5.9) | (27) | (5.8) | 1 | 3.0 |
| Taxes, other than income tax | (25) | (2.2) | (27) | (2.5) | (2) | (3.7) |
| Income tax | (67) | (14.4) | (81) | (18.6) | (1) | (3.8) |
| Operating income | (68) | (6.0) | (93) | (8.9) | 9 | 14.3 |
| Other income less deductions and related federal income tax | 63 | Large | 54 | Large | - | N/A |
| Net interest charges | 11 | 2.6 | 7 | 1.8 | 4 | 16.7 |
| Preferred stock dividend requirements | (2) | (14.3) | (2) | (14.3) | - | N/A |
| Cumulative effect of change in accounting principle | 22 | N/A | - | - | - | N/A |
| Net income for common stock | \$ (36) | (5.3)% | \$ (44) | (6.8)% | 5 | 12.5% |

*Represents the consolidated financial results of Con Edison and its subsidiaries.

A discussion of the results of operations by principal business segment follows. For additional business segment financial information, see Note O to the financial statements.

The results reflect the application of the Companies' accounting policies and rate plans that cover the rates the Utilities can charge their customers. In general, the Utilities recover on a current basis the fuel and purchased power costs they incur in supplying energy to their full-service customers. See "Recoverable Energy Costs" in Note A and "Regulatory Matters" in Note B to the financial statements.

CON EDISON OF NEW YORK

Electric

Con Edison of New York's electric operating revenues in 2002 decreased \$575 million compared with 2001, reflecting primarily lower fuel and purchased power costs of \$227 million (discussed below). The decrease also reflects the completion in March 2002 of amortizations of a previously deferred gain on the sale of divested plants and a previously deferred NYPA revenue increase (\$43 million), a reserve established in 2002 for earnings in excess of a specified rate of return that are to be retained for customer

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

benefit in accordance with the 2000 Electric Rate Agreement (\$40 million), a reserve established in 2002 related to the sale of the company's nuclear generating unit (\$25 million), the amortization of the loss (\$30 million) related to the sale of the company's nuclear generating unit and rate reductions and other amortizations in accordance with the company's rate agreements. The decrease in electric operating revenues was offset, in part, by an increase in electric sales revenues (\$24 million) reflecting principally the hot summer weather.

Con Edison of New York's electric sales and deliveries, excluding off-system sales, in 2002 compared with 2001 were:

MILLIONS OF KWHS

Twelve Months Ended

| <i>Description</i> | <i>December 31, 2002</i> | <i>December 31, 2001</i> | <i>Variation</i> | <i>Percent Variation</i> |
|-----------------------|--------------------------|--------------------------|------------------|------------------------------|
| Residential/Religious | 12,481 | 12,049 | 432 | 3.6% |
| Commercial/Industrial | 19,111 | 19,839 | (728) | (3.7) |
| Other | 181 | 166 | 15 | 9.0 |

| | | | | |
|--|---------------|---------------|--------------|--------------|
| Total Full Service Customers | 31,773 | 32,054 | (281) | (0.9) |
| Retail access customers | 11,926 | 10,520 | 1,406 | 13.4 |
| Sub-total | 43,699 | 42,574 | 1,125 | 2.6 |
| NYPA, Municipal Agency and Other Sales | 10,267 | 10,476 | (209) | (2.0) |
| Total Service Area | 53,966 | 53,050 | 916 | 1.7% |

Electricity delivery volumes in Con Edison of New York's service territory increased 1.7 percent in 2002 compared with 2001. The increase reflects the impact of the hot summer weather, offset in part by the mild winter weather in the first quarter of 2002, and the soft economy. After adjusting for variations, principally weather and billing days in each period, electricity delivery volumes in the service territory increased 0.5 percent in 2002.

The company's electric purchased power costs decreased \$175 million in 2002 compared with 2001, due to a decrease in the price of purchased power and an increase in volumes of electricity purchased from other suppliers by participants in the retail access programs. This decrease was offset in part by the company's increased purchased volumes resulting from the sale of the company's nuclear generating unit in September 2001 and the hot summer weather in 2002. Fuel costs decreased \$52 million as a result of decreased generation at company-owned power plants. In general, the company recovers prudently incurred fuel and purchased power costs pursuant to rate provisions approved by the PSC.

The company's electric operating income decreased \$93 million in 2002 compared with 2001. The principal component of the decrease was lower net electric revenues (operating revenues less fuel and purchased power costs) of \$348 million. The decrease in net electric revenues reflects the sale of the nuclear generation unit and the same factors (other than lower fuel and purchased power costs) as

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

discussed above with respect to the decrease in electric operating income. The decrease in net electric revenues was offset in part by reduced other operations and maintenance expenses (\$137 million) reflecting nuclear production expenses incurred in 2001 but not in 2002, and productivity improvements, lower depreciation and amortization expense (\$32 million) and lower revenue taxes (\$26 million). The decrease is also offset by lower operating income tax of \$62 million.

Gas

Con Edison of New York's gas operating revenues decreased \$223 million, resulting primarily from the lower cost of purchased gas (\$194 million) in 2002 compared with 2001. The lower cost of purchased gas reflects primarily lower unit costs. The lower revenues also reflect reduced sales volumes, resulting primarily from the mild winter weather in the first quarter of 2002, and revenue reductions implemented in accordance with the gas rate agreement approved by the PSC in April 2002. Gas operating income decreased \$8 million in 2002, reflecting a \$29 million decrease in net revenues (operating revenues less gas purchased for resale), and increased property tax expense (\$10 million), offset in part by reduced operations and maintenance expenses (\$16 million), reduced revenue taxes (\$10 million) and lower income taxes (\$9 million).

Con Edison of New York's gas sales and deliveries, excluding off-system sales, in 2002 compared with 2001 were:

THOUSANDS OF DTHS

Twelve Months Ended

| <i>Description</i> | <i>December 31, 2002</i> | <i>December 31, 2001</i> | <i>Variation</i> | <i>Percent Variation</i> |
|--|--------------------------|--------------------------|------------------|--------------------------|
| Firm Sales | | | | |
| Residential | 44,163 | 46,506 | (2,343) | (5.0)% |
| General | 32,682 | 35,118 | (2,436) | (6.9) |
| Firm Transportation | 15,695 | 14,280 | 1,415 | 9.9 |
| Total Firm Sales and Transportation | 92,540 | 95,904 | (3,364) | (3.5) |
| Off Peak/Interruptible Sales | 12,622 | 14,731 | (2,109) | (14.3) |
| Non-Firm Transportation of Gas | | | | |
| NYPA | 25,467 | 13,762 | 11,705 | 85.1 |
| Generation Plants | 77,516 | 62,991 | 14,525 | 23.1 |
| Total NYPA and Generation Plants | 102,983 | 76,753 | 26,230 | 34.2 |
| Other | 22,301 | 15,718 | 6,583 | 41.9 |

Con Edison of New York's sales and transportation volumes for firm customers decreased 3.5 percent in 2002 compared with 2001. Revenues from gas sales in New York are subject to a weather normalization clause that moderates, but does not eliminate, the effect of weather-related changes on net income. After

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

adjusting for variations, principally weather and billing days in each period, firm gas sales and transportation volumes in the company's service territory decreased 1.5 percent in the 2002.

The company's gas sales and transportation volumes vary seasonally in response to weather and peak in the winter. A weather-normalization provision that applies to the company's gas business moderates, but does not completely eliminate, the effect of weather-related changes on gas operating income.

Steam

Con Edison of New York's steam operating revenues decreased \$100 million. The lower revenues reflect reduced sales volumes and lower fuel and purchased power costs primarily as a result of the loss of the World Trade Center as a customer, the mild winter weather in the first quarter of 2002 and the soft economy. The lower fuel and purchased power costs reflect primarily lower unit costs and volumes. Steam operating income increased \$8 million for 2002 compared with 2001 due primarily to reduced operations and maintenance expenses of \$9 million and lower income taxes of \$11 million, offset in part by a decrease in net revenues (operating revenues less fuel and purchased power costs) of \$11 million.

Con Edison of New York's steam sales and deliveries in 2002 compared with 2001 were:

MILLIONS OF POUNDS

Twelve Months Ended

| <i>Description</i> | <i>December 31, 2002</i> | <i>December 31, 2001</i> | <i>Variation</i> | <i>Percent Variation</i> |
|--------------------|--------------------------|--------------------------|------------------|------------------------------|
| General | 600 | 620 | (20) | (3.2)% |
| Apartment house | 7,022 | 7,050 | (28) | (0.4) |
| Annual power | 16,897 | 17,657 | (760) | (4.3) |
| Total Sales | 24,519 | 25,327 | (808) | (3.2)% |

Steam sales volume decreased 3.2 percent in 2002 compared with 2001, reflecting primarily the loss of the World Trade Center as a customer, the mild winter weather in the first quarter of 2002 and the soft economy. After adjusting for variations, principally weather and billing days in each period, steam sales volume decreased 1.4 percent.

Taxes Other Than Income Taxes

The principal components of, and variations in, taxes, other than income taxes were:

| <i>(Millions of Dollars)</i> | <i>2002</i> | <i>2001</i> | <i>Increase/ (Decrease)</i> |
|---|--------------------|--------------------|---------------------------------|
| Property taxes | \$ 630 | \$ 620 | \$ 10 |
| State and local taxes related to revenue receipts | 327 | 365 | (38) |
| Payroll taxes | 55 | 56 | (1) |
| Other taxes | 28 | 26 | 2 |
| Total | \$ 1,040(a) | \$ 1,067(a) | (27) |

(a) Including sales tax on customers' bills, total taxes other than income taxes billed to customers in 2002 and 2001 were \$1,352 million and \$1,414 million, respectively.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Other Income

Investment income decreased \$4 million in 2002 compared with 2001, due principally to reduced interest income earned on short-term cash investments in 2002 compared with 2001. For 2001, the company had more cash on hand than in 2002, primarily as a result of the sale of its nuclear generating unit. Allowance for equity funds used during construction increased \$9 million in 2002 compared with 2001 primarily reflecting the East River Repowering Project. Other income increased \$42 million in 2002 compared with 2001 due primarily to \$27 million of interest income on a federal income tax refund claim, a \$10 million write-off in 2001 of an investment in the New York Discovery Fund, a \$9 million increase in interest earned on regulatory assets (See "Application of Critical Accounting Policies—Accounting for Regulated Public Utilities—SFAS No. 71," above), offset in part by reduced income of \$3 million from non-utility operations. Income tax expense decreased \$4 million in 2002 compared with 2001 due primarily to the recognition of tax benefits relating to the September 2001 sale of the Company's nuclear generating unit.

Net Interest Charges

Net interest charges increased \$7 million in 2002 compared with 2001. The increase reflects principally the interest expense associated with a net federal income tax deficiency related to a prior period audit (\$19 million), partially offset by decreased interest expense on long-term debt of \$15 million.

Income Tax

Federal income tax decreased \$29 million in 2002 compared with 2001, reflecting lower income before tax and deductions related to removal costs and tax credits. In 2000, New York State implemented a tax law change that reduced or repealed certain revenue-based taxes and replaced them with a net income-based tax. State income taxes decreased \$57 million in 2002 compared with 2001, reflecting lower income before tax, lowering of the tax rate and prior period adjustments. The state income tax expense is offset against the savings from the eliminated or reduced revenue taxes. Any over- or under-collection of these taxes is deferred for return to, or recovery from, customers. See Notes A and M to the financial statements.

O&R

Electric

Electric operating revenues decreased \$62 million in 2002 compared with 2001. This decrease was primarily the result of lower purchased power costs and tax recoveries in 2002.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

O&R's electric sales and deliveries, excluding off-system sales, in 2002 compared with 2001 were:

MILLIONS OF KWHS

Twelve Months Ended

| <i>Description</i> | <i>December 31, 2002</i> | <i>December 31, 2001</i> | <i>Variation</i> | <i>Percent Variation</i> |
|-------------------------------------|--------------------------|--------------------------|------------------|--------------------------|
| Residential/Religious | 1,815 | 1,773 | 42 | 2.4% |
| Commercial/Industrial | 2,393 | 2,567 | (174) | (6.8) |
| Other | 111 | 110 | 1 | 0.9 |
| Total Full Service Customers | 4,319 | 4,450 | (131) | (2.9) |
| Retail access customers | 1,235 | 799 | 436 | 54.6 |
| Total Service Area | 5,554 | 5,249 | 305 | 5.8% |

Electricity delivery volumes in 2002 increased 5.8 percent compared with 2001 due to warmer than normal summer weather, customer growth and higher average usage. After adjusting for weather variations, total electricity delivery volumes were 3.2 percent higher in 2002. Net electric revenues (operating revenues less purchased power) were \$8 million higher in 2002 than in 2001.

Purchased power costs decreased \$70 million in 2002 compared with 2001, reflecting decreases in the unit cost of purchased power and increased volumes of electricity purchased by customers from other suppliers.

Electric operating income increased \$8 million in 2002 as compared with 2001. This increase reflects the impact of higher net electric revenues along with lower New York state and local income and revenue taxes, offset in part by higher operation and maintenance charges and depreciation costs.

Gas operating revenues decreased \$39 million in 2002 as compared with 2001. This decrease was primarily the result of lower gas costs and sales to firm customers in 2002.

O&R's gas sales and deliveries, excluding off-system sales, in 2002 compared with 2001 were:

THOUSANDS OF DTHS

Twelve Months Ended

| <i>Description</i> | <i>December 31, 2002</i> | <i>December 31, 2001</i> | <i>Variation</i> | <i>Percent Variation</i> |
|--|--------------------------|--------------------------|------------------|--------------------------|
| Firm Sales | | | | |
| Residential | 10,203 | 11,724 | (1,521) | (12.8)% |
| General | 3,295 | 3,751 | (456) | (12.2) |
| Firm Transportation | 6,368 | 4,724 | 1,644 | 34.8 |
| Total Firm Sales and Transportation | | | | |
| | 19,866 | 20,199 | (333) | (1.6) |
| Off Peak/Interruptible Sales | 7,366 | 7,264 | 102 | 1.4 |
| Non-Firm Transportation of Gas | | | | |
| Generation Plants | 13,983 | 11,427 | 2,556 | 22.4 |
| Other | 1,057 | 1,039 | 18 | 1.7 |
| Total Sales and Transportation | | | | |
| | 42,272 | 39,929 | 2,343 | 5.9% |

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

O&R's sales and transportation volumes for firm customers decreased 1.6 percent in 2002 compared with 2001. Revenues from gas sales in New York are subject to a weather normalization clause that moderates, but does not eliminate, the effect of weather-related changes on net income. After adjusting for weather variations in each period, total firm sales and transportation volumes were 0.3 percent lower for 2002 compared with 2001.

Net gas revenues (operating revenues less purchased gas) were \$1 million higher in 2002 due primarily to incentives earned from interruptible and off-system gas sales.

The cost of gas purchased for resale was \$40 million less in 2002 than in 2001, reflecting lower sales volumes and unit costs.

Decreased gas revenues also reflect the reduced requirement for the company to buy gas for resale because of an increase in the purchase of gas by customers from other suppliers.

Gas operating income increased by \$1 million in 2002 compared with 2001, due primarily to higher net revenues and lower operations and maintenance expenses, offset in part by lower late payment charge revenues and higher depreciation.

Other Operations and Maintenance

Other operations and maintenance expense increased \$2 million in 2002 compared with 2001. The increase was attributable primarily to higher electric transmission and distribution expenditures, partially offset by lower customer bad debt and collections expense.

Taxes Other Than Income Taxes

Taxes other than income taxes decreased by \$2 million in 2002 compared with 2001. The decrease was primarily the result of lower New York State revenue taxes of \$3 million, which resulted from reduced tax rates and lower energy costs billed to customers. Partially offsetting this decrease were higher property taxes of \$1 million.

The principal components of, and variations in, taxes, other than income taxes were:

| <i>(Millions of Dollars)</i> | <i>2002</i> | <i>2001</i> | <i>Increase/ (Decrease)</i> |
|---|-------------|-------------|-----------------------------|
| Property taxes | \$ 27 | \$ 26 | \$ 1 |
| State and local taxes related to revenue receipts | 21 | 24 | (3) |
| Payroll taxes | 4 | 4 | - |
| Other taxes | - | - | - |

(a) Including sales tax on customers' bills, total taxes other than income taxes, billed to customers in 2002 and 2001 were \$71 million and \$66 million, respectively.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (COMBINED FOR CON EDISON, CON EDISON OF NEW YORK AND O&R) — CONTINUED

Net Interest Charges

Interest charges increased by \$4 million in 2002 compared with 2001, primarily as a result of a change by the NJBPU in the carrying charges allowed on O&R's deferred purchased power balance in New Jersey (\$5 million) and lower allowance for borrowed funds used during construction (\$1 million). These expenses were offset in part by lower net financing costs of \$1 million that resulted from lower average debt balances and interest rates in 2002.

Income Taxes

Income taxes decreased by \$1 million in 2002 compared with 2001, reflecting primarily lower state income taxes. State income taxes decreased primarily as a result of a 0.5 percent reduction in the New York State tax rate. Excluding certain taxes in New York that are reconciled to amounts included in rates, income taxes increased by \$2 million due primarily to higher operating income in 2002.

UNREGULATED SUBSIDIARIES AND OTHER

Earnings for the unregulated subsidiaries decreased \$14 million in 2002 compared with 2001, reflecting a non-cash, after-tax charge in 2002 of \$22 million for changes in accounting principles (see Notes L, P and T to the financial statements) and continued start-up losses in the company's wholesale telecommunications business, including a non-cash, after-tax charge in 2002 of \$5 million for a write-down of an investment in Neon Communications, Inc. (NEON). The decrease in earnings was offset, in part, by higher electric retail sales volumes and gross margins, the capitalization of previously expensed project development costs on generation assets (\$4 million after tax) and unrealized mark-to-market gains on derivative instruments (\$7 million after tax).

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Con Edison

For information about Con Edison's primary market risks associated with activities in derivative financial instruments, other financial instruments and derivative commodity instruments, see "Financial and Commodity Market Risks" in the MD&A in Item 7 (which information is incorporated herein by reference).

Con Edison of New York

For information about Con Edison of New York's primary market risks associated with activities in derivative financial instruments, other financial instruments and derivative commodity instruments, see "Financial and Commodity Market Risks" in the MD&A in Item 7 (which information is incorporated herein by reference).

O&R

For information about O&R's primary market risks associated with activities in derivative financial instruments, other financial instruments and derivative commodity instruments, see "Financial and Commodity Market Risks" in the MD&A in Item 7 (which information is incorporated herein by reference).

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

A. Financial Statements

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All other schedules are omitted because they are not applicable or the required information is shown in financial statements or notes thereto.

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B. Supplementary Financial Information

Selected Quarterly Financial Data for the years ended December 31, 2003 and 2002 (Unaudited)

| Con Edison | 2003 | | | |
|--|------------------------------|----------------|---------------|----------------|
| | First Quarter | Second Quarter | Third Quarter | Fourth Quarter |
| | <i>(Millions of Dollars)</i> | | | |
| Operating revenues | \$ 2,571 | \$ 2,176 | \$ 2,801 | \$ 2,279 |
| Operating income | 256 | 164 | 361 | 153 |
| Income for common stock before cumulative effect of changes in accounting principles | 155 | 66 | 257 | 47 |
| Cumulative effect of changes in accounting principles | - | - | - | 3 |
| Net income for common stock | 155 | 66 | 257 | 50 |
| Basic earnings per common share before cumulative effect of changes in accounting principles | \$ 0.72 | \$ 0.29 | \$ 1.17 | \$ 0.19 |
| Cumulative effect of changes in accounting principles | - | - | - | 0.02 |
| Basic earnings per common share after cumulative effect of changes in accounting principles | \$ 0.72 | \$ 0.29 | \$ 1.17 | \$ 0.21 |
| Diluted earnings per common share before cumulative effect of changes in accounting principles | \$ 0.72 | \$ 0.29 | \$ 1.16 | \$ 0.19 |
| Cumulative effect of changes in accounting principles | - | - | - | 0.02 |
| Diluted earnings per common share after cumulative effect of changes in accounting principles | \$ 0.72 | \$ 0.29 | \$ 1.16 | \$ 0.21 |

2002

| | | | | |
|--|------------------------------|----------|----------|----------|
| | <i>(Millions of Dollars)</i> | | | |
| Operating revenues | \$ 2,058 | \$ 1,848 | \$ 2,539 | \$ 2,057 |
| Operating income | 258 | 200 | 386 | 216 |
| Income for common stock before cumulative effect of changes in accounting principles | 166 | 98 | 284 | 120 |
| Cumulative effect of changes in accounting principles | (20) | - | - | (2) |
| Net income for common stock | 146 | 98 | 284 | 118 |
| Basic earnings per common share before cumulative effect of changes in accounting principles | \$ 0.78 | \$ 0.46 | \$ 1.34 | \$ 0.56 |
| Cumulative effect of changes in accounting principles | (0.10) | - | - | (0.01) |
| Basic earnings per common share after cumulative effect of changes in accounting principles | \$ 0.68 | \$ 0.46 | \$ 1.34 | \$ 0.55 |
| Diluted earnings per common share before cumulative effect | \$ 0.78 | \$ 0.46 | \$ 1.33 | \$ 0.56 |

| | | | | |
|---|---------|---------|---------|---------|
| of changes in accounting principles | | | | |
| Cumulative effect of changes in accounting principles | (0.10) | - | - | (0.01) |
| Diluted earnings per common share after cumulative effect of changes in accounting principles | \$ 0.68 | \$ 0.46 | \$ 1.33 | \$ 0.55 |

In the opinion of Con Edison, these quarterly amounts include all adjustments, consisting only of normal recurring accruals, necessary for a fair presentation.

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| 2003 | | | | |
|------------------------------|----------------------|-----------------------|----------------------|-----------------------|
| Con Edison of New York | <i>First Quarter</i> | <i>Second Quarter</i> | <i>Third Quarter</i> | <i>Fourth Quarter</i> |
| <i>(Millions of Dollars)</i> | | | | |
| Operating revenues | \$ 2,150 | \$ 1,828 | \$ 2,330 | \$ 1,858 |
| Operating income | 228 | 151 | 337 | 226 |
| Net income for common stock | 139 | 65 | 253 | 134 |

| 2002 | | | | |
|------------------------------|----------|----------|----------|----------|
| <i>(Millions of Dollars)</i> | | | | |
| Operating revenues | \$ 1,759 | \$ 1,568 | \$ 2,180 | \$ 1,717 |
| Operating income | 229 | 186 | 352 | 187 |
| Net income for common stock | 150 | 97 | 259 | 99 |

In the opinion of Con Edison of New York, these quarterly amounts include all adjustments, consisting only of normal recurring accruals, necessary for a fair presentation.

| 2003 | | | | |
|------------------------------|----------------------|-----------------------|----------------------|-----------------------|
| O&R | <i>First Quarter</i> | <i>Second Quarter</i> | <i>Third Quarter</i> | <i>Fourth Quarter</i> |
| <i>(Millions of Dollars)</i> | | | | |
| Operating revenues | \$ 201 | \$ 156 | \$ 199 | \$ 171 |
| Operating income | 21 | 9 | 23 | 15 |
| Net income for common stock | 16 | 3 | 15 | 11 |

| 2002 | | | | |
|------------------------------|--------|--------|--------|--------|
| <i>(Millions of Dollars)</i> | | | | |
| Operating revenues | \$ 156 | \$ 144 | \$ 179 | \$ 155 |
| Operating income | 18 | 12 | 24 | 18 |
| Net income for common stock | 12 | 7 | 19 | 7 |

In the opinion of O&R, these quarterly amounts include all adjustments, consisting only of normal recurring accruals, necessary for a fair presentation.

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REPORT OF INDEPENDENT AUDITORS

To the Stockholders and Board of Directors of Consolidated Edison, Inc.:

In our opinion, the consolidated financial statements listed in the accompanying index present fairly, in all material respects, the financial position of Consolidated Edison, Inc. and its subsidiaries at December 31, 2003 and 2002, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2003 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedules listed in the accompanying index present fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. These financial statements and financial statement schedules are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements and financial statement schedules based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

Consolidated Edison, Inc.
CONSOLIDATED BALANCE SHEET

As at

December 31, 2003

December 31, 2002

(Millions of Dollars)

| ASSETS | | |
|--|------------------|------------------|
| UTILITY PLANT, AT ORIGINAL COST (Note A) | | |
| Electric | \$ 12,097 | \$ 11,568 |
| Gas | 2,699 | 2,530 |
| Steam | 799 | 768 |
| General | 1,482 | 1,434 |
| TOTAL | 17,077 | 16,300 |
| Less: Accumulated depreciation | 4,069 | 3,847 |
| NET | 13,008 | 12,453 |
| Construction work in progress | 1,276 | 989 |
| NET UTILITY PLANT | 14,284 | 13,442 |
| NON-UTILITY PLANT (Note A) | | |
| Unregulated generating assets, less accumulated depreciation of \$52 and \$30 in 2003 and 2002, respectively | 873 | 222 |
| Non-utility property, less accumulated depreciation of \$15 and \$19 in 2003 and 2002, respectively | 56 | 140 |
| Construction work in progress | 12 | 348 |
| NET PLANT | 15,225 | 14,152 |
| CURRENT ASSETS | | |
| Cash and temporary cash investments (Note A) | 49 | 118 |
| Restricted cash | 18 | 14 |
| Funds held for the redemption of long-term debt | - | 275 |
| Accounts receivable - customers, less allowance for uncollectible accounts of \$36 and \$35 in 2003 and 2002, respectively | 790 | 683 |
| Accrued unbilled revenue (Note A) | 61 | 54 |
| Other receivables, less allowance for uncollectible accounts of \$7 and \$1 in 2003 and 2002, respectively | 184 | 169 |
| Fuel, at average cost | 33 | 23 |
| Gas in storage, at average cost | 150 | 81 |
| Materials and supplies, at average cost | 100 | 92 |
| Prepayments | 98 | 73 |
| Other current assets | 109 | 124 |
| TOTAL CURRENT ASSETS | 1,592 | 1,706 |
| INVESTMENTS (Note A) | 248 | 235 |
| DEFERRED CHARGES, REGULATORY ASSETS AND NONCURRENT ASSETS | | |
| Goodwill (Note L) | 406 | 406 |
| Intangible assets, less accumulated amortization of \$16 and \$10 in 2003 and 2002, respectively (Note L) | 111 | 82 |
| Prepaid pension costs (Note E) | 1,257 | 1,024 |
| Regulatory assets (Note B) | 1,861 | 1,866 |
| Other deferred charges and noncurrent assets | 266 | 196 |
| TOTAL DEFERRED CHARGES, REGULATORY ASSETS AND NONCURRENT ASSETS | 3,901 | 3,574 |
| TOTAL ASSETS | \$ 20,966 | \$ 19,667 |

Consolidated Edison, Inc.

CONSOLIDATED BALANCE SHEET

As at

December 31, 2003 December 31, 2002

(Millions of Dollars)

| CAPITALIZATION AND LIABILITIES | | | |
|---|------------------|--------------|------------------|
| CAPITALIZATION | | | |
| | \$ | | \$ |
| Common shareholders' equity (See Statement of Shareholders' Equity) | 6,423 | | 5,921 |
| Preferred stock (See Statement of Capitalization) | 213 | | 213 |
| Long-term debt (See Statement of Capitalization) | 6,733 | | 6,166 |
| TOTAL CAPITALIZATION | 13,369 | | 12,300 |
| MINORITY INTERESTS | | 42 | 9 |
| NONCURRENT LIABILITIES | | | |
| Obligations under capital leases (Note K) | 36 | | 38 |
| Provision for injuries and damages (Note G) | 194 | | 197 |
| Pensions and retiree benefits | 205 | | 206 |
| Superfund and other environmental costs (Note G) | 193 | | 143 |
| Independent power producer buyout | 31 | | 32 |
| Other noncurrent liabilities | 48 | | 43 |
| TOTAL NONCURRENT LIABILITIES | | 707 | 659 |
| CURRENT LIABILITIES | | | |
| Long-term debt due within one year | 166 | | 473 |
| Notes payable | 159 | | 162 |
| Accounts payable | 905 | | 925 |
| Customer deposits | 228 | | 221 |
| Accrued taxes | 69 | | 100 |
| Accrued interest | 102 | | 94 |
| System benefits charge | 17 | | 27 |
| Accrued wages | 79 | | 82 |
| Other current liabilities | 186 | | 191 |
| TOTAL CURRENT LIABILITIES | | 1,911 | 2,275 |
| DEFERRED CREDITS AND REGULATORY LIABILITIES | | | |
| Deferred income taxes (Note M) | 3,067 | | 2,676 |
| Deferred investment tax credits (Note A) | 105 | | 112 |
| Regulatory liabilities (Note B) | 1,759 | | 1,632 |
| Other deferred credits | 6 | | 4 |
| TOTAL DEFERRED CREDITS AND REGULATORY LIABILITIES | | 4,937 | 4,424 |
| TOTAL CAPITALIZATION AND LIABILITIES | \$ 20,966 | | \$ 19,667 |

The accompanying notes are an integral part of these financial statements

Consolidated Edison, Inc.

CONSOLIDATED INCOME STATEMENT

For the Years Ended December 31,

(Millions of Dollars/Except Share Data)

| | | | | |
|--|----|--------------|--------------|--------------|
| OPERATING REVENUES (Note A) | | | | |
| Electric | \$ | 6,863 | \$ 6,251 | \$ 6,888 |
| Gas | | 1,492 | 1,204 | 1,466 |
| Steam | | 537 | 404 | 504 |
| Non-utility | | 935 | 643 | 531 |
| TOTAL OPERATING REVENUES | | 9,827 | 8,502 | 9,389 |
| OPERATING EXPENSES | | | | |
| Purchased power | | 3,926 | 3,201 | 3,380 |
| Fuel | | 504 | 289 | 394 |
| Gas purchased for resale | | 847 | 596 | 860 |
| Other operations | | 1,134 | 962 | 1,067 |
| Maintenance | | 353 | 387 | 430 |
| Impairment Charges - Telecommunications and Other Unregulated Assets (Note H) | | 159 | - | - |
| Depreciation and amortization (Note A) | | 529 | 495 | 526 |
| Taxes, other than income taxes (Note A) | | 1,116 | 1,114 | 1,139 |
| Income taxes (Notes A and M) | | 325 | 398 | 465 |
| TOTAL OPERATING EXPENSES | | 8,893 | 7,442 | 8,261 |
| OPERATING INCOME | | 934 | 1,060 | 1,128 |
| OTHER INCOME (DEDUCTIONS) | | | | |
| Investment income (Note A) | | 4 | 2 | 8 |
| Allowance for equity funds used during construction (Note A) | | 15 | 10 | 1 |
| Other income | | 23 | 48 | (4) |
| Other deductions | | (16) | (20) | (28) |
| Income taxes (Notes A and M) | | 10 | 22 | 22 |
| TOTAL OTHER INCOME (DEDUCTIONS) | | 36 | 62 | (1) |
| INCOME BEFORE INTEREST CHARGES | | 970 | 1,122 | 1,127 |
| Interest on long-term debt | | 401 | 386 | 397 |
| Other interest | | 45 | 61 | 42 |
| Allowance for borrowed funds used during construction (Note A) | | (12) | (5) | (8) |
| NET INTEREST CHARGES | | 434 | 442 | 431 |
| INCOME BEFORE PREFERRED STOCK DIVIDENDS | | 536 | 680 | 696 |
| PREFERRED STOCK DIVIDEND REQUIREMENTS OF SUBSIDIARY | | 11 | 12 | 14 |
| INCOME BEFORE CUMULATIVE EFFECT OF CHANGES IN ACCOUNTING PRINCIPLES | | 525 | 668 | 682 |
| CUMULATIVE EFFECT OF CHANGES IN ACCOUNTING PRINCIPLES (NET OF INCOME TAX OF \$(2) MILLION IN 2003 AND \$15 MILLION IN 2002) | | 3 | (22) | - |
| NET INCOME FOR COMMON STOCK | \$ | 528 | \$ 646 | \$ 682 |
| EARNINGS PER COMMON SHARE - BASIC | | | | |
| Before cumulative effect of changes in accounting principles | \$ | 2.37 | \$ 3.14 | \$ 3.22 |
| Cumulative effect of changes in accounting principles | \$ | 0.02 | \$ (0.11) | \$ - |
| After cumulative effect of changes in accounting principles | \$ | 2.39 | \$ 3.03 | \$ 3.22 |
| EARNINGS PER COMMON SHARE - DILUTED | | | | |
| Before cumulative effect of changes in accounting principles | \$ | 2.36 | \$ 3.13 | \$ 3.21 |
| Cumulative effect of changes in accounting principles | \$ | 0.02 | \$ (0.11) | \$ - |
| After cumulative effect of changes in accounting principles | \$ | 2.38 | \$ 3.02 | \$ 3.21 |
| DIVIDENDS DECLARED PER SHARE OF COMMON STOCK | \$ | 2.24 | \$ 2.22 | \$ 2.20 |
| AVERAGE NUMBER OF SHARES OUTSTANDING - BASIC (IN MILLIONS) | | 220.9 | 213.0 | 212.1 |
| AVERAGE NUMBER OF SHARES OUTSTANDING - DILUTED (IN MILLIONS) | | 221.8 | 214.0 | 212.9 |

Consolidated Edison, Inc.

CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME

For the Years Ended December 31,

2003 2002 2001

(Millions of Dollars)

| | | | | | | |
|---|----|-----|----|-----|----|------|
| NET INCOME FOR COMMON STOCK | \$ | 528 | \$ | 646 | \$ | 682 |
| OTHER COMPREHENSIVE INCOME/(LOSS), NET OF TAXES | | | | | | |
| Investment in marketable equity securities, net of \$1, \$(1) and \$(1) taxes in 2003, 2002 and 2001, respectively | | 1 | | (1) | | (1) |
| Minimum pension liability adjustments, net of \$0, \$(3) and \$(2) taxes in 2003, 2002 and 2001, respectively | | - | | (3) | | (2) |
| Unrealized gains/(losses) on derivatives qualified as hedges due to cumulative effect of a change in accounting principle, net of \$(6) taxes in 2001 | | - | | - | | (8) |
| Unrealized gains/(losses) on derivatives qualified as hedges, net of \$9, \$13 and \$(22) taxes in 2003, 2002 and 2001, respectively | | 13 | | 18 | | (31) |
| Less: Reclassification adjustment for gains/(losses) included in net income, net of \$12, \$(2) and \$(10) taxes in 2003, 2002 and 2001, respectively | | 17 | | (2) | | (15) |
| TOTAL OTHER COMPREHENSIVE INCOME (LOSS), NET OF TAXES | | (3) | | 16 | | (27) |
| COMPREHENSIVE INCOME | \$ | 525 | \$ | 662 | \$ | 655 |

The accompanying notes are an integral part of these financial statements

Consolidated Edison, Inc.

CONSOLIDATED STATEMENT OF COMMON SHAREHOLDERS' EQUITY

| | Common Stock | | Additional Paid-In Capital | Retained Earnings | Treasury Stock | | Capital Stock Expense | Accumulated Other Comprehensive Income/(Loss) | Total |
|--|--------------|--------|----------------------------------|----------------------|----------------|------------|-----------------------------|--|----------|
| | Shares | Amount | | | Shares | Amount | | | |
| (Million of Dollars) | | | | | | | | | |
| BALANCE AS OF DECEMBER 31, 2000 | 212,027,131 | \$ 24 | \$ 1,458 | \$ 5,041 | 23,460,963 | \$ (1,013) | \$ (36) | (2) | \$ 5,472 |
| Net income for common stock | | | | 682 | | | | | 682 |
| Common stock dividends | | | | (466) | | | | | (466) |
| Issuance of common shares - employee stock plan | 230,113 | | | (6) | (230,113) | 11 | | | 5 |
| Other comprehensive income/(loss) | | | | | | | | (27) | (27) |
| BALANCE AS OF DECEMBER 31, 2001 | 212,257,244 | \$ 24 | \$ 1,458 | \$ 5,251 | 23,230,850 | \$ (1,002) | \$ (36) | (29) | \$ 5,666 |
| Net income for common stock | | | | 646 | | | | | 646 |
| Common stock dividends | | | | (473) | | | | | (473) |
| Issuance of common shares - dividend reinvestment and employee stock plans | 1,675,690 | | 69 | (4) | (20,150) | 1 | | | 66 |
| Other comprehensive income/(loss) | | | | | | | | 16 | 16 |
| BALANCE AS OF DECEMBER 31, 2002 | 213,932,934 | \$ 24 | \$ 1,527 | \$ 5,420 | 23,210,700 | \$ (1,001) | \$ (36) | (13) | \$ 5,921 |

| | | | | | | | | | |
|--|--------------------|--------------|-----------------|-----------------|-------------------|-------------------|----------------|-------------|-----------------|
| Net income for common stock | | | | 528 | | | | | 528 |
| Common stock dividends | | | | (492) | | | | | (492) |
| Issuance of common shares - public offering | 9,570,000 | 1 | 380 | | | | (3) | | 378 |
| Issuance of common shares - dividend reinvestment and employee stock plans | 2,337,286 | | 96 | (5) | | | | | 91 |
| Other comprehensive income/(loss) | | | | | | | | (3) | (3) |
| BALANCE AS OF DECEMBER 31, 2003 | 225,840,220 | \$ 25 | \$ 2,003 | \$ 5,451 | 23,210,700 | \$ (1,001) | \$ (39) | (16) | \$ 6,423 |

The accompanying notes are an integral part of these financial statements.

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Consolidated Edison, Inc

CONSOLIDATED STATEMENT OF CASH FLOWS

*For the Twelve Months
Ended December 31,*

2003 2002 2001

(Millions of Dollars)

| OPERATING ACTIVITIES | 2003 | 2002 | 2001 |
|--|----------------|----------------|--------------|
| Income before preferred stock dividends | \$ 536 | \$ 680 | \$ 696 |
| PRINCIPAL NON-CASH CHARGES (CREDITS) TO INCOME | | | |
| Depreciation and amortization | 529 | 495 | 526 |
| Deferred income taxes | 418 | 315 | 6 |
| Common equity component of allowance for funds used during construction | (15) | (10) | (1) |
| Prepaid pension costs (net of capitalized amounts) | (179) | (262) | (259) |
| Other non-cash charges | (10) | 141 | 60 |
| Impairment charge | 159 | - | - |
| CHANGES IN ASSETS AND LIABILITIES | | | |
| Accounts receivable - customers, less allowance for uncollectibles | (107) | (96) | 297 |
| Materials and supplies, including fuel and gas in storage | (87) | 25 | (20) |
| Prepayments, other receivables and other current assets | (32) | (88) | 119 |
| Recoverable energy costs | 46 | (101) | 130 |
| Accounts payable | (20) | 243 | (354) |
| Pensions and retiree benefits | (1) | 19 | 7 |
| Accrued taxes | (32) | (45) | 81 |
| Accrued interest | 8 | 13 | (5) |
| Deferred charges and regulatory assets | (24) | (164) | (46) |
| Deferred credits and regulatory liabilities | (30) | 167 | 19 |
| Transmission congestion contracts | 159 | 120 | 5 |
| Other assets | (71) | 34 | 176 |
| Other liabilities | 72 | 36 | 150 |
| NET CASH FLOWS FROM OPERATING ACTIVITIES | 1,319 | 1,522 | 1,587 |
| INVESTING ACTIVITIES | | | |
| Utility construction expenditures (excluding capitalized support costs of \$54, \$64, and \$61 in 2003, 2002 and 2001, respectively) | (1,292) | (1,204) | (1,104) |
| Cost of removal less salvage | (128) | (124) | (101) |
| Non-utility construction expenditures | (105) | (282) | (154) |
| Regulated companies' non-utility construction expenditures | (1) | (13) | - |
| Common equity component of allowance for funds used during construction | 15 | 10 | 1 |
| Nuclear fuel expenditures | - | - | (6) |
| Contributions to nuclear decommissioning trust | - | - | (89) |
| Divestiture of utility plants (net of federal income tax) | - | - | 671 |
| Investments by unregulated subsidiaries | (12) | (19) | (157) |
| Demolition and remediation costs for First Avenue properties | (4) | (2) | (2) |
| NET CASH FLOWS USED IN INVESTING ACTIVITIES | (1,527) | (1,634) | (941) |
| FINANCING ACTIVITIES | | | |
| Net proceeds from short-term debt | (3) | (182) | 40 |
| Repayment/retirement of long-term debt | (856) | (311) | (310) |
| Additions to long-term debt | 778 | 1,125 | 723 |

Consolidated Edison, Inc.

CONSOLIDATED STATEMENT OF CAPITALIZATION

Long-term debt (Note C)

| Maturity | Interest Rate | Series | At December 31, | |
|--|----------------------------------|----------|-----------------|-------|
| | | | 2003 | 2002 |
| (Millions of Dollars) | | | | |
| Debtures: | | | | |
| 2003 | 6- ³ / ₈ % | 1993D | -- | 150 |
| 2003 | 6.56 | 1993D | - | 35 |
| 2004 | 7- ⁵ / ₈ | 1992B | 150 | 150 |
| 2005 | 6- ⁵ / ₈ | 1995A | 100 | 100 |
| 2005 | 6- ⁵ / ₈ | 2000C | 350 | 350 |
| 2007 | 6.45 | 1997B | 330 | 330 |
| 2007 | 7- ¹ / ₈ | 1997J | 20 | 20 |
| 2008 | 6- ¹ / ₄ | 1998A | 180 | 180 |
| 2008 | 6.15 | 1998C | 100 | 100 |
| 2008 | 3- ⁵ / ₈ | 2003A | 200 | - |
| 2009 | 7.15 | 1999B | 200 | 200 |
| 2010 | 8- ¹ / ₈ | 2000A | 325 | 325 |
| 2010 | 7- ¹ / ₂ | 2000A | 55 | 55 |
| 2010 | 7- ¹ / ₂ | 2000B | 300 | 300 |
| 2012 | 5- ⁵ / ₈ | 2002A | 300 | 300 |
| 2013 | 4- ⁷ / ₈ | 2002B | 500 | 500 |
| 2013 | 3.85 | 2003B | 200 | - |
| 2023 | 7- ¹ / ₂ | 1993G | - | 380 |
| 2026 | 7- ³ / ₄ | 1996A | 100 | 100 |
| 2027 | 6- ¹ / ₂ | 1997F | 80 | 80 |
| 2028 | 7.10 | 1998B | 105 | 105 |
| 2028 | 6.90 | 1998D | 75 | 75 |
| 2029 | 7- ¹ / ₈ | 1994A | 150 | 150 |
| 2029 | 7.00 | 1999G | 45 | 45 |
| 2033 | 5- ⁷ / ₈ | 2003A | 175 | - |
| 2033 | 5.10 | 2003C | 200 | - |
| 2039 | 7.35 | 1999A | 275 | 275 |
| 2041 | 7- ¹ / ₂ | 2001A | 400 | 400 |
| 2042 | 7- ¹ / ₄ | 2002A | 325 | 325 |
| Total debtures | | | 5,240 | 5,030 |
| Tax-exempt debt—notes issued to New York State Energy Research and Development Authority for Facilities Revenue Bonds: | | | | |
| 2014 | 1.04%** | 1994 * | 55*** | 55*** |
| 2015 | 1.04%** | 1995 * | 44 | 44 |
| 2020 | 5- ¹ / ₄ | 1993B | 128 | 128 |
| 2020 | 6.10 | 1995A | 128 | 128 |
| 2022 | 5- ³ / ₈ | 1993C | 20 | 20 |
| 2028 | 6.00 | 1993A | 101 | 101 |
| 2029 | 7- ¹ / ₈ | 1994A | 100 | 100 |
| 2034 | 1.09%** | 1999A | 292 | 292 |
| 2036 | 4.70 | 2001A*** | 226 | 231 |
| 2036 | 1.10%** | 2001B | 98 | 98 |
| Total tax-exempt debt | | | 1,192 | 1,197 |
| Subordinated deferrable interest debtures: | | | | |
| 2031 | 7- ³ / ₄ % | 1996A | - | 275 |

| | | |
|--|-----------|-----------|
| Other long-term debt | 491 | 164 |
| Unamortized debt discount | (24) | (27) |
| Total | 6,899 | 6,639 |
| Less: long-term debt due within one year | 166 | 473 |
| Total long-term debt | 6,733 | 6,166 |
| Total capitalization | \$ 13,369 | \$ 12,300 |

* Issued for O&R pollution control financing.

** Rates reset weekly or by auction held every 35 days; December 31, 2003 rate shown.

*** See Note P.

The accompanying notes are an integral part of these financial statements.

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REPORT OF INDEPENDENT AUDITORS

To the Stockholders and Board of Trustees of Consolidated Edison Company of New York, Inc.:

In our opinion, the consolidated financial statements listed in the accompanying index present fairly, in all material respects, the financial position of Consolidated Edison Company of New York, Inc. and its subsidiaries at December 31, 2003 and 2002, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2003 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedule listed in the accompanying index presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. These financial statements and financial statement schedule are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

PricewaterhouseCoopers LLP
New York, NY
February 19, 2004

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Consolidated Edison Company of New York, Inc.

CONSOLIDATED BALANCE SHEET

As at

December 31, 2003 December 31, 2002

(Millions of Dollars)

| ASSETS | | | | |
|--|----|--------|----|--------|
| UTILITY PLANT, AT ORIGINAL COST (Note A) | | | | |
| Electric | \$ | 11,324 | \$ | 10,834 |
| Gas | | 2,381 | | 2,230 |
| Steam | | 799 | | 768 |
| General | | 1,363 | | 1,316 |
| Total | | 15,867 | | 15,148 |
| Less: Accumulated depreciation | | 3,696 | | 3,481 |
| Net | | 12,171 | | 11,667 |
| Construction work in progress | | 1,247 | | 966 |
| NET UTILITY PLANT | | 13,418 | | 12,633 |

| | | |
|--|------------------|------------------|
| NON-UTILITY PLANT (Note A) | | |
| Non-utility property | 25 | 35 |
| NET PLANT | 13,443 | 12,668 |
| CURRENT ASSETS | | |
| Cash and temporary cash investments (Note A) | 33 | 88 |
| Funds held for the redemption of long-term debt | - | 275 |
| Accounts receivable - customers, less allowance for uncollectible accounts of \$30 and \$29 in 2003 and 2002, respectively | 692 | 602 |
| Other receivables, less allowance for uncollectible accounts of \$4 and \$0 in 2003 and 2002, respectively | 105 | 84 |
| Accounts receivable - from affiliated companies | 28 | 25 |
| Fuel, at average cost | 24 | 18 |
| Gas in storage, at average cost | 115 | 63 |
| Materials and supplies, at average cost | 89 | 83 |
| Prepayments | 74 | 56 |
| Other current assets | 58 | 53 |
| TOTAL CURRENT ASSETS | 1,218 | 1,347 |
| INVESTMENTS | 3 | 3 |
| DEFERRED CHARGES, REGULATORY ASSETS AND NONCURRENT ASSETS | | |
| Prepaid pension costs (Note E) | 1,257 | 1,024 |
| Regulatory assets (Note B) | 1,640 | 1,630 |
| Other deferred charges and noncurrent assets | 203 | 165 |
| TOTAL DEFERRED CHARGES, REGULATORY ASSETS AND NONCURRENT ASSETS | 3,100 | 2,819 |
| TOTAL ASSETS | \$ 17,764 | \$ 16,837 |

The accompanying notes are an integral part of these financial statements.

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Consolidated Edison Company of New York, Inc.

CONSOLIDATED BALANCE SHEET

As at

December 31, 2003

December 31, 2002

(Millions of Dollars)

| | | | |
|---|----|---------------|---------------|
| CAPITALIZATION AND LIABILITIES | | | |
| CAPITALIZATION | | | |
| Common shareholder's equity (See Statement of Shareholder's Equity) | \$ | 5,482 | \$ 4,890 |
| Preferred stock (See Statement of Capitalization) | | 213 | 213 |
| Long-term debt (See Statement of Capitalization) | | 5,435 | 5,392 |
| TOTAL CAPITALIZATION | | 11,130 | 10,495 |
| NONCURRENT LIABILITIES | | | |
| Obligations under capital leases (Note K) | | 36 | 38 |
| Provision for injuries and damages (Note G) | | 184 | 188 |
| Pensions and retiree benefits | | 107 | 108 |
| Superfund and other environmental costs (Note G) | | 153 | 108 |
| Independent power producer buyout | | 31 | 32 |
| Other noncurrent liabilities | | 7 | 9 |
| TOTAL NONCURRENT LIABILITIES | | 518 | 483 |
| CURRENT LIABILITIES | | | |

| | | |
|--|------------------|------------------|
| Long-term debt due within one year | 150 | 425 |
| Notes payable | 99 | - |
| Accounts payable | 713 | 743 |
| Accounts payable to affiliated companies | 12 | 20 |
| Customer deposits | 214 | 208 |
| Accrued taxes | 95 | 93 |
| Accrued interest | 88 | 80 |
| System benefits charge | 17 | 27 |
| Accrued wages | 76 | 76 |
| Other current liabilities | 133 | 131 |
| TOTAL CURRENT LIABILITIES | 1,597 | 1,803 |
| DEFERRED CREDITS AND REGULATORY LIABILITIES | | |
| Deferred income taxes (Note A) | 2,755 | 2,423 |
| Deferred investment tax credits (Note A) | 100 | 106 |
| Regulatory liabilities (Note B) | 1,664 | 1,527 |
| TOTAL DEFERRED CREDITS AND REGULATORY LIABILITIES | 4,519 | 4,056 |
| TOTAL CAPITALIZATION AND LIABILITIES | \$ 17,764 | \$ 16,837 |

The accompanying notes are an integral part of these financial statements.

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Consolidated Edison Company Of New York, Inc.
CONSOLIDATED INCOME STATEMENT

For the Years Ended December 31,

| 2003 | 2002 | 2001 |
|------|------|------|
|------|------|------|

(Millions of Dollars)

| | | | |
|--|--------------|--------------|--------------|
| OPERATING REVENUES (Note A) | | | |
| Electric | \$6,334 | \$5,775 | \$6,350 |
| Gas | 1,295 | 1,045 | 1,268 |
| Steam | 537 | 404 | 504 |
| TOTAL OPERATING REVENUES | 8,166 | 7,224 | 8,122 |
| OPERATING EXPENSES | | | |
| Purchased power | 3,124 | 2,622 | 2,819 |
| Fuel | 358 | 232 | 351 |
| Gas purchased for resale | 715 | 472 | 666 |
| Other operations | 835 | 752 | 868 |
| Maintenance | 322 | 360 | 404 |
| Depreciation and amortization (Note A) | 458 | 438 | 465 |
| Taxes, other than income taxes (Note A) | 1,040 | 1,040 | 1,067 |
| Income taxes (Notes A and M) | 372 | 354 | 435 |
| TOTAL OPERATING EXPENSES | 7,224 | 6,270 | 7,075 |
| OPERATING INCOME | 942 | 954 | 1,047 |
| OTHER INCOME (DEDUCTIONS) | | | |
| Investment income (Note A) | - | - | 4 |
| Allowance for equity funds used during construction (Note A) | 15 | 10 | 1 |
| Other income | 27 | 42 | - |
| Other deductions | (11) | (9) | (12) |
| Income taxes (Notes A and M) | 5 | 12 | 8 |
| TOTAL OTHER INCOME (DEDUCTIONS) | 36 | 55 | 1 |
| INCOME BEFORE INTEREST CHARGES | 978 | 1,009 | 1,048 |
| Interest on long-term debt | 346 | 345 | 360 |

| | | | |
|--|---------------|---------------|---------------|
| Other interest | 42 | 52 | 32 |
| Allowance for borrowed funds used during construction (Note A) | (12) | (5) | (7) |
| NET INTEREST CHARGES | 376 | 392 | 385 |
| INCOME BEFORE PREFERRED STOCK DIVIDENDS | 602 | 617 | 663 |
| PREFERRED STOCK DIVIDEND REQUIREMENTS | 11 | 12 | 14 |
| NET INCOME FOR COMMON STOCK | \$ 591 | \$ 605 | \$ 649 |

The accompanying notes are an integral part of these financial statements.

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Consolidated Edison Company of New York, Inc.
CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME

For the Years Ended December 31,

2003 2002 2001

(Millions of Dollars)

| | | | |
|---|---------------|---------------|---------------|
| NET INCOME FOR COMMON STOCK | \$ 591 | \$ 605 | \$ 649 |
| OTHER COMPREHENSIVE INCOME/(LOSS), NET OF TAXES | | | |
| Minimum pension liability adjustments, net of \$0, \$(2) and \$(1) taxes in 2003, 2002 and 2001, respectively | - | (3) | (2) |
| Unrealized gains/(losses) on derivatives qualified as hedges, net of \$0, \$2, and \$(4) taxes in 2003, 2002 and 2001, respectively | (1) | 3 | (5) |
| Less: Reclassification adjustment for gains/(losses) included in net income, net of \$0, \$1 and \$(2) taxes in 2003, 2002 and 2001, respectively | (1) | 1 | (3) |
| TOTAL OTHER COMPREHENSIVE INCOME/(LOSS), NET OF TAXES | - | (1) | (4) |
| COMPREHENSIVE INCOME | \$ 591 | \$ 604 | \$ 645 |

The accompanying notes are an integral part of these financial statements.

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Consolidated Edison Company of New York, Inc.
CONSOLIDATED STATEMENT OF COMMON SHAREHOLDER'S EQUITY

| | <i>Common Stock</i> | | <i>Additional Paid-In Capital</i> | <i>Retained Earnings</i> | <i>Repurchased Con Edison Stock</i> | <i>Capital Stock Expense</i> | <i>Accumulated Other Comprehensive Income/(Loss)</i> | <i>Total</i> |
|--|---------------------|---------------|-----------------------------------|--------------------------|-------------------------------------|------------------------------|--|--------------|
| | <i>Shares</i> | <i>Amount</i> | | | | | | |

(Millions of Dollars)

| | | | | | | | | |
|---|-------------|--------|--------|----------|----------|---------|--------|----------|
| BALANCE AS OF DECEMBER 31, 2000 | 235,488,094 | \$ 589 | \$ 893 | \$ 3,996 | \$ (962) | \$ (36) | \$ - | \$ 4,480 |
| Net income before preferred stock dividends | | | | 663 | | | | 663 |
| Common stock dividends | | | | (460) | | | | (460) |
| Cumulative preferred dividends | | | | (14) | | | | (14) |
| Other comprehensive income/(loss) | | | | | | | (4) | (4) |
| BALANCE AS OF DECEMBER 31, 2001 | 235,488,094 | \$ 589 | \$ 893 | \$ 4,185 | \$ (962) | \$ (36) | \$ (4) | \$ 4,665 |
| Net income before preferred stock dividends | | | | 618 | | | | 618 |
| Common stock dividends | | | | (379) | | | | (379) |
| Cumulative preferred dividends | | | | (12) | | | | (12) |
| Other comprehensive income/(loss) | | | | | | | (2) | (2) |
| BALANCE AS OF DECEMBER 31, 2002 | 235,488,094 | \$ 589 | \$ 893 | \$ 4,412 | \$ (962) | \$ (36) | \$ (6) | \$ 4,890 |

| | | | | |
|---|-----|-------|-----|-------|
| Net income before preferred stock dividends | | 602 | | 602 |
| Common stock dividends | | (377) | | (377) |
| Cumulative preferred dividends | | (11) | | (11) |
| Capital contribution by parent | 381 | | (3) | 378 |

| | | | | | | | | |
|---------------------------------|----------------|--------|----------|----------|----------|---------|--------|-------|
| BALANCE AS OF DECEMBER 31, 2003 | 235,488,094 \$ | 589 \$ | 1,274 \$ | 4,626 \$ | (962) \$ | (39) \$ | (6) \$ | 5,482 |
|---------------------------------|----------------|--------|----------|----------|----------|---------|--------|-------|

The accompanying notes are an integral part of these financial statements.

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Consolidated Edison Company of New York, Inc.

CONSOLIDATED STATEMENT OF CASH FLOWS

For the Twelve Months
Ended December 31,

2003 2002 2001

(Millions of Dollars)

| OPERATING ACTIVITIES | | | |
|---|----------------|----------------|--------------|
| | 2003 | 2002 | 2001 |
| Income before preferred stock dividends | \$ 602 | \$ 617 | \$ 663 |
| PRINCIPAL NON-CASH CHARGES (CREDITS) TO INCOME | | | |
| Depreciation and amortization | 458 | 438 | 465 |
| Deferred income taxes | 374 | 270 | (50) |
| Common equity component of allowance for funds used during construction | (15) | (10) | (1) |
| Prepaid pension costs (net of capitalized amounts) | (179) | (262) | (259) |
| Other non-cash charges | (10) | 173 | 151 |
| CHANGES IN ASSETS AND LIABILITIES | | | |
| Accounts receivable - customers, less allowance for uncollectibles | (90) | (75) | 216 |
| Materials and supplies, including fuel and gas in storage | (63) | 20 | (16) |
| Prepayments, other receivables and other current assets | (49) | (33) | 133 |
| Recoverable energy costs | 47 | (102) | 153 |
| Accounts payable | (30) | 152 | (280) |
| Pensions and retiree benefits | - | 6 | (3) |
| Accrued taxes | 2 | (49) | 92 |
| Accrued interest | 8 | 7 | (5) |
| Deferred charges and regulatory assets | (40) | (171) | - |
| Deferred credits and regulatory liabilities | (22) | 181 | 9 |
| Transmission congestion contracts | 159 | 120 | 5 |
| Other assets | (17) | (16) | (17) |
| Other liabilities | 34 | 44 | 50 |
| NET CASH FLOWS FROM OPERATING ACTIVITIES | 1,169 | 1,310 | 1,306 |
| INVESTING ACTIVITIES | | | |
| Construction expenditures (excluding capitalized support costs of \$54, \$64 and \$61 in 2003, 2002 and 2001, respectively) | (1,221) | (1,146) | (1,045) |
| Non-utility construction expenditures | (1) | (13) | - |
| Cost of removal less salvage | (126) | (122) | (99) |
| Nuclear fuel expenditures | - | - | (6) |
| Contributions to nuclear decommissioning trust | - | - | (89) |
| Divestiture of utility plant (net of federal income taxes) | - | - | 671 |
| Common equity component of allowance for funds used during construction | 15 | 10 | 1 |
| Demolition and remediation costs for First Avenue properties | (4) | (2) | (2) |
| NET CASH FLOWS USED IN INVESTING ACTIVITIES | (1,337) | (1,273) | (569) |
| FINANCING ACTIVITIES | | | |
| Net proceeds from short-term debt | 99 | - | (140) |
| Retirement of long-term debt | (805) | (300) | (300) |
| Issuance of long-term debt | 575 | 800 | 723 |
| Application of funds held for redemption of long-term debt | 275 | (275) | (328) |
| Refunding of preferred stock | - | (37) | - |
| Debt and equity issuance costs | (25) | (8) | (23) |
| Capital contribution by parent | 381 | - | - |

Long-term debt (Note C)

| Maturity | Interest Rate | Series | At December 31, | |
|---|----------------------------------|---------|-----------------|-----------|
| | | | 2003 | 2002 |
| (Millions of Dollars) | | | | |
| Debentures: | | | | |
| 2003 | 6- ³ / ₈ % | 1993D | - | 150 |
| 2004 | 7- ⁵ / ₈ | 1992B | 150 | 150 |
| 2005 | 6- ⁵ / ₈ | 1995A | 100 | 100 |
| 2005 | 6- ⁵ / ₈ | 2000C | 350 | 350 |
| 2007 | 6.45 | 1997B | 330 | 330 |
| 2008 | 6- ¹ / ₄ | 1998A | 180 | 180 |
| 2008 | 6.15 | 1998C | 100 | 100 |
| 2009 | 7.15 | 1999B | 200 | 200 |
| 2010 | 8- ¹ / ₈ | 2000A | 325 | 325 |
| 2010 | 7- ¹ / ₂ | 2000B | 300 | 300 |
| 2012 | 5- ⁵ / ₈ | 2002A | 300 | 300 |
| 2013 | 4- ⁷ / ₈ | 2002B | 500 | 500 |
| 2013 | 3.85 | 2003B | 200 | - |
| 2023 | 7- ¹ / ₂ | 1993G | - | 380 |
| 2026 | 7- ³ / ₄ | 1996A | 100 | 100 |
| 2028 | 7.10 | 1998B | 105 | 105 |
| 2028 | 6.90 | 1998D | 75 | 75 |
| 2029 | 7- ¹ / ₈ | 1994A | 150 | 150 |
| 2033 | 5- ⁷ / ₈ | 2003A | 175 | - |
| 2033 | 5.10 | 2003C | 200 | - |
| 2039 | 7.35 | 1999A | 275 | 275 |
| 2041 | 7- ¹ / ₂ | 2001A | 400 | 400 |
| Total debentures | | | 4,515 | 4,470 |
| Tax-exempt debt—notes issued to New York State Energy Research and Development Authority for Facilities Revenue Bonds: | | | | |
| 2020 | 5- ¹ / ₄ % | 1993B | 128 | 128 |
| 2020 | 6.10 | 1995A | 128 | 128 |
| 2022 | 5- ³ / ₈ | 1993C | 20 | 20 |
| 2028 | 6.00 | 1993A | 101 | 101 |
| 2029 | 7- ¹ / ₈ | 1994A | 100 | 100 |
| 2034 | 1.09* | 1999A | 292 | 292 |
| 2036 | 4.70 | 2001A** | 226 | 231 |
| 2036 | 1.10* | 2001B | 98 | 98 |
| Total tax-exempt debt | | | 1,093 | 1,098 |
| Subordinated deferrable interest debentures: | | | | |
| 2031 | 7- ³ / ₄ % | 1996A | - | 275 |
| Unamortized debt discount | | | (23) | (26) |
| Total | | | 5,585 | 5,817 |
| Less: long-term debt due within one year | | | 150 | 425 |
| Total long-term debt | | | 5,435 | 5,392 |
| Total capitalization | | | \$ 11,130 | \$ 10,495 |

* Rates reset weekly or by auction held every 35 days; December 31, 2003 rate shown.

** See Note P.

The accompanying notes are an integral part of these financial statements.

REPORT OF INDEPENDENT AUDITORS

To the Stockholder and Board of Directors of Orange and Rockland Utilities, Inc.:

In our opinion, the consolidated financial statements listed in the accompanying index present fairly, in all material respects, the financial position of Orange and Rockland Utilities, Inc. and its subsidiaries at December 31, 2003 and 2002, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2003 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedule listed in the accompanying index presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. These financial statements and financial statement schedule are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements and financial statement schedule based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

PricewaterhouseCoopers LLP
New York, NY
February 19, 2003

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Orange and Rockland Utilities, Inc. CONSOLIDATED BALANCE SHEET

| | <i>As at</i> | |
|--|--------------------------|--------------------------|
| | <i>December 31, 2003</i> | <i>December 31, 2002</i> |
| <hr style="border: 0.5px solid black;"/> <i>(Millions of Dollars)</i> <hr style="border: 0.5px solid black;"/> | | |
| ASSETS | | |
| UTILITY PLANT, AT ORIGINAL COST (Note A) | | |
| Electric | \$ 773 | \$ 734 |
| Gas | 318 | 300 |
| General | 119 | 118 |
| <hr style="border: 0.5px solid black;"/> | | |
| Total | 1,210 | 1,152 |
| Less: accumulated depreciation | 373 | 366 |
| <hr style="border: 0.5px solid black;"/> | | |
| Net | 837 | 786 |
| Construction work in progress | 29 | 23 |
| <hr style="border: 0.5px solid black;"/> | | |
| NET UTILITY PLANT | 866 | 809 |
| <hr style="border: 0.5px solid black;"/> | | |
| NON-UTILITY PLANT (Note A) | | |
| Non-utility property | - | 3 |
| <hr style="border: 0.5px solid black;"/> | | |
| NET PLANT | 866 | 812 |
| <hr style="border: 0.5px solid black;"/> | | |
| CURRENT ASSETS | | |
| Cash and temporary cash investments (Note A) | 9 | 2 |
| Restricted cash | 1 | - |
| Accounts receivable – customers, less allowance for uncollectible accounts of \$2 in 2003 and 2002 | 57 | 54 |
| Accrued unbilled revenue (Note A) | 18 | 20 |
| Other accounts receivable, less allowance for uncollectible accounts of \$2 and \$1 in 2003 and 2002, respectively | 8 | 4 |
| Accounts receivable from affiliated companies | 11 | 12 |
| Gas in storage, at average cost | 29 | 16 |
| Materials and supplies, at average cost | 6 | 6 |
| Prepayments | 17 | 12 |
| Other current assets | 10 | 9 |
| <hr style="border: 0.5px solid black;"/> | | |
| TOTAL CURRENT ASSETS | 166 | 135 |
| <hr style="border: 0.5px solid black;"/> | | |
| DEFERRED CHARGES, REGULATORY ASSETS AND NONCURRENT ASSETS | | |
| Regulatory assets (Note B) | 221 | 236 |
| Other deferred charges and noncurrent assets | 16 | 18 |
| <hr style="border: 0.5px solid black;"/> | | |

| | | | | |
|---|----|-------|----|-------|
| TOTAL DEFERRED CHARGES, REGULATORY ASSETS AND NONCURRENT ASSETS | | 237 | | 254 |
| TOTAL ASSETS | \$ | 1,269 | \$ | 1,201 |

The accompanying notes are an integral part of these financial statements.

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Orange and Rockland Utilities, Inc.

CONSOLIDATED BALANCE SHEET

| | <i>As at</i> | |
|---|------------------------------|--------------------------|
| | <i>December 31, 2003</i> | <i>December 31, 2002</i> |
| | <i>(Millions of Dollars)</i> | |
| CAPITALIZATION AND LIABILITIES | | |
| CAPITALIZATION | | |
| Common shareholder's equity (See Statement of Shareholder's Equity) | \$ 370 | \$ 348 |
| Long-term debt (See Statement of Capitalization) | 301 | 301 |
| TOTAL CAPITALIZATION | 671 | 649 |
| NONCURRENT LIABILITIES | | |
| Pensions and retiree benefits | 98 | 98 |
| Hedges on variable rate long-term debt (Note P) | 17 | 19 |
| Superfund and other environmental costs (Note G) | 40 | 35 |
| Provision for injuries and damages (Note G) | 10 | 9 |
| TOTAL NONCURRENT LIABILITIES | 165 | 161 |
| CURRENT LIABILITIES | | |
| Long-term debt due within one year | - | 35 |
| Notes payable | 15 | 1 |
| Accounts payable | 71 | 60 |
| Accounts payable to affiliated companies | 33 | 16 |
| Customer deposits | 14 | 13 |
| Accrued taxes | 4 | 1 |
| Accrued interest | 6 | 8 |
| Other current liabilities | 8 | 9 |
| TOTAL CURRENT LIABILITIES | 151 | 143 |
| DEFERRED CREDITS AND REGULATORY LIABILITIES | | |
| Deferred income taxes (Note A) | 178 | 134 |
| Deferred investment tax credits (Note A) | 5 | 6 |
| Regulatory liabilities (Note B) | 95 | 105 |
| Other deferred credits | 4 | 3 |
| TOTAL DEFERRED CREDITS AND REGULATORY LIABILITIES | 282 | 248 |
| TOTAL CAPITALIZATION AND LIABILITIES | \$ 1,269 | \$ 1,201 |

The accompanying notes are an integral part of these financial statements.

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Orange and Rockland Utilities, Inc.

CONSOLIDATED INCOME STATEMENT

For the Years Ended December 31,

2003

2002

2001

(Millions of Dollars)

| | | | |
|--|--------------|--------------|--------------|
| OPERATING REVENUES (NOTE A) | | | |
| Electric | \$ 530 | \$ 476 | \$ 538 |
| Gas | 197 | 159 | 198 |
| TOTAL OPERATING REVENUES | 727 | 635 | 736 |
| OPERATING EXPENSES | | | |
| Purchased power | 251 | 220 | 290 |
| Gas purchased for resale | 120 | 89 | 129 |
| Other operations | 139 | 116 | 115 |
| Maintenance | 31 | 27 | 26 |
| Depreciation and amortization (Note A) | 34 | 34 | 33 |
| Taxes, other than income taxes (Note A) | 50 | 52 | 54 |
| Income taxes (Notes A and M) | 34 | 25 | 26 |
| TOTAL OPERATING EXPENSES | 659 | 563 | 673 |
| OPERATING INCOME | 68 | 72 | 63 |
| OTHER INCOME (DEDUCTIONS) | | | |
| Investment income (Note A) | 2 | 1 | 1 |
| Other income | (2) | - | - |
| Other deductions | (2) | - | (1) |
| Income taxes (Notes A and M) | - | - | 1 |
| TOTAL OTHER INCOME (DEDUCTIONS) | (2) | 1 | 1 |
| INCOME BEFORE INTEREST CHARGES | 66 | 73 | 64 |
| Interest on long-term debt | 19 | 21 | 22 |
| Other interest | 2 | 7 | 3 |
| Allowance for borrowed funds used during construction (Note A) | - | - | (1) |
| NET INTEREST CHARGES | 21 | 28 | 24 |
| NET INCOME FOR COMMON STOCK | \$ 45 | \$ 45 | \$ 40 |

The accompanying notes are an integral part of these financial statements.

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Orange and Rockland Utilities, Inc.**CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME***For the Years Ended December 31,*

2003

2002

2001

(Millions of Dollars)

| | | | |
|---|--------------|--------------|--------------|
| NET INCOME FOR COMMON STOCK | \$ 45 | \$ 45 | \$ 40 |
| OTHER COMPREHENSIVE INCOME/(LOSS), NET OF TAXES | | | |
| Investment in marketable equity securities, net of \$1, \$(1) and \$(1) taxes in 2003, 2002 and 2001, respectively | 1 | (1) | (1) |
| Unrealized gains/(losses) on derivatives qualified as hedges due to the cumulative effect of a change in accounting principle, net of \$0, \$0 and \$(6) taxes in 2003, 2002 and 2001, respectively | - | - | (8) |
| Unrealized gains/(losses) on derivatives qualified as hedges, net of \$2, \$(3), and \$(1) taxes in 2003, 2002 and 2001, respectively | 3 | (4) | (1) |
| Less: Reclassification adjustment for gains/(losses) included in net income, net of \$0, \$(1) and \$(1) taxes, in 2003, 2002 and 2001, respectively | (1) | (1) | (1) |
| TOTAL OTHER COMPREHENSIVE INCOME/(LOSS), NET OF TAXES | 5 | (4) | (9) |

The accompanying notes are an integral part of these financial statements.

Orange and Rockland Utilities, Inc.

CONSOLIDATED STATEMENT OF COMMON SHAREHOLDER'S EQUITY

| | <i>Common Stock</i> | | <i>Additional Paid-In Capital</i> | <i>Retained Earnings</i> | <i>Accumulated Other Comprehensive Income/(Loss)</i> | <i>Total</i> |
|------------------------------------|---------------------|---------------|---------------------------------------|------------------------------|--|--------------|
| | <i>Shares</i> | <i>Amount</i> | | | | |
| <i>(Millions of Dollars)</i> | | | | | | |
| BALANCE AS OF DECEMBER 31, 2000 | 1,000 | \$ - | \$ 194 | \$ 140 | \$ (1) | \$ 333 |
| Net income for common stock | | | | 40 | | 40 |
| Dividend to parent | | | | (28) | | (28) |
| Other comprehensive income/(loss) | | | | | (10) | (10) |
| BALANCE AS OF DECEMBER 31, 2001 | 1,000 | \$ - | \$ 194 | \$ 152 | \$ (11) | \$ 335 |
| Net income for common stock | | | | 45 | | 45 |
| Dividend to parent | | | | (28) | | (28) |
| Other comprehensive income/(loss) | | | | | (4) | (4) |
| BALANCE AS OF DECEMBER 31, 2002 | 1,000 | \$ - | \$ 194 | \$ 169 | \$ (15) | \$ 348 |
| Net income for common stock | | | | 45 | | 45 |
| Dividend to parent | | | | (28) | | (28) |
| Other comprehensive income/(loss) | | | | | 5 | 5 |
| BALANCE AS OF DECEMBER 31, 2003 | 1,000 | \$ - | \$ 194 | \$ 186 | \$ (10) | \$ 370 |

The accompanying notes are an integral part of these financial statements.

Orange and Rockland Utilities, Inc.

CONSOLIDATED STATEMENT OF CASH FLOWS

For the Years Ended December 31,

| | <i>2003</i> | <i>2002</i> | <i>2001</i> |
|--|-------------|-------------|-------------|
| <i>(Millions of Dollars)</i> | | | |
| OPERATING ACTIVITIES | | | |
| Net income for common stock | \$ 45 | \$ 45 | \$ 40 |
| PRINCIPAL NON-CASH CHARGES (CREDITS) TO INCOME | | | |
| Depreciation and amortization | 34 | 34 | 33 |
| Deferred income taxes | 44 | 4 | 3 |
| Gain on non-utility property | (1) | - | - |
| Other non-cash charges | (16) | (1) | (2) |
| CHANGES IN ASSETS AND LIABILITIES | | | |
| Accounts receivable - customers, less allowance for uncollectibles | (3) | (9) | 38 |
| Accounts receivable from affiliated companies | 1 | (12) | - |
| Materials and supplies, including gas in storage | (13) | 5 | (5) |
| Prepayments, other receivables and other current assets | (6) | 10 | 20 |
| Recoverable energy costs | (11) | (13) | (12) |
| Pensions and retiree benefits | - | 12 | 9 |

| | | | |
|---|--------------|-------------|-------------|
| Accounts payable | 11 | 8 | (6) |
| Accounts payable to affiliated companies | 17 | 13 | (6) |
| Accrued taxes | 3 | (2) | (2) |
| Accrued interest | (2) | 1 | - |
| Deferred charges and regulatory assets | 19 | 7 | (9) |
| Deferred credits and regulatory liabilities | (3) | (2) | (10) |
| Other assets | 4 | 4 | 9 |
| Other liabilities | 5 | - | 7 |
| NET CASH FLOWS FROM OPERATING ACTIVITIES | 128 | 104 | 107 |
| INVESTING ACTIVITIES | | | |
| Utility construction expenditures | (71) | (58) | (59) |
| Cost of removal less salvage | (2) | (2) | (2) |
| Proceeds from sale of land | 2 | - | - |
| NET CASH FLOWS USED IN INVESTING ACTIVITIES | (71) | (60) | (61) |
| FINANCING ACTIVITIES | | | |
| Net proceeds from/(retirement of) short-term debt | 14 | (16) | (24) |
| Retirement of long-term debt | (35) | - | - |
| Dividend to parent | (28) | (28) | (28) |
| NET CASH FLOWS USED IN FINANCING ACTIVITIES | (49) | (44) | (52) |
| CASH AND TEMPORARY CASH INVESTMENTS: | | | |
| NET CHANGE FOR THE PERIOD | 8 | - | (6) |
| BALANCE AT BEGINNING OF PERIOD | 2 | 2 | 8 |
| BALANCE AT END OF PERIOD | \$ 10 | \$ 2 | \$ 2 |
| LESS RESTRICTED CASH | \$ 1 | \$ - | \$ - |
| BALANCE: CASH AND TEMPORARY INVESTMENTS | \$ 9 | \$ 2 | 2 |
| SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION | | | |
| Cash paid/ (received) during the period for: | | | |
| Interest | \$ 21 | \$ 19 | \$ 22 |
| Income taxes | (17) | 17 | 22 |

The accompanying notes are an integral part of these financial statements.

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Orange and Rockland Utilities, Inc.

CONSOLIDATED STATEMENT OF CAPITALIZATION

Shares outstanding

| | Shares outstanding | | At December 31, | |
|--|----------------------|----------------------|-----------------|------|
| | December 31, 2003 | December 31, 2002 | 2003 | 2002 |

(Millions of Dollars)

| | | | | |
|---|-------|-------|---------------|---------------|
| COMMON SHAREHOLDER'S EQUITY LESS ACCUMULATED OTHER COMPREHENSIVE INCOME/(LOSS) | 1,000 | 1,000 | \$ 380 | \$ 363 |
| Investment in marketable securities, net of \$(1) and \$(2) taxes in 2003 and 2002, respectively | | | - | (3) |
| Unrealized gains/(losses) on derivatives qualified as hedges net of \$(8) and \$(10) taxes in 2003 and 2002, respectively | | | (11) | (14) |
| Less: Reclassification adjustment for gains/(losses) included in net income net of \$(2) and \$(2) taxes in 2003 and 2002, respectively | | | (1) | (2) |
| TOTAL ACCUMULATED OTHER COMPREHENSIVE INCOME/(LOSS), NET OF TAXES | | | (10) | (15) |
| COMMON SHAREHOLDER'S EQUITY (See Statement of Common Shareholder's Equity and Note C) | | | \$ 370 | \$ 348 |

| LONG-TERM DEBT (Note C) MATURITY | Interest Rate | Series | | |
|--|------------------|-----------|--------|--------|
| Debentures: | | | | |
| 2003 | 6.560 | % 1993D | - | 35 |
| 2007 | 7.125 | 1997J | 20 | 20 |
| 2010 | 7.50 | 2000A | 55 | 55 |
| 2018 | 7.07 | 1998C | 3 | 3 |
| 2027 | 6.50 | 1997F | 80 | 80 |
| 2029 | 7.0 | 1999G | 45 | 45 |
| TOTAL DEBENTURES | | | 203 | 238 |
| TAX-EXEMPT DEBT—NOTES ISSUED TO NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY FOR POLLUTION CONTROL REVENUE BONDS: | | | | |
| 2014 | 1.04 | %* 1994** | 55 | 55 |
| 2015 | 1.04* | 1995 | 44 | 44 |
| TOTAL TAX-EXEMPT DEBT | | | 99 | 99 |
| UNAMORTIZED DEBT DISCOUNT | | | (1) | (1) |
| Total | | | 301 | 336 |
| Less: Long-term debt due within one year | | | - | 35 |
| TOTAL LONG-TERM DEBT | | | 301 | 301 |
| TOTAL CAPITALIZATION | | | \$ 671 | \$ 649 |

* Rate reset weekly or by auction held every 35 days; December 31, 2003 rate shown.

** See Note P.

The accompanying notes are an integral part of these financial statements.

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NOTES TO THE FINANCIAL STATEMENTS

General

These combined notes accompany and form an integral part of the consolidated financial statements of each of Consolidated Edison, Inc., a holding company, and its subsidiaries (Con Edison), Consolidated Edison Company of New York, Inc. and its subsidiaries (Con Edison of New York) and Orange & Rockland Utilities, Inc. and its subsidiaries (O&R). Con Edison of New York and O&R, which are regulated utilities, are subsidiaries of Con Edison. Con Edison also has the following unregulated subsidiaries: Consolidated Edison Solutions, Inc. (Con Edison Solutions), a retail energy services company that sells electricity and gas to delivery customers of utilities, including Con Edison of New York and O&R, and also offers energy-related services; Consolidated Edison Energy, Inc. (Con Edison Energy), a wholesale energy supply company; Consolidated Edison Development, Inc. (Con Edison Development), a company that owns and operates generating plants and energy and other infrastructure projects; and Con Edison Communications, LLC (Con Edison Communications), a company that builds and operates fiber optic networks to provide telecommunications services. Con Edison of New York and O&R are referred to in these notes as the "Utilities." Con Edison and the Utilities are collectively referred to in these combined notes as the "Companies." Neither Con Edison of New York nor O&R makes any representation as to information relating to Con Edison or the subsidiaries of Con Edison other than itself.

Note A - Summary of Significant Accounting Policies

Principles of Consolidation

Con Edison's consolidated financial statements include the accounts of Con Edison and its consolidated subsidiaries, including the Utilities. All intercompany balances and transactions have been eliminated.

Accounting Policies

The accounting policies of Con Edison and its subsidiaries conform to accounting principles generally accepted in the United States of America. For the Utilities, these accounting principles include the Financial Accounting Standards Board's (FASB) Statement of Financial Accounting Standards (SFAS) No. 71, "Accounting for the Effects of Certain Types of Regulation," and, in accordance with SFAS No. 71, the accounting requirements of the Federal Energy Regulatory Commission (FERC) and the state public utility regulatory commissions having jurisdiction.

SFAS No. 71 specifies the economic effects that result from the cause and effect relationship of costs and revenues in the rate-regulated environment and how these effects are to be accounted for by a regulated enterprise. Revenues intended to cover some costs may be recorded either before or after the costs are incurred. If regulation provides assurance that incurred costs will be recovered in the future, these costs would be recorded as deferred charges or "regulatory assets" under SFAS No. 71. If revenues are recorded for costs that are expected to be incurred in the future, these revenues would be recorded as deferred credits or "regulatory liabilities" under SFAS No. 71.

NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

and are paying or being charged with a return on all of their regulatory liabilities for which a cash inflow has been received. The Utilities' regulatory assets and liabilities will be recovered from customers, or applied for customer benefit, in accordance with rate provisions approved by the applicable public utility regulatory commission.

Other significant accounting policies of the Companies are referenced in Note E (Pension Benefits), Note F (Other Postretirement Benefits), Note K (Leases), Note L (Goodwill and Intangible Assets) and Note P (Derivative Instruments and Hedging Activities) to the financial statements.

Plant and Depreciation

Utility Plant

Utility plant is stated at original cost. The capitalized cost of additions to utility plant includes indirect costs such as engineering, supervision, payroll taxes, pensions, other benefits and an allowance for funds used during construction (AFDC). The original cost of property is charged to accumulated depreciation as property is retired. The cost of repairs and maintenance is charged to expense and the cost of betterments is capitalized. At December 31, 2003, the Utilities reclassified the cost of removal less salvage value originally included in the accumulated depreciation reserve to a regulatory liability in accordance with SFAS No. 143, "Accounting for Asset Retirement Obligations." The amounts reclassified for Con Edison, Con Edison of New York and O&R were \$777 million, \$721 million and \$56 million in 2003 and \$813 million, \$773 million and \$40 million in 2002, respectively.

Rates used for AFDC include the cost of borrowed funds and a reasonable rate on the regulated utilities own funds when so used, determined in accordance with regulations of the FERC and the state public utility regulatory authority having jurisdiction. The rate is compounded semiannually, and the amounts applicable to borrowed funds are treated as a reduction of interest charges, while the amounts applicable to the regulated utilities' own funds are credited to other income (deductions). The AFDC rates for the Utilities were as follows:

| | <i>For the Years Ended December 31,</i> | | |
|------------------------|---|-------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2001</i> |
| Con Edison of New York | 7.1% | 6.8% | 6.8% |
| O&R | 1.1% | 8.4% | 4.6% |

The Utilities generally compute annual charges for depreciation using the straight-line method for financial statement purposes, with rates based on average service lives and net salvage factors.

The average depreciation rates for the Utilities were as follow:

| | <i>For the Years Ended December 31,</i> | | |
|------------------------|---|-------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2001</i> |
| Con Edison of New York | 3.0% | 3.0% | 3.1% |
| O&R | 3.1% | 3.3% | 3.3% |

NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The estimated lives for utility plant for Con Edison of New York range from 25 to 80 years for electric, 15 to 85 years for gas, 30 to 75 years for steam and 8 to 50 years for general plant. For O&R, the estimated lives for utility plant range from 5 to 65 years for electric, 7 to 75 years for gas and 5 to 55 years for general plant.

Non-Utility Plant

Non-utility plant is stated at original cost. For the Utilities, non-utility plant consists primarily of land and telecommunication facilities that are currently not utilized within electric, gas or steam utility operations. For Con Edison's unregulated subsidiaries, non-utility plant consists primarily of generating assets and telecommunication facilities. Depreciation on these assets is computed using the straight-line method for financial statement purposes over their estimated useful lives, which range from 5 to 40 years for generating assets, 3 to 20 years for telecommunication facilities and 3 to 50 years for other property.

The average non-utility depreciation rates for Con Edison Development and Con Edison Communications were as follows:

For the Years Ended December 31,

| | 2003 | 2002 | 2001 |
|---------------------------|------|-------|------|
| Con Edison Development | 3.0% | 3.9% | 4.0% |
| Con Edison Communications | 8.4% | 10.0% | 5.8% |

In 2002, in accordance with SFAS No. 34, "Capitalization of Interest Costs," Con Edison capitalized interest on its borrowings associated with the unregulated subsidiaries' capital projects in progress. Capitalized interest is added to the asset cost, and is amortized over the useful lives of the assets. The amount of such capitalized interest cost for 2003 and 2002 was \$6 million and \$14 million, respectively. No amounts were capitalized in 2001.

Revenues

The Utilities and Con Edison Solutions recognize revenues for electric, gas or steam service on a monthly billing cycle basis. The Utilities defer over a 12-month period all net interruptible gas revenues not authorized by the New York State Public Service Commission (PSC) to be retained by the Utilities for refund to firm gas sales and transportation customers. O&R and Con Edison Solutions accrue revenues at the end of each month for estimated energy usage not yet billed to customers, while Con Edison of New York does not accrue such revenues, in accordance with current regulatory agreements. Unbilled revenues included in Con Edison's and O&R's balance sheets at December 31, 2003 and 2002 were as follows:

(Millions of Dollars)

| | 2003 | | 2002 | |
|------------|------|----|------|----|
| Con Edison | \$ | 61 | \$ | 54 |
| O&R | \$ | 18 | \$ | 20 |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Recoverable Energy Costs

The Utilities generally recover all of their prudently incurred fuel, purchased power and gas costs, including hedging gains and losses, in accordance with rate provisions approved by the applicable state public utility commissions. If the actual energy costs for a given month are more or less than the amounts billed to customers for that month, the difference is recoverable from or refundable to customers. Differences between actual and billed energy costs are generally deferred for charge or refund to customers during the next billing cycle (normally within one or two months). For Con Edison of New York, rate provisions also include a possible incentive or penalty of up to \$25 million annually relating to electric costs (see "Energy Price Hedging" in Note P). For O&R gas costs, differences between actual and billed gas costs during the 12-month period ending each August are charged or refunded to customers during a subsequent 12-month period.

The difference between purchased power costs initially billed to the Utilities by the New York Independent System Operator (NYISO) and the cost of power subsequently determined by the NYISO to have actually been supplied is refunded by the NYISO to the Utilities, or paid to the NYISO by the Utilities. The reconciliation payments or receipts are recoverable from or refundable to the Utilities' customers. At December 31, 2003, Con Edison of New York had deferred \$134 million of refunds received from the NYISO as a regulatory liability. In New Jersey, O&R's subsidiary purchases energy under competitive bidding supervised by the New Jersey Board of Public Utilities (NJBPU) for contracts ranging from one to three years. Base rates are adjusted to conform to contracted amounts when new contracts take effect and differences between actual costs and revenues collected, chiefly attributable to differences between estimated and actual customer consumption, are reconciled at a later date. See "Rate and Restructuring Agreements - Electric" in Note B for 2003 NJBPU ruling regarding previously deferred purchased power costs. In Pennsylvania, O&R's subsidiary recovers fuel costs based on a rate allowed by the Pennsylvania Public Utility Commission (PPUC).

Temporary Cash Investments

Temporary cash investments are short-term, highly liquid investments that generally have maturities of three months or less. They are stated at cost, which approximates market. The Companies consider temporary cash investments to be cash equivalents.

Investments

Investments consist primarily of the investments of Con Edison's unregulated subsidiaries, which, depending on the subsidiaries' percentage ownership, are recorded at cost, accounted for under the equity method or accounted for as leveraged leases in accordance with SFAS No. 13, "Accounting for Leases." See Note K for a discussion of investments in Lease In/Lease Out transactions and Note H for a discussion of Con Edison Development's impairment charge related to its Genor generating asset. Con Edison of New York's investments are recorded under the equity method.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Federal Income Tax

In accordance with SFAS No. 109, "Accounting for Income Taxes," the Companies have recorded an accumulated deferred federal income tax liability for temporary differences between the book and tax bases of assets and liabilities at current tax rates. In accordance with rate agreements, the Utilities have recovered amounts from customers for a portion of the tax liability they will pay in the future as a result of the reversal or "turn-around" of these temporary differences. As to the remaining tax liability, in accordance with SFAS No. 71, the Utilities have established regulatory assets for the net revenue requirements to be recovered from customers for the related future tax expense (see Note M). In 1993, the PSC issued a Policy Statement approving accounting procedures consistent with SFAS No. 109 and providing assurances that these future increases in taxes will be recoverable in rates.

Accumulated deferred investment tax credits are amortized ratably over the lives of the related properties and applied as a reduction to future federal income tax expense.

Con Edison and its subsidiaries file a consolidated federal income tax return. The consolidated income tax liability is allocated to each member of the consolidated group using the separate return method. Each member pays tax or receives a benefit based on its own taxable income or loss in accordance with tax sharing agreements between the members of the consolidated group.

State Income Tax

The New York State tax laws applicable to utility companies were changed effective January 1, 2000. Certain revenue-based taxes were repealed or reduced and replaced by a net income-based tax. In June 2001, the PSC issued its final Order relating to the tax law changes. It authorized each utility to use deferral accounting to record the difference between taxes being collected and the actual tax expense under the new tax law until that expense is incorporated in base rates.

Con Edison and its subsidiaries file a combined New York State Corporation Business Franchise Tax Return. Similar to a federal consolidated income tax return, the income of all entities in the combined group is subject to New York State taxation, after adjustments for differences between federal and New York law and apportionment of income among the states in which the company does business. Each member of the group pays or receives a benefit based on its own New York State taxable income or loss.

Taxes Other than Income Taxes

The PSC requires New York regulated utility companies to record gross receipts tax revenues and expenses on a gross income statement presentation basis (i.e., included in both revenue and expense). The recovery of these taxes is part of the PSC approved revenue requirement within each of the respective rate agreements.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Research and Development Costs

Research and development costs are charged to operating expenses as incurred. Research and development costs were as follows:

| | <i>For the Years Ended December 31,</i> | | |
|------------------------------|---|-------------|-------------|
| <i>(Millions of Dollars)</i> | <i>2003</i> | <i>2002</i> | <i>2001</i> |
| Con Edison | \$ 11 | \$ 11 | \$ 14 |
| Con Edison of New York | \$ 10 | \$ 11 | \$ 14 |
| O&R | \$ 1 | \$ - | \$ - |

Reclassification

Certain prior year amounts have been reclassified to conform with the current year presentation.

Earnings Per Common Share

In accordance with SFAS No. 128, "Earnings per Share," Con Edison presents basic and diluted earnings per share on the face of its consolidated income statement. Basic earnings per share is calculated by dividing earnings available to common shareholders ("Net income for common stock" on Con Edison's consolidated income statement) by the weighted average number of Con Edison common shares outstanding during the period. In the calculation of diluted EPS, weighted average shares outstanding are increased for additional shares that would be outstanding if potentially dilutive securities were converted to common stock.

Potentially dilutive securities for Con Edison consist of restricted stock and stock options whose exercise price is less than the average market price of the common shares during the reporting period. See Note N.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Basic and diluted EPS for Con Edison are calculated as follows:

| | <i>For the Years Ended December 31,</i> | | |
|---|---|-------------|-------------|
| <i>(Millions of Dollars/Shares in Millions)</i> | <i>2003</i> | <i>2002</i> | <i>2001</i> |
| Income before cumulative effect of changes in accounting principles | \$ 525 | \$ 668 | \$ 682 |
| Cumulative effect of changes in accounting principles, net of tax | 3 | (22) | - |
| Net income for common stock | \$ 528 | \$ 646 | \$ 682 |

| | | | |
|---|---------|---------|---------|
| Average number of shares outstanding - Basic | 221 | 213 | 212 |
| Add: Incremental shares attributable to effect of potentially dilutive securities | 1 | 1 | 1 |
| Average number of shares outstanding - Diluted | 222 | 214 | 213 |
| EARNINGS PER COMMON SHARE - BASIC | | | |
| Before cumulative effect of changes in accounting principles | \$ 2.37 | \$ 3.14 | \$ 3.22 |
| Cumulative effect of changes in accounting principles | 0.02 | (0.11) | - |
| After cumulative effect of changes in accounting principles | \$ 2.39 | \$ 3.03 | \$ 3.22 |
| EARNINGS PER COMMON SHARE - DILUTED | | | |
| Before cumulative effect of changes in accounting principles | \$ 2.36 | \$ 3.13 | \$ 3.21 |
| Cumulative effect of changes in accounting principles | 0.02 | (0.11) | - |
| After cumulative effect of changes in accounting principles | \$ 2.38 | \$ 3.02 | \$ 3.21 |

Stock options to purchase 7 million, 6 million and 5 million Con Edison common shares for the years ended December 31, 2003, 2002 and 2001, respectively, were not included in the respective period's computation of diluted earnings per share because the exercise price of the option was greater than the average market price of the common shares.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Stock-Based Compensation

Con Edison accounts for its stock-based compensation plans using the intrinsic value model of Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees," and its related interpretations. All options and units granted under these plans had an exercise price equal to the market value of the underlying common stock on the date of grant. No compensation expense has been reflected in the income statement for any period presented except as shown below and as described in Note N. The following table illustrates the effect on net income and earnings per share if Con Edison had applied the fair value recognition provisions of SFAS No. 123, "Accounting for Stock-Based Compensation," as amended by SFAS No. 148, "Accounting for Stock-Based Compensation—Transition and Disclosure—An Amendment of FASB Statement No. 123," for the purposes of recognizing compensation expense on employee stock-based arrangements.

| (Millions of Dollars/Shares in Millions) | Con Edison | | | Con Edison of New York | | | O&R | | |
|--|------------|---------|---------|------------------------|--------|--------|-------|-------|-------|
| | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
| Net income for common stock, as reported | \$ 528 | \$ 646 | \$ 682 | \$ 591 | \$ 605 | \$ 649 | \$ 45 | \$ 45 | \$ 40 |
| Add: Stock-based compensation expense included in reported net income, net of related tax effects | 3 | 6 | 3 | 3 | 6 | 3 | - | - | - |
| Deduct: Total stock-based compensation expense determined under fair value method for all awards, net of related tax effects | 8 | 13 | 7 | 7 | 12 | 6 | - | - | - |
| Pro forma net income for common stock | \$ 523 | \$ 639 | \$ 678 | \$ 587 | \$ 599 | \$ 646 | \$ 45 | \$ 45 | \$ 40 |
| Average number of shares outstanding - Basic | 221 | 213 | 212 | | | | | | |
| Add: Incremental shares attributable to effect of dilutive securities | 1 | 1 | 1 | | | | | | |
| Average number of shares outstanding - Diluted | 222 | 214 | 213 | | | | | | |
| Earnings per share: | | | | | | | | | |
| Basic - as reported | \$ 2.39 | \$ 3.03 | \$ 3.22 | | | | | | |
| Basic - pro forma | \$ 2.37 | \$ 3.00 | \$ 3.19 | | | | | | |
| Diluted - as reported | \$ 2.38 | \$ 3.02 | \$ 3.21 | | | | | | |
| Diluted - pro forma | \$ 2.36 | \$ 2.99 | \$ 3.18 | | | | | | |

These pro forma amounts may not be representative of future year pro forma amount disclosures due to changes in future market conditions and additional grants in future years.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Note B - Regulatory Matters

Rate and Restructuring Agreements

Electric

In September 1997, the PSC approved a restructuring agreement between Con Edison of New York, the PSC staff and certain other parties (the 1997 Restructuring Agreement). The 1997 Restructuring Agreement provided for a transition to a competitive electric market through the development of a retail access plan, a rate plan for the period ended March 31, 2002, a reasonable opportunity for recovery of "strandable costs" and the divestiture of electric generation capacity by the company.

At December 31, 2003, approximately 92,000 Con Edison of New York customers representing approximately 28 percent of aggregate customer peak load were purchasing electricity from other suppliers under the electric retail access program (which is available to all of the company's electric customers). The company delivers electricity to customers in this program through its regulated transmission and distribution systems. In general, its delivery rates for retail access customers are equal to the full-service rates applicable to other comparable customers, less an amount reflecting costs otherwise associated with supplying customers with energy and capacity.

Pursuant to the 1997 Restructuring Agreement, Con Edison of New York reduced electric rates, on an annual basis, by \$129 million in 1998, \$80 million in April 1999, \$103 million in April 2000 and \$209 million in April 2001. The effect of the April 2001 decrease for the rate year ended March 31, 2002 was partially offset by recognition in income of \$36 million relating to rates for distributing electricity to customers of the New York Power Authority (NYPA) and \$50 million (after tax) of deferred generation divestiture gain. Rates were also reduced, on an annual basis, effective September 2001 by \$313 million to reflect the divestiture of the company's nuclear generating facility and the Roseton generating plant, which resulted in a reduction in operating and other expenses. See Note J.

Pursuant to the 1997 Restructuring Agreement, as amended by a July 1998 PSC order, Con Edison of New York sold approximately 7,780 MW of the approximately 8,300 MW of generating capacity that it owned at the time the 1997 Restructuring Agreement was executed. See Note J.

In November 2000, the PSC approved an agreement (the 2000 Electric Rate Agreement) that revised and extended the rate plan provisions of the 1997 Restructuring Agreement. Pursuant to the 2000 Electric Rate Agreement, the company reduced the distribution component of its electric rates by \$170 million on an annual basis, effective October 2000.

In general under the 2000 Electric Rate Agreement, Con Edison of New York's base electric transmission and distribution rates will not otherwise be changed during the five-year period ending March 2005 except (i) with respect to certain changes in costs above anticipated annual levels resulting from legal or regulatory requirements, inflation in excess of a 4 percent annual rate, property tax changes and environmental cost increases or (ii) if the PSC determines that circumstances have occurred that either

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

threaten the company's economic viability or ability to provide, safe and adequate service, or render the company's rate of return unreasonable for the provision of safe and adequate service.

Under the 2000 Electric Rate Agreement, as approved by the PSC and as modified in December 2001, 35 percent of any earnings in each of the rate years ending March 2002 through 2005 above a specified rate of return on electric common equity will be retained for shareholders and the balance will be applied for customer benefit as determined by the PSC. In 2002 and 2003, Con Edison of New York established an electric shared earnings reserve of \$49 million for the rate year ending March 2003. An electric shared earnings reserve has not been established for the rate year ending March 2004 based on results through the end of calendar year 2003, and there was no sharing of earnings for the rate year ended March 2002. The earnings threshold for rate years ending March 2003 through March 2005 of 11.75 percent can be increased up to 50 basis points. The threshold will increase by 25 basis points if certain demand reductions and supply increases exceed targeted projections and by an additional 25 basis points if certain customer service and reliability objectives are achieved. The company could be required to pay up to \$40 million annually in penalties if certain threshold service and reliability objectives are not achieved. The company recorded penalties relating to reliability objectives of \$8 million and \$3 million in 2003 and 2002, respectively.

Con Edison of New York's potential electric strandable costs are utility investments and commitments that may not be recoverable in a competitive electric supply market. The company is recovering these costs in the rates it charges all of its electric customers. The 2000 Electric Rate Agreement continues the stranded cost recovery provisions of the 1997 Restructuring Agreement, stating that Con Edison of New York "will be given a reasonable opportunity to recover stranded and strandable costs remaining at March 31, 2005, including a reasonable return on investments, under the parameters and during the time periods set forth therein."

The 2000 Electric Rate Agreement also continues the rate provisions pursuant to which Con Edison of New York recovers prudently incurred purchased power and fuel costs from customers. See "Recoverable Energy Costs" below.

In 1997, the PSC approved a four-year O&R restructuring plan effective through December 31, 2002, pursuant to which O&R sold all of its generating assets, made retail access available to all of its electric customers effective May 1999 and reduced its electric rates by \$32 million through rate reductions implemented in December 1997 and 1998. In 1998 and 1999, similar plans for O&R's utility subsidiaries in Pennsylvania and New Jersey were approved by state regulators. The Pennsylvania plan provided for retail access for all customers effective May 1999. The New Jersey plan provided for retail access for all customers effective August 1999 and rate reductions of \$7 million effective August 1999, an additional reduction of \$3 million effective January 2001 and a final reduction of \$6 million effective August 2002.

In accordance with the April 1999 PSC order approving Con Edison's acquisition of O&R, Con Edison of New York reduced its annual electric and gas rates by \$12 million and \$2 million, respectively, and O&R reduced its annual electric rates and gas rates by \$6 million and \$1 million, respectively.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

In October 2003, the PSC approved agreements among O&R, the staff of the PSC and other parties with respect to the rates O&R can charge to its New York customers for electric service. The electric agreement, which covers the period from July 1, 2003 through October 31, 2006, provides for no changes to electric base rates and contains provisions for the amortization and offset of regulatory assets and liabilities, the net effect of which will reduce electric operating income by a total of \$11 million (pre-tax) over the period covered by the agreement. The agreement continues to provide for recovery of energy costs from customers on a current basis and for O&R to share equally with customers earnings in excess of a 12.75 percent return on common equity during the three year period from July 2003 through June 2006. The period from July 2006 through October 2006 will not be subject to earnings sharing.

In July 2003, the NJBPU ruled on the petitions of Rockland Electric Company (RECO), the New Jersey utility subsidiary of O&R, for an increase in electric rates and recovery of deferred purchased power costs. The NJBPU ordered a \$7 million decrease in RECO's electric base rates, effective August 2003, authorized RECO's recovery of approximately \$83 million of previously deferred purchased power costs and associated interest and disallowed recovery of approximately \$19 million of such costs and associated interest. At December 31, 2002, the company had accrued a reserve for \$13 million of the disallowance, and at June 30, 2003 reserved an additional \$6 million for the disallowance.

Gas

In November 2000, the PSC approved an agreement between Con Edison of New York, the PSC staff and certain other parties that revised and extended the 1996 gas rate settlement agreement through September 2001. The 1996 agreement, with limited exceptions, continued base rates at September 1996 levels through September 2000.

Under the 2000 agreement, the rate of return on gas common equity above which Con Edison of New York shared with customers 50 percent of earnings was increased from 13 percent to 14 percent. In addition, customer bills were reduced by \$20 million during the January through March 2001 period.

At December 31, 2001, Con Edison of New York reserved \$12 million for customers' share of gas earnings in excess of the 14 percent threshold for the rate year ended September 2001. No additional amounts were reserved for the rate year ended September 2002.

In April 2002, the PSC approved a Con Edison of New York gas rate agreement for the three-year period ending September 30, 2004. The rate agreement reduced gas rates, on an annualized basis, by \$25 million.

During the term of the 2002 agreement, Con Edison of New York retains 100 percent of the rate year return on equity up to 11.5 percent. If the return on equity is between 11.5 percent and 12.0 percent, 100 percent of the incremental return over 11.5 percent will be set aside for customer benefit. If the return on equity is above 12.0 percent, 50 percent of the incremental return over 12.0 percent will be retained by shareholders, and the remaining 50 percent will be shared with customers. Earnings on gas common equity did not exceed the specified rate of return for the rate year ended September 30, 2003.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The 2002 agreement also continued the retail access credit for firm transportation customers and other programs designed to increase customer and marketer participation in the gas retail access program, the net costs of which are to be recovered from customers.

In May 2002, Con Edison of New York established a \$36 million reserve, funded by previously deferred customer credits, to recover unreimbursed costs directly related to the World Trade Center attack.

In November 2003, Con Edison of New York filed a request with the PSC to increase charges for gas service by \$108 million (9.8 percent increase), effective October 2004. The filing with the PSC reflects a return on equity of 12 percent and an equity ratio of 49.3 percent and assumes firm gas sales and transportation delivery volume increases of 0.8 percent annually. The filing includes a proposal for a multi-year rate plan to continue the proposed level of charges through September 2007 provided charges would be adjusted, effective October 2005 and October 2006, to reflect inflation and changes in pension and health insurance expenses, property taxes, capital expenditures, environmental expenditures and certain other costs. In addition, the filing would continue the provisions pursuant to which energy costs are recovered from customers on a current basis and the effects of weather-related changes on net income are moderated.

In November 2000, the PSC authorized implementation of a gas rate agreement between O&R, the PSC staff, and certain other parties covering the period November 2000 through April 2002. In October 2001, the PSC approved an extension of this agreement covering the period May 2002 through October 2003. With limited exceptions, the agreement provided for no changes to base rates. O&R was permitted to retain, and amortized to income over the period November 2000 through October 2003, \$18 million of deferred credits that otherwise would have been credited to customers.

In October 2003, the PSC approved agreements among O&R, the PSC staff and other parties with respect to the rates O&R can charge to its New York customers for gas service. The O&R gas agreement, which covers the period from November 1, 2003 through October 31, 2006, provides for increases in gas base rates of \$9 million (5.8 percent) effective November 2003, \$9 million (4.8 percent) effective November 2004 and \$5 million (2.5 percent) effective November 2005. The O&R gas agreement also continues a weather normalization clause that moderates, but does not eliminate, the effect of weather-related changes on net income. The agreement continues to provide for recovery of energy costs from customers on a current basis and for O&R to share equally with customers earnings in excess of an 11 percent return on common equity. The agreement also contains incentives under which, among other things, the company earns additional amounts based on attaining specified targets for customer subscription to its retail access programs and the achievement of certain net revenue targets for interruptible sales and transportation customers.

Steam

In November 2000, the PSC authorized implementation of an agreement between Con Edison of New York, the PSC staff and certain other parties, that provided for a \$17 million steam rate increase in October 2000 and, with limited exceptions, no further changes in steam rates prior to October 2004. The

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

company is required to share with customers 50 percent of any earnings for any rate year covered by the agreement above a specified rate of return on steam common equity (11.0 percent for the first rate year, the 12-month period ended September 2001; 10.5 percent thereafter if the repowering of its steam-electric generating plant is not completed). The net revenue effect associated with sales increases related to colder than normal winter weather (November through April) will be excluded from any earnings measurement. Earnings on steam common equity did not exceed the specific rates of return for the rate years ended September 30, 2001, 2002 or 2003.

Under the steam rate agreement, upon completion of the project to add incremental generating capacity at the East River steam-electric generating plant, the net benefits of the project (including the net after-tax gain from the sale of a nine-acre development site in mid-town Manhattan along the East River) allocable to steam operations will inure to the benefit of steam customers. It is now expected that this project will not be completed until after the expiration of the current steam rate agreement. Con Edison of New York believes the same provisions would apply in the next rate agreement.

The agreement continues the rate provisions pursuant to which Con Edison of New York recovers prudently incurred purchased steam and fuel costs and requires Con Edison of New York to develop a strategy for hedging price variations for a portion of the steam produced each year.

In November 2003, Con Edison of New York filed a request with the PSC to increase charges for steam service by \$129 million (14.6 percent increase), net of an estimated \$64 million of expected fuel savings associated with the ongoing East River Repowering Project, effective October 2004. The filing with the PSC reflects a return on equity of 12 percent and an equity ratio of 49.3 percent. The filing includes a proposal for a multi-year rate plan to continue the proposed level of charges through September 2007 provided charges would be adjusted, effective October 2005 and October 2006, to reflect inflation and changes in pension and health insurance expenses, property taxes, capital expenditures, environmental expenditures and certain other costs. In addition, the filing would continue the provisions pursuant to which fuel and purchased power costs are recovered from customers on a current basis.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Regulatory Assets and Liabilities

Regulatory assets and liabilities at December 31, 2003 and 2002 were comprised of the following items:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|---|-------------------|-------------|-----------------------------------|-------------|----------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> |
| Regulatory assets | | | | | | |
| Future federal income tax | \$ 629 | \$ 614 | \$ 589 | \$ 575 | \$ 40 | \$ 39 |
| Recoverable energy costs | 264 | 310 | 176 | 223 | 88 | 87 |
| Sale of nuclear generating plant | 159 | 215 | 159 | 215 | - | - |
| Real estate sale costs - First Avenue properties | 138 | 134 | 138 | 134 | - | - |
| Deferred retirement program costs | 77 | 84 | 33 | 38 | 44 | 46 |
| Deferred unbilled gas revenue | 44 | 44 | 44 | 44 | - | - |
| Deferred environmental remediation reserve costs | 155 | 83 | 116 | 52 | 39 | 31 |
| Workers' compensation | 51 | 54 | 51 | 54 | - | - |
| Deferred asbestos-related reserve costs | 39 | 39 | 38 | 38 | 1 | 1 |
| Divestiture - capacity replacement reconciliation | 16 | 29 | 16 | 29 | - | - |
| Deferred revenue taxes | 48 | 78 | 45 | 72 | 3 | 6 |
| World Trade Center restoration costs | 68 | 63 | 68 | 63 | - | - |
| NYS tax law changes | 23 | 43 | 23 | 43 | - | - |
| Property tax reconciliation | 41 | (33) | 41 | (33) | - | - |
| Other | 109 | 109 | 103 | 83 | 6 | 26 |

| | | | | | | | | | | | | |
|--|----|-------|----|-------|----|-------|----|-------|----|-----|----|-----|
| Total Regulatory Assets | \$ | 1,861 | \$ | 1,866 | \$ | 1,640 | \$ | 1,630 | \$ | 221 | \$ | 236 |
| Regulatory liabilities | | | | | | | | | | | | |
| Allowance for cost of removal less salvage | \$ | 777 | \$ | 813 | \$ | 721 | \$ | 773 | \$ | 56 | \$ | 40 |
| NYISO reconciliation | | 134 | | 107 | | 134 | | 107 | | - | | - |
| Gain on divestiture | | 56 | | 69 | | 55 | | 64 | | 1 | | 5 |
| Deposit from sale of First Avenue properties | | 50 | | 50 | | 50 | | 50 | | - | | - |
| Refundable energy costs | | 21 | | 31 | | - | | - | | 21 | | 31 |
| Accrued electric rate reduction | | 33 | | 45 | | 32 | | 38 | | 1 | | 7 |
| DC service incentive | | 38 | | 35 | | 38 | | 35 | | - | | - |
| Transmission congestion contracts | | 284 | | 125 | | 284 | | 125 | | - | | - |
| Gas rate plan - World Trade Center recovery | | 36 | | 36 | | 36 | | 36 | | - | | - |
| Electric excess earnings | | 49 | | 40 | | 49 | | 40 | | - | | - |
| Natural gas refunds | | 9 | | 17 | | 9 | | 17 | | - | | - |
| NYS tax law changes | | 18 | | 38 | | 18 | | 38 | | - | | - |
| Gas interference - cost sharing | | 10 | | 12 | | 10 | | 12 | | - | | - |
| Federal income tax refund | | 29 | | 29 | | 29 | | 29 | | - | | - |
| Gas interruptible sales credits | | 26 | | 25 | | 26 | | 25 | | - | | - |
| Steam special franchise tax | | 10 | | 3 | | 10 | | 3 | | - | | - |
| Other | | 179 | | 157 | | 163 | | 135 | | 16 | | 22 |
| Total Regulatory Liabilities | \$ | 1,759 | \$ | 1,632 | \$ | 1,664 | \$ | 1,527 | \$ | 95 | \$ | 105 |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Note C - Capitalization

Common Stock

At December 31, 2003 and 2002, Con Edison owned all of the issued and outstanding shares of common stock of the Utilities. Con Edison of New York owns \$962 million of Con Edison stock, which it purchased in 1998 and 1999 in connection with Con Edison's stock repurchase plan.

Capitalization of Con Edison

The outstanding capitalization for each of the Companies is shown on its Consolidated Statement of Capitalization, and for Con Edison includes the Utilities' outstanding preferred stock and debt.

Preferred Stock of Utility Subsidiaries

As of December 31, 2003, 1,915,319 shares of Con Edison of New York's \$5 Cumulative Preferred Stock (the "\$5 Preferred") and 375,626 shares of its Cumulative Preferred Stock (\$100 par value) were outstanding.

Dividends on the \$5 Preferred stock are \$5 per share per annum, payable quarterly, and dividends on the Cumulative Preferred Stock are \$4.65 per share per annum, payable quarterly. The preferred dividends must be declared by Con Edison of New York's Board of Trustees to become payable. See "Dividends" below.

With respect to any corporate action to be taken by a vote of shareholders of Con Edison of New York, Con Edison (which owns all of the 235,488,094 shares of Con Edison of New York's common shares that are outstanding) and the holders of the \$5 Preferred are each entitled to one vote for each share held. Except as otherwise required by law, holders of the Cumulative Preferred Stock have no right to vote; provided, however, that if the \$5 Preferred is no longer outstanding, the holders of the Cumulative Preferred Stock are entitled to one vote for each share with respect to any corporate action to be taken by a vote of the shareholders of Con Edison of New York. In addition, if dividends are in arrears for certain periods, the holders are entitled to certain rights with respect to the election of Con Edison of New York's Trustees. Without the consent of the holders of the Cumulative Preferred Stock, Con Edison of New York may not create or authorize any kind of stock ranking prior to the Cumulative Preferred Stock or, if such actions would affect the holders of the Cumulative Preferred Stock adversely, be a party to any consolidation or merger, create or amend the terms of the Cumulative Preferred Stock or reclassify the Cumulative Preferred Stock. Con Edison of New York may redeem the \$5 Preferred at a redemption price of \$105 per share and the Cumulative Preferred Stock at a redemption price of \$101 per share (in each case, plus accrued and unpaid dividends). In the event of the dissolution, liquidation or winding up of the affairs of Con Edison of New York, before any distribution of capital assets could be made to the holders of the company's common stock, the holders of the \$5 Preferred and the Cumulative Preferred Stock would each be entitled to receive \$100 per share, in the case of an involuntary liquidation, or an amount equal to the redemption price per share, in the case of a voluntary liquidation, in each case together with all accrued and unpaid dividends.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Dividends

In accordance with PSC requirements, the dividends that the Utilities may pay are limited to not more than 100 percent of their respective income available for dividends calculated on a two-year rolling average basis. Excluded from the calculation of "income available for dividends" are non-cash charges to income

resulting from accounting changes or charges to income resulting from significant unanticipated events. The restriction also does not apply to dividends paid in order to transfer to Con Edison proceeds from major transactions, such as asset sales, or to dividends reducing each utility subsidiary's equity ratio to a level appropriate to its business risk.

In addition, no dividends may be paid, or funds set apart for payment, on Con Edison of New York's common stock until all dividends accrued on the \$5 Preferred Stock and Cumulative Preferred Stock have been paid, or declared and set apart for payment.

Long-term Debt

Long-term debt maturing in the period 2004-2008 is as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | <i>Con Edison of New York</i> | <i>O&R</i> |
|------------------------------|-------------------|-------------------------------|----------------|
| 2004 | 166 | 150 | - |
| 2005 | 467 | 450 | - |
| 2006 | 20 | - | - |
| 2007 | 371 | 330 | 20 |
| 2008 | 504 | 280 | - |

Long-term debt includes notes issued by O&R to the New York State Energy Research and Development Authority (NYSERDA) for the net proceeds of NYSEDA's \$55 million aggregate principal amount of Series 1994A and \$44 million aggregate principal amount of Series 1995A Pollution Control Refunding Revenue Bonds. The interest rate determination method for this debt is subject to change in accordance with the related indenture, and the debt currently bears interest at a weekly rate determined by its remarketing agent. The debt is subject to optional and, in certain circumstances, mandatory tender for purchase by O&R. See "Interest Rate Hedging" in Note P.

Long-term debt is stated at cost, which, as of December 31, 2003, approximates fair value (estimated based on current rates for debt of the same remaining maturities), except for \$225 million of Con Edison of New York's tax-exempt financing. See "Interest Rate Hedging" in Note P.

At December 31, 2003, long-term debt includes \$23 million of mortgage bonds collateralized by substantially all the utility plant and other physical property of O&R's New Jersey and Pennsylvania utility subsidiaries, \$141 million of non-recourse debt of a Con Edison Development subsidiary collateralized by a pledge of a New Jersey power plant, a related power purchase agreement and project assets, and \$339 million of debt secured by a New Hampshire power plant and related assets. See Note T. At December 31, 2003, restricted cash relating to the operations of the New Jersey power plant was \$17 million.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Significant Debt Covenants

There are no significant debt covenants under the financing arrangements for the debentures of Con Edison, Con Edison of New York or O&R, other than obligations to pay principal and interest when due and covenants not to consolidate with or merge into any other corporation unless certain conditions are met, and no cross default provisions. The tax-exempt financing arrangements of the Utilities are subject to these covenants and the covenants discussed below.

The tax-exempt financing arrangements involved the issuance of uncollateralized promissory notes of the Utilities to NYSEDA in exchange for the net proceeds of a like amount of tax-exempt bonds with substantially the same terms sold to the public by NYSEDA. The tax-exempt financing arrangements include covenants with respect to the tax-exempt status of the financing, including covenants with respect to the use of the facilities financed. The failure to comply with these covenants would, except as otherwise provided, constitute an event of default with respect to the debt to which such provisions applied. The arrangements for certain series of Con Edison of New York's tax-exempt financing (Series 1999A, 2001A and 2001B), aggregating \$615 million, and O&R's tax-exempt financing (Series 1994A and Series 1995A), aggregating \$99 million, include provisions for the maintenance of liquidity and credit facilities, the failure to comply with which would, except as otherwise provided, constitute an event of default with respect to the debt to which such provisions applied. Additional series of Con Edison of New York tax-exempt financing issued in 2004 (Series 2004A and 2004B), aggregating \$245 million, also include such covenants and provisions. If an event of default were to occur, the principal and accrued interest on the debt to which such event of default applied might and, in certain circumstances would, become due and payable immediately.

The liquidity and credit facilities currently in effect for the tax-exempt financing include covenants that the ratio of debt to total capital of the obligated utility will not at any time exceed 0.65 to 1 and that, subject to certain exceptions, the utility will not mortgage, lien, pledge or otherwise encumber its assets. Certain of the facilities also include as events of default, defaults in payments of other debt obligations in excess of specified levels (\$100 million for Con Edison of New York; \$13 million for O&R).

Note D - Short Term Borrowing

At December 31, 2003, Con Edison and the Utilities had commercial paper programs under which short-term borrowings are made at prevailing market rates, totaling \$950 million. These programs are supported by revolving credit agreements with banks. At December 31, 2003, \$42 million was outstanding under Con Edison's \$350 million program, \$99 million was outstanding under Con Edison of New York's \$500 million program, and \$15 million was outstanding under O&R's \$100 million program, at a weighted average interest rate of 1.0 percent. The Utilities change the amount of their programs from time to time, subject to FERC-authorized limits of \$1 billion for Con Edison of New York and \$150 million for O&R.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Bank commitments under the revolving credit agreements total \$950 million, of which \$563 million was renewed in November 2003. The commitments may terminate upon a change of control of Con Edison, and borrowings under the agreements are subject to certain conditions, including that the ratio (calculated in accordance with the agreements) of debt to total capital of the borrower not at any time exceed 0.65 to 1. At December 31, 2003, this ratio was 0.52 to 1 for Con Edison, 0.50 to 1 for Con Edison of New York and 0.46 to 1 for O&R. Borrowings under the agreements are not subject to maintenance of credit rating levels. The fees charged the Companies for the revolving credit facilities and borrowings under the agreements reflect their respective credit ratings.

See Note U for information about short-term borrowing between related parties, which the FERC has authorized.

Note E - Pension Benefits

Con Edison maintains a tax-qualified, non-contributory pension plan that covers substantially all employees of Con Edison of New York and O&R and certain employees of other Con Edison subsidiaries. The plan is designed to comply with the Internal Revenue Code and the Employee Retirement Income Security Act of 1974.

Investment gains and losses are fully recognized in expense over a 15-year period. Other actuarial gains and losses are fully recognized in expense over a 10-year period. This amortization is in accordance with the Statement of Policy issued by the PSC and is permitted under SFAS No. 87, "Employers' Accounting for Pensions," which provides a "corridor method" for moderating the effect of investment gains and losses on pension expense, or alternatively, allows for any systematic method of amortization of unrecognized gains and losses that is faster than the corridor method and is applied consistently to both gains and losses.

Consistent with the provisions of SFAS No. 71 and its rate agreements, O&R defers for future recovery any difference between expenses recognized under SFAS No. 87 and the current rate allowance for its New York operations.

Con Edison uses a measurement date of December 31 for its pension plan.

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Net Periodic Benefit Cost

The components of the Companies' net periodic benefit costs for 2003, 2002 and 2001 were as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | | <i>Con Edison of New York</i> | | | <i>O&R</i> | | |
|--|-------------------|-----------------|-----------------|-------------------------------|-----------------|-----------------|----------------|--------------|--------------|
| | <i>2003</i> | <i>2002</i> | <i>2001</i> | <i>2003</i> | <i>2002</i> | <i>2001</i> | <i>2003</i> | <i>2002</i> | <i>2001</i> |
| Service cost - including administrative expenses | \$ 102 | \$ 94 | \$ 95 | \$ 95 | \$ 88 | \$ 89 | \$ 7 | \$ 6 | \$ 6 |
| Interest cost on projected benefit obligation | 420 | 440 | 425 | 393 | 412 | 398 | 27 | 28 | 27 |
| Expected return on plan assets | (654) | (685) | (657) | (631) | (660) | (632) | (23) | (25) | (25) |
| Amortization of net actuarial (gain)/loss | (95) | (173) | (193) | (104) | (179) | (198) | 9 | 6 | 5 |
| Amortization of prior service costs | 15 | 14 | 14 | 14 | 14 | 13 | 1 | - | 1 |
| Amortization of transition (asset)/obligation | - | (1) | 3 | - | (1) | 3 | - | - | - |
| NET PERIODIC BENEFIT COST | \$ (212) | \$ (311) | \$ (313) | \$ (233) | \$ (326) | \$ (327) | \$ 21 | \$ 15 | \$ 14 |
| Amortization of regulatory asset* | 4 | 4 | 4 | 4 | 4 | 4 | - | - | - |
| TOTAL PERIODIC BENEFIT COST | \$ (208) | \$ (307) | \$ (309) | \$ (229) | \$ (322) | \$ (323) | \$ 21 | \$ 15 | \$ 14 |
| Cost capitalized/deferred | (51) | (51) | (61) | (65) | (64) | (72) | 14 | 13 | 11 |
| Cost charged to operating expenses | \$ (157) | \$ (256) | \$ (248) | \$ (164) | \$ (258) | \$ (251) | \$ 7 | \$ 2 | \$ 3 |

* Relates to increases in Con Edison of New York's pension obligations of \$33 million from a 1993 special retirement program and \$45 million from a 1999 special retirement program.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Funded Status

The funded status at December 31, 2003, 2002 and 2001 was as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | | <i>Con Edison of New York</i> | | | <i>O&R</i> | | |
|------------------------------|-------------------|-------------|-------------|-------------------------------|-------------|-------------|----------------|-------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2001</i> | <i>2003</i> | <i>2002</i> | <i>2001</i> | <i>2003</i> | <i>2002</i> | <i>2001</i> |

| CHANGE IN PROJECTED BENEFIT OBLIGATION | | | | | | | | | | | | | | | | | | |
|---|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|----|-------|
| Projected benefit obligation at beginning of year | \$ | 6,434 | \$ | 5,904 | \$ | 5,630 | \$ | 6,030 | \$ | 5,530 | \$ | 5,272 | \$ | 404 | \$ | 374 | \$ | 358 |
| Service cost - excluding administrative expenses | | 101 | | 92 | | 94 | | 94 | | 86 | | 88 | | 7 | | 6 | | 6 |
| Interest cost on projected benefit obligation | | 420 | | 440 | | 425 | | 393 | | 412 | | 398 | | 27 | | 28 | | 27 |
| Plan amendments | | - | | - | | 10 | | - | | - | | 9 | | - | | - | | 1 |
| Net actuarial loss | | 54 | | 300 | | 30 | | 43 | | 283 | | 28 | | 11 | | 17 | | 2 |
| Benefits paid | | (314) | | (302) | | (285) | | (290) | | (281) | | (265) | | (24) | | (21) | | (20) |
| PROJECTED BENEFIT OBLIGATION AT END OF YEAR | | | | | | | | | | | | | | | | | | |
| | \$ | 6,695 | \$ | 6,434 | \$ | 5,904 | \$ | 6,270 | \$ | 6,030 | \$ | 5,530 | \$ | 425 | \$ | 404 | \$ | 374 |
| CHANGE IN PLAN ASSETS | | | | | | | | | | | | | | | | | | |
| Fair value of plan assets at beginning of year | \$ | 5,760 | \$ | 6,633 | \$ | 7,347 | \$ | 5,563 | \$ | 6,397 | \$ | 7,077 | \$ | 197 | \$ | 236 | \$ | 270 |
| Actual return on plan assets | | 1,261 | | (552) | | (407) | | 1,218 | | (533) | | (392) | | 43 | | (19) | | (15) |
| Employer contributions | | 22 | | 4 | | 4 | | 2 | | 2 | | 2 | | 20 | | 2 | | 2 |
| Benefits paid | | (313) | | (302) | | (285) | | (290) | | (281) | | (265) | | (23) | | (21) | | (20) |
| Administrative expenses | | (20) | | (23) | | (26) | | (19) | | (22) | | (25) | | (1) | | (1) | | (1) |
| FAIR VALUE OF PLAN ASSETS AT END OF YEAR | | | | | | | | | | | | | | | | | | |
| | \$ | 6,710 | \$ | 5,760 | \$ | 6,633 | \$ | 6,474 | \$ | 5,563 | \$ | 6,397 | \$ | 236 | \$ | 197 | \$ | 236 |
| Funded status | \$ | 15 | \$ | (674) | \$ | 729 | \$ | 204 | \$ | (467) | \$ | 867 | \$ | (189) | \$ | (207) | \$ | (138) |
| Unrecognized net loss/(gain) | | 1,108 | | 1,548 | | (184) | | 981 | | 1,403 | | (273) | | 127 | | 145 | | 89 |
| Unrecognized prior service costs | | 67 | | 81 | | 96 | | 63 | | 77 | | 91 | | 4 | | 4 | | 5 |
| Unrecognized net transition (asset)/liability at January 1, 1987* | | - | | - | | (1) | | - | | - | | (1) | | - | | - | | - |
| NET PREPAID BENEFIT COST | \$ | 1,190 | \$ | 955 | \$ | 640 | \$ | 1,248 | \$ | 1,013 | \$ | 684 | \$ | (58) | \$ | (58) | \$ | (44) |
| ACCUMULATED BENEFIT OBLIGATION | \$ | 5,998 | \$ | 5,656 | \$ | 5,385 | \$ | 5,591 | \$ | 5,269 | \$ | 5,021 | \$ | 407 | \$ | 387 | \$ | 364 |

* Being amortized over approximately 15 years.

The amounts recognized in the consolidated balance sheet at December 31, 2003 and 2002 were as follows:

| (Millions of Dollars) | Con Edison | | Con Edison of New York | | O&R | |
|--|------------|----------|------------------------|----------|---------|---------|
| | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 |
| Prepaid pension costs | \$ 1,257 | \$ 1,024 | \$ 1,257 | \$ 1,024 | \$ - | \$ - |
| Accrued benefit cost | (58) | (58) | - | - | (58) | (58) |
| Additional minimum pension liability | (11) | (12) | (10) | (11) | (1) | (1) |
| Accumulated other comprehensive income | 11 | 12 | 10 | 11 | 1 | 1 |
| 1993 special retirement program | (9) | (11) | (9) | (11) | - | - |
| Net prepaid benefit cost | \$ 1,190 | \$ 955 | \$ 1,248 | \$ 1,013 | \$ (58) | \$ (58) |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Assumptions

The actuarial assumptions were as follows:

| | 2003 | 2002 | 2001 |
|--|-------|-------|-------|
| Weighted-average assumptions used to determine benefit obligations at December 31: | | | |
| Discount rate | 6.30% | 6.75% | 7.50% |
| Rate of compensation increase | | | |
| - Con Edison of New York | 4.00% | 4.30% | 4.30% |
| - O&R | 4.00% | 4.15% | 4.15% |

Weighted-average assumptions used to determine net periodic benefit cost for the years ended December 31:

| | | | |
|--------------------------------|-------|-------|-------|
| Discount rate | 6.75% | 7.50% | 7.75% |
| Expected return on plan assets | 8.80% | 9.20% | 9.20% |
| Rate of compensation increase | | | |
| - Con Edison of New York | 4.30% | 4.30% | 4.55% |
| - O&R | 4.15% | 4.15% | 4.40% |

The expected return assumption reflects anticipated returns on the plan's current and future assets. The Companies use historical investment data as well as the plan's target asset class and investment management mix to determine the expected return on plan assets. This analysis incorporates such factors as real return, inflation, and expected investment manager performance for each broad asset class applicable to the plan. Historical plan performance and peer data are also reviewed to check for reasonability and appropriateness.

Expected Contributions

Based on current estimates, the Companies are not required under funding regulations and laws to make any contributions to the pension plan during 2004. O&R and Con Edison's unregulated subsidiaries expect to make discretionary contributions of \$22 million and \$2 million, respectively, in 2004.

Plan Assets

The asset allocation for the pension plans at the end of 2003, 2002 and 2001, and the target allocation for 2004, by asset category, are as follows:

| ASSET CATEGORY | Target Allocation | Plan Assets at December 31 | | |
|-------------------|-------------------|----------------------------|------|------|
| | 2004 | 2003 | 2002 | 2001 |
| Equity Securities | 65% | 64% | 54% | 59% |
| Debt Securities | 30% | 32% | 42% | 37% |
| Real Estate | 5% | 4% | 4% | 4% |
| Total | 100% | 100% | 100% | 100% |

Con Edison has established a pension trust for the investment of assets to be used for the exclusive purpose of providing retirement benefits to participants and beneficiaries.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Pursuant to resolutions adopted by Con Edison's Board of Directors, the Management Development and Compensation Committee of the Board of Directors (the Committee) has general oversight responsibility for Con Edison's pension and other employee benefit plans. The plans' Named Fiduciaries have been granted the authority to control and manage the operation and administration of the plans, including overall responsibility for the investment of assets in the trust and the power to appoint and terminate investment managers. The Named Fiduciaries consist of Con Edison's chief executive, chief financial and chief accounting officers and others the Board of Directors may appoint in addition to or in place of the designated Named Fiduciaries.

The long-term investment objective for the pension trust is to maximize the total real return on trust assets while limiting risk, reflected in volatility of returns, to prudent levels. To that end, the investment strategy focuses on preserving and enhancing the value of assets in real terms over time through selection of investment managers within a framework that provides diversification between and among asset classes, investment styles, and managers. The target asset allocation is reviewed periodically based on asset/liability studies and may be modified as appropriate. The target asset allocation for 2004 reflects the results of such a study conducted in 2003.

Individual managers operate under written guidelines provided by Con Edison, which cover such areas as investment objectives, performance measurement, permissible investments, investment restrictions, trading and execution, and communication and reporting requirements. Manager performance, total fund performance, and compliance with asset allocation guidelines are monitored on an ongoing basis, and reviewed by the Named Fiduciaries and reported to the Committee on a quarterly basis. A change in fund managers and/or rebalancing of the portfolio is undertaken as appropriate. The Named Fiduciaries approve such changes, which are also reported to the Committee.

The Companies also offer a defined contribution savings plan that covers substantially all employees and made contributions to the plan as follows:

For the Years Ended December 31,

| (Millions of Dollars) | 2003 | 2002 | 2001 |
|------------------------|-------|-------|-------|
| Con Edison | \$ 18 | \$ 17 | \$ 17 |
| Con Edison of New York | \$ 17 | \$ 16 | \$ 16 |
| O&R | \$ 1 | \$ 1 | \$ 1 |

Note F - Other Postretirement Benefits

The Utilities have contributory comprehensive hospital, medical and prescription drug programs for all retirees, their dependents and surviving spouses.

Con Edison of New York also has a contributory life insurance program for bargaining unit employees and provides basic life insurance benefits up to a specified maximum at no cost to retired management employees. O&R has a non-contributory life insurance program for retirees.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Certain employees of other Con Edison subsidiaries are eligible to receive benefits under these programs. The company has reserved the right to amend or terminate these programs.

Investment plan gains and losses are fully recognized in expense over a 15-year period for the Utilities. Other actuarial gains and losses are fully recognized in expense over a 10-year period.

For O&R, plan assets are used to pay benefits and expenses for participants who retired on or after January 1, 1995. O&R pays benefits for other participants who retired prior to 1995. Plan assets include amounts owed by the plan trust to O&R of \$1 million in 2003 and 2002, and less than \$1 million in 2001.

Consistent with the provisions of SFAS No. 71, O&R defers for future recovery any difference between expenses recognized under SFAS No. 106, "Employers' Accounting for Postretirement Benefits Other Than Pensions," and the current rate allowance for its Pennsylvania and New York operations.

Net Periodic Benefit Cost

The components of the Utilities' net periodic postretirement benefit costs for 2003, 2002 and 2001 were as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | | <i>Con Edison of New York</i> | | | <i>O&R</i> | | |
|--|-------------------|--------------|--------------|-------------------------------|--------------|--------------|----------------|-------------|-------------|
| | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
| Service cost | \$ 10 | \$ 10 | \$ 12 | \$ 8 | \$ 8 | \$ 11 | \$ 2 | \$ 2 | \$ 1 |
| Interest cost on accumulated postretirement benefit obligation | 82 | 88 | 88 | 73 | 80 | 81 | 9 | 8 | 7 |
| Expected return on plan assets | (78) | (80) | (73) | (74) | (76) | (70) | (4) | (4) | (3) |
| Amortization of net actuarial loss | 46 | 24 | 10 | 41 | 21 | 9 | 5 | 3 | 1 |
| Amortization of prior service cost | (16) | - | 1 | (15) | - | 1 | (1) | - | - |
| Amortization of transition obligation | 4 | 5 | 17 | 4 | 5 | 17 | - | - | - |
| NET PERIODIC POSTRETIREMENT BENEFIT COST | \$ 48 | \$ 47 | \$ 55 | \$ 37 | \$ 38 | \$ 49 | \$ 11 | \$ 9 | \$ 6 |
| Cost capitalized/deferred | 18 | 14 | 13 | 11 | 9 | 11 | 7 | 5 | 2 |
| Cost charged to operating expenses | \$ 30 | \$ 33 | \$ 42 | \$ 26 | \$ 29 | \$ 38 | \$ 4 | \$ 4 | \$ 4 |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Funded Status

The funded status of the programs at December 31, 2003, 2002 and 2001 was as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | | <i>Con Edison of New York</i> | | | <i>O&R</i> | | |
|--|-------------------|-----------------|-----------------|-------------------------------|-----------------|-----------------|----------------|---------------|---------------|
| | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
| CHANGE IN BENEFIT OBLIGATION | | | | | | | | | |
| Benefit obligation at beginning of year | \$ 1,248 | \$ 1,351 | \$ 1,170 | \$ 1,116 | \$ 1,249 | \$ 1,076 | \$ 132 | \$ 102 | \$ 94 |
| Service cost | 10 | 10 | 12 | 8 | 8 | 10 | 2 | 2 | 2 |
| Interest cost on accumulated postretirement benefit obligation | 82 | 88 | 88 | 73 | 80 | 81 | 9 | 8 | 7 |
| Plan amendments | - | (306) | - | - | (306) | - | - | - | - |
| Net actuarial loss | 99 | 178 | 149 | 89 | 151 | 144 | 10 | 27 | 5 |
| Benefits paid and administrative expenses | (91) | (89) | (82) | (83) | (82) | (76) | (8) | (7) | (6) |
| Participant contributions | 18 | 15 | 14 | 18 | 15 | 14 | - | - | - |
| Medicare prescription subsidy | (128) | - | - | (114) | - | - | (14) | - | - |
| BENEFIT OBLIGATION AT END OF YEAR | \$ 1,238 | \$ 1,247 | \$ 1,351 | \$ 1,107 | \$ 1,115 | \$ 1,249 | \$ 131 | \$ 132 | \$ 102 |
| CHANGE IN PLAN ASSETS | | | | | | | | | |
| Fair value of plan assets at beginning of year | \$ 717 | \$ 804 | \$ 844 | \$ 674 | \$ 763 | \$ 805 | \$ 43 | \$ 41 | \$ 39 |
| Actual return on plan assets | 145 | (61) | (29) | 143 | (61) | (29) | 2 | - | - |
| Employer contributions | 46 | 45 | 56 | 38 | 39 | 50 | 8 | 6 | 6 |
| Participant contributions | 18 | 16 | 14 | 18 | 16 | 14 | - | - | - |
| Benefits paid | (87) | (82) | (76) | (83) | (78) | (72) | (4) | (4) | (4) |

| | | | | | | | | | |
|---|----------|----------|----------|----------|----------|----------|---------|---------|---------|
| Administrative expenses | - | (5) | (5) | - | (5) | (5) | - | - | - |
| FAIR VALUE OF PLAN ASSETS AT END OF YEAR | \$ 839 | \$ 717 | \$ 804 | \$ 790 | \$ 674 | \$ 763 | \$ 49 | \$ 43 | \$ 41 |
| Funded status | \$ (399) | \$ (530) | \$ (547) | \$ (317) | \$ (441) | \$ (486) | \$ (82) | \$ (89) | \$ (61) |
| Unrecognized net loss | 363 | 506 | 211 | 319 | 455 | 189 | 44 | 51 | 22 |
| Unrecognized prior service costs | (133) | (148) | 8 | (132) | (147) | 9 | (1) | (1) | (1) |
| Unrecognized net transition liability at January 1, 1993* | 33 | 36 | 191 | 33 | 36 | 191 | - | - | - |
| ACCRUED POSTRETIREMENT BENEFIT COST | \$ (136) | \$ (136) | \$ (137) | \$ (97) | \$ (97) | \$ (97) | \$ (39) | \$ (39) | \$ (40) |

* Being amortized over a period of 20 years and reduced by an additional amount in 2002 due to plan amendments.

Assumptions

The actuarial assumptions were as follows:

| | 2003 | 2002 | 2001 |
|---|-------|-------|-------|
| Weighted-average assumptions used to determine benefit obligations at December 31: | | | |
| Discount Rate | 6.30% | 6.75% | 7.50% |
| Weighted-average assumptions used to determine net periodic benefit cost for the years ended December 31: | | | |
| Discount Rate | 6.75% | 7.50% | 7.75% |
| Expected Return on Plan Assets | | | |
| Tax-Exempt Assets | 8.80% | 9.20% | 9.20% |
| Taxable Assets | | | |
| Con Edison of New York | 7.80% | 8.20% | 8.20% |
| O&R | 8.30% | 8.70% | 8.70% |

Refer to Note E for descriptions of the basis for determining the expected return on assets and investment policies and strategies.

The health care cost trend rate used to determine net periodic benefit cost for the year ended December 31, 2003 was 9.00%. This rate was assumed to decrease gradually to 4.75% for 2009 and remain at

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

that level thereafter. The health care cost trend rate used to determine benefit obligations at December 31, 2003 was 9.00%. This rate was assumed to decrease gradually to 4.50% for 2009 and remain at that level thereafter.

A one-percentage point change in the assumed health care cost trend rate would have the following effects at December 31, 2003:

| (Millions of Dollars) | Con Edison of New York | | | | | |
|--|------------------------|----------|--------------------|----------|----------|----------|
| | Con Edison | | 1-Percentage-Point | | O&R | |
| | Increase | Decrease | Increase | Decrease | Increase | Decrease |
| Effect on accumulated postretirement benefit obligation | \$ 128 | \$ 114 | \$ 115 | \$ 103 | \$ 13 | \$ 11 |
| Effect on service cost and interest cost components for 2003 | \$ 11 | \$ 10 | \$ 10 | \$ 9 | \$ 1 | \$ 1 |

Expected Contributions

Based on current estimates, Con Edison of New York and O&R expect to contribute \$27 million and \$8 million, respectively, to the other postretirement benefit plans in 2004.

Plan Assets

The asset allocation for Con Edison of New York's other postretirement benefit plans at the end of 2003, 2002 and 2001, and the target allocation for 2004, by asset category, are as follows:

| | |
|--------------------------|-----------------------------------|
| Target Allocation | Plan Assets at December 31 |
|--------------------------|-----------------------------------|

| ASSET CATEGORY | 2004 | 2003 | 2002 | 2001 |
|-------------------|-------------|-------------|-------------|-------------|
| Equity Securities | 65% | 62% | 55% | 58% |
| Debt Securities | 35% | 38% | 45% | 42% |
| Total | 100% | 100% | 100% | 100% |

The asset allocation for O&R's other postretirement benefit plans at the end of 2003, 2002 and 2001 was approximately 90% and 10% in debt and equity securities, respectively. The company plans to align its asset allocation to the target shown above.

Con Edison has established postretirement health and life insurance benefit plan trusts for the investment of assets to be used for the exclusive purpose of providing other postretirement benefits to participants and beneficiaries.

Refer to Note E for a discussion of Con Edison's investment strategy.

Effect of Medicare Prescription Subsidy

In December 2003, President Bush signed into law the Medicare Prescription Drug, Improvement and Modernization Act of 2003. As permitted by the FASB, the Companies have elected not to defer recognition of this Act. See Note V. To reflect the effect of the Act on the plans, the 2003 year-end accumulated postretirement benefit obligations were reduced for Con Edison, Con Edison of New York and O&R by \$128 million, \$114 million and \$14 million, respectively, and the 2004 after-tax postretirement benefit costs are estimated to be reduced by \$10 million for Con Edison, \$9 million for Con Edison

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

of New York and \$1 million for O&R. The Companies will recognize the 28% subsidy (reflected as an unrecognized net gain to each plan) as an offset to plan costs. The 28% subsidy is expected to reduce prescription drug plan costs by about 25%. The Companies' actuaries have determined that each prescription drug plan provides a benefit that is at least actuarially equivalent to the Medicare prescription drug plan and projections indicate that this will be the case for 20 years. (For a small number of pension recipients, whose benefits total less than \$12,000 per year, this will be the case indefinitely.) When the plans' benefits are no longer actuarially equivalent to the Medicare plan, 25% of the retirees in each plan are assumed to begin to decline participation in the Companies' prescription programs. Specific authoritative guidance on the accounting for the federal subsidy is pending and guidance, when issued, could require a change to previously reported information.

Note G - Environmental Matters

Superfund Sites

Hazardous substances, such as asbestos, polychlorinated biphenyls (PCBs) and coal tar, have been used or generated in the course of operations of the Utilities and their predecessors and are present at sites and in facilities and equipment they currently or previously owned, including sites at which gas was manufactured or stored.

The Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 and similar state statutes (Superfund) impose joint and several liability, regardless of fault, upon generators of hazardous substances for investigation and remediation costs (which includes costs of demolition, removal, disposal, storage, replacement, containment and monitoring) and environmental damages. Liability under these laws can be material and may be imposed for contamination from past acts, even though such past acts may have been lawful at the time they occurred. The sites at which the Utilities have been asserted to have liability under these laws, including their manufactured gas sites, are referred to herein as "Superfund Sites."

For Superfund Sites where there are other potentially responsible parties and the Utilities are not managing the site investigation and remediation, the accrued liability represents an estimate of the amount the Utilities will need to pay to discharge their related obligations. For Superfund Sites (including the manufactured gas sites) for which one of the Utilities is managing the investigation and remediation, the accrued liability represents an estimate of the undiscounted cost to investigate the sites and, for sites that have been investigated in whole or in part, the cost to remediate the sites in light of the information available, applicable remediation standards and experience with similar sites.

For the 12 months ended December 31, 2003, Con Edison of New York and O&R incurred approximately \$21 million and \$5 million, respectively, for environmental remediation costs. No insurance recoveries were received. For the 12 months ended December 31, 2002, Con Edison of New York and O&R incurred approximately \$22 million and \$2 million, respectively, for environmental remediation costs, and O&R received insurance recoveries of \$7 million.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The accrued liabilities and regulatory assets related to Superfund Sites for each of the Companies at December 31, 2003 and December 31, 2002 were as follows:

| | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|------------------------------|-------------------|------|-------------------------------|------|----------------|------|
| <i>(Millions of Dollars)</i> | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 |

| Accrued Liabilities: | | | | | | | | | | | | |
|------------------------------|----|-----|----|-----|----|-----|----|-----|----|----|----|----|
| Manufactured gas plant sites | \$ | 145 | \$ | 110 | \$ | 106 | \$ | 76 | \$ | 39 | \$ | 34 |
| Other Superfund Sites | | 48 | | 33 | | 47 | | 32 | | 1 | | 1 |
| Total | \$ | 193 | \$ | 143 | \$ | 153 | \$ | 108 | \$ | 40 | \$ | 35 |
| Regulatory assets | \$ | 155 | \$ | 83 | \$ | 116 | \$ | 52 | \$ | 39 | \$ | 31 |

Most of the accrued Superfund Site liability relates to Superfund Sites that have been investigated, in whole or in part. As investigations progress on these and other sites, the Companies expect that additional liability will be accrued, the amount of which is not presently determinable but may be material. The Utilities are permitted under their current rate agreements to recover or defer as regulatory assets (for subsequent recovery through rates) certain site investigation and remediation costs.

Con Edison of New York estimated in 2002 that for its manufactured gas sites, many of which have not been investigated, its aggregate undiscounted potential liability for the investigation and remediation of coal tar and/or other manufactured gas plant-related environmental contaminants could range from approximately \$65 million to \$1.1 billion. O&R estimated in 2002 that for its manufactured gas sites the aggregate undiscounted potential liability for the remediation of such contaminants could range from approximately \$25 million to \$95 million. These estimates were based on the assumption that there is contamination at each of the sites and additional assumptions regarding the extent of contamination and the type and extent of remediation that may be required. Actual experience may be materially different.

Asbestos Proceedings

Suits have been brought in New York State and federal courts against the Utilities and many other defendants, wherein a large number of plaintiffs sought large amounts of compensatory and punitive damages for deaths and injuries allegedly caused by exposure to asbestos at various premises of the Utilities. The suits that have been resolved, which are many, have been resolved without any payment by the Utilities, or for amounts that were not, in the aggregate, material to them. The amounts specified in all the remaining thousands of suits total billions of dollars but the Companies believe that these amounts are greatly exaggerated, as experienced through the disposition of previous claims. Con Edison of New York estimated in 2002 that its aggregate undiscounted potential liability for these suits and additional such suits that may be brought over the next 50 years ranges from approximately \$38 million to \$162 million (with no amount within the range considered more reasonable than any other). The estimate was based upon a combination of modeling, historical data analysis and risk factor assessment. Actual experience may be materially different.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

In addition, workers' compensation administrative proceedings have been commenced, wherein current and former employees claim benefits based on alleged disability from exposure to asbestos.

Con Edison of New York is permitted under its current rate agreements to defer as regulatory assets (for subsequent recovery through rates) liabilities incurred for its asbestos lawsuits and workers' compensation claims. O&R defers as regulatory assets (for subsequent recovery through rates), liabilities incurred for asbestos claims by employees relating to its divested generating plants.

The accrued liability for asbestos suits and workers' compensation proceedings (including those related to asbestos exposure) and the amounts deferred as regulatory assets for each of the Companies at December 31, 2003 and December 31, 2002 were as follows:

| (Millions of Dollars) | Con Edison | | Con Edison of New York | | O&R | |
|---|------------|--------|------------------------|--------|------|------|
| | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 |
| Accrued liability - asbestos | \$ 39 | \$ 39 | \$ 38 | \$ 38 | \$ 1 | \$ 1 |
| Regulatory assets - asbestos suits | \$ 39 | \$ 39 | \$ 38 | \$ 38 | \$ 1 | \$ 1 |
| Accrued liability - workers' compensation | \$ 126 | \$ 130 | \$ 122 | \$ 125 | \$ 4 | \$ 5 |
| Regulatory assets - workers' compensation | \$ 51 | \$ 54 | \$ 51 | \$ 54 | \$ - | \$ - |

Note H - Impairment of Long-Lived Assets (Con Edison)

In 2003, continuing adverse market conditions affecting Con Edison's unregulated telecommunications and generation businesses led to the testing of their assets for impairment in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets," and Accounting Principles Board Opinion No. 18, "The Equity Method of Accounting for Investments in Common Stock." For Con Edison Communications, it was determined that the book value of its assets were likely not fully recoverable. Therefore, in accordance with SFAS No. 144, Con Edison Communications reduced its assets to their fair value by recording a pre-tax impairment charge of \$140 million. At the same time, \$1 million (pre-tax) of capitalized interest at Con Edison, which was related to the investment in Con Edison Communications, was deemed impaired. For Con Edison Development, the analysis resulted in a total pre-tax impairment charge of \$18 million related to two combustion turbines and its equity investment in a 42 MW electric generating plant in Guatemala. Estimated fair values were determined based upon market prices of comparable assets.

Note I - Non-Utility Generators

The Utilities have long-term contracts with non-utility generators (NUGs) for electric generating capacity. Assuming performance by the NUGs, the Utilities are obligated over the terms of the contracts (which extend for various periods, up to 2036) to make capacity and other fixed payments.

NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

For the years 2004 through 2008, the capacity and other fixed payments under the contracts are estimated to be the following:

| <i>(Millions of Dollars)</i> | <i>2004</i> | <i>2005</i> | <i>2006</i> | <i>2007</i> | <i>2008</i> |
|------------------------------|-------------|-------------|-------------|-------------|-------------|
| Con Edison | \$ 545 | \$ 529 | \$ 557 | \$ 579 | \$ 592 |
| Con Edison of New York | \$ 530 | \$ 513 | \$ 552 | \$ 579 | \$ 592 |
| O&R | \$ 15 | \$ 16 | \$ 5 | \$ - | \$ - |

Such payments gradually increase to approximately \$650 million in 2013, and thereafter decline significantly. For energy delivered under most of these contracts, the Utilities are obligated to pay variable prices that are estimated to be lower overall than expected market levels. In addition, for energy delivered under one of the contracts (for 20 MW), O&R is obligated to pay variable prices that are currently estimated to be above market levels.

At December 31, 2003, the aggregate capacity produced under the NUG contracts was approximately 3,200 MW, including capacity (commitment ends 2005) from the approximately 1,000 MW nuclear generating unit that Con Edison of New York sold in 2001. For energy from the unit, the company has a commitment (which ends in 2004) under which it is obligated to pay an average annual price of 3.9 cents per kWh. From time to time, certain parties have petitioned governmental authorities to close this plant. If this were to occur, the owner would not be obligated to provide the company with replacement power. Additionally, the contracts include 500 MW of energy and capacity that the company agreed to purchase annually for 10 years from a plant in Queens County, New York that is scheduled to begin operation in 2006.

Under the terms of its electric rate agreements, Con Edison of New York is recovering in rates the charges it incurs under mandated contracts with NUGs. The 2000 Electric Rate Agreement provides that, after March 31, 2005, Con Edison of New York will be given a reasonable opportunity to recover, through a non-bypassable charge to customers, the amount, if any, by which the actual costs of its purchases under the contracts exceed market value. The PSC specifically approved rate recovery of the nuclear capacity and energy purchases. O&R recovers costs under its NUG contracts pursuant to rate provisions approved by the state public utility regulatory authority having jurisdiction.

Note J - Generation Divestiture

Pursuant to restructuring agreements approved by the PSC (See "Rate and Restructuring Agreements" in Note B), the Utilities have divested all of their electric generating assets other than approximately 630 MW of Con Edison of New York's steam/electric generating stations located in New York City. Con Edison of New York sold approximately 6,300 MW of electric generating assets in 1999 and approximately 1,480 MW in 2001. O&R completed the sale of all of its generating assets prior to the completion of Con Edison's purchase of O&R in 1999.

Pursuant to the 2000 Electric Rate Agreement, the net after-tax gain (including interest accrued thereon) from Con Edison of New York's 1999 generation divestiture was applied in 2000 as follows:

NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

\$188 million was credited against electric distribution plant balances; \$107 million was used to offset a like amount of regulatory assets (including deferred power contract termination costs); \$50 million (after-tax) was deferred for recognition in income during the 12 months ended March 31, 2002; and \$12 million was deferred to be used for low-income customer programs. In addition, \$30 million of employee retirement incentive expenses related to the generation divestiture was deferred for amortization over 15 years and \$15 million of such expenses was charged to income in 2000.

The 2000 Electric Rate Agreement provides for Con Edison of New York to amortize to income a \$74 million regulatory asset representing incremental electric capacity costs incurred prior to May 2000 to purchase capacity from the buyers of the generating assets the company sold in 1999. Amortization to income will take place in years in which the company would otherwise share excess earnings with customers, in amounts corresponding to the company's share of the excess earnings. By March 2005, any remaining unrecovered balance will be charged to expense. Of this amount, \$30 million was charged to expense in 2002 and \$15 million was expensed in 2001.

In January 2001, Con Edison of New York completed the sale of its 480 MW interest in the jointly-owned Roseton generating station for \$138 million. The gain from the sale, which has been deferred as a regulatory liability, was \$55 million at December 31, 2003, and \$64 million at December 31, 2002. In September 2001, the company completed the sale of its approximately 1,000 MW nuclear generating plant and related assets for \$505 million. The proceeds were net of a \$74 million payment to increase the value of the nuclear decommissioning trust funds being transferred to \$430 million (the amount provided for in the sales agreement). The net after-tax loss from the sale was deferred as a regulatory asset. The company was authorized, effective September 2001, to continue to recover the cost of the nuclear assets, which is included in rates, and to amortize the regulatory asset, until the loss on divestiture has been recovered. The unrecovered amount was \$159 million at December 31, 2003 and \$215 million at December 31, 2002. The 2000 Electric Agreement provides that the company "will be given a reasonable opportunity to recover stranded and strandable costs remaining at March 31, 2005, including a reasonable return on investments."

Note K - Leases

Con Edison's subsidiaries lease electric generating and gas distribution facilities, other electric transmission and distribution facilities, office buildings and equipment. In accordance with SFAS No. 13, these leases are classified as either capital leases or operating leases. Most of the operating leases provide the option to renew at the fair rental value for future periods. Generally, it is expected that leases will be renewed or replaced in the normal course of business.

Capital leases: For ratemaking purposes capital leases are treated as operating leases; therefore, in accordance with SFAS No. 71, the amortization of the leased asset is based on the rental payments

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

recovered through rates. The following assets and obligations under capital leases are included in the accompanying consolidated balance sheet at December 31, 2003 and 2002:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | <i>Con Edison of New York</i> | |
|--------------------------------|-------------------|--------------|-------------------------------|--------------|
| | 2003 | 2002 | 2003 | 2002 |
| UTILITY PLANT | | | | |
| Transmission | \$ 17 | \$ 12 | \$ 11 | \$ 12 |
| Common | 28 | 29 | 28 | 29 |
| TOTAL | \$ 45 | \$ 41 | \$ 39 | \$ 41 |
| CURRENT LIABILITIES | \$ 9 | \$ 3 | \$ 3 | \$ 3 |
| NON-CURRENT LIABILITIES | 36 | 38 | 36 | 38 |
| TOTAL LIABILITIES | \$ 45 | \$ 41 | \$ 39 | \$ 41 |

The accumulated amortization of the capital leases for Con Edison and Con Edison of New York was \$32 million and \$29 million as of December 31, 2003 and 2002, respectively.

The future minimum lease commitments for the above assets are as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | <i>Con Edison of New York</i> |
|---|-------------------|-------------------------------|
| 2004 | \$ 14 | \$ 8 |
| 2005 | 7 | 7 |
| 2006 | 7 | 7 |
| 2007 | 7 | 7 |
| 2008 | 8 | 8 |
| All years thereafter | 28 | 28 |
| Total | \$ 71 | \$ 65 |
| Less: amount representing interest | 26 | 26 |
| Present value of net minimum lease payment | \$ 45 | \$ 39 |

In November 2000, a Con Edison Development subsidiary entered into an operating lease arrangement with a limited partnership to finance construction of a 525 MW gas-fired electric generating facility in Newington, New Hampshire (Newington Project). See Note T.

Operating leases: The future minimum lease commitments under Con Edison's non-cancelable operating lease agreements, excluding the Newington Project, are as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | <i>Con Edison of New York</i> | <i>O&R</i> |
|------------------------------|-------------------|-------------------------------|----------------|
| 2004 | \$ 51 | \$ 40 | \$ 3 |
| 2005 | 17 | 7 | 2 |
| 2006 | 16 | 6 | 2 |
| 2007 | 15 | 5 | 2 |
| 2008 | 15 | 5 | 2 |

| | | | | | | |
|----------------------|----|-----|----|----|----|----|
| All years thereafter | | 48 | | 19 | | 17 |
| Total | \$ | 162 | \$ | 82 | \$ | 28 |

NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

As part of a broad initiative, the Internal Revenue Service is reviewing certain categories of transactions. Among these are transactions in which a taxpayer leases property and then immediately subleases it back to the lessor (termed "Lease In/Lease Out," or LILO transactions). In 1997 and 1999, Con Edison's unregulated subsidiaries invested \$93 million in two LILO transactions, involving gas distribution and electric generating facilities in the Netherlands, which represented approximately 36 percent of the purchase price; the remaining 64 percent or \$166 million was furnished by third-party financing in the form of long-term debt that provides no recourse against the subsidiaries and is primarily secured by the assets, except for guarantees of up to \$10 million of the debt. Approximately half of these guarantees expired prior to December 31, 2002 and the other half will expire at the end of May 2004. At December 31, 2003, the company's investment of \$202 million in these leveraged leases net of deferred tax liabilities of \$142 million amounted to \$60 million, which was included at cost on Con Edison's consolidated balance sheet. On audit, the Internal Revenue Service has proposed that the tax losses recognized in connection with the 1997 LILO transaction be disallowed for the tax year 1997. Con Edison believes its position is correct and is currently appealing the auditors' proposal within the Internal Revenue Service. The estimated total tax savings from the two LILO transactions during the tax years 1997 through 2003, in the aggregate, was \$100 million.

Note L - Goodwill and Intangible Assets (Con Edison)

On January 1, 2002, Con Edison adopted SFAS No. 142, "Goodwill and Other Intangible Assets." SFAS No. 142 provides that goodwill (i.e., the excess of cost over fair value of the net assets of a business acquired) and intangible assets with indefinite useful lives will no longer be amortized, but instead be tested for impairment at least annually. Other intangible assets will continue to be amortized over their finite useful lives.

In 2002, the company recognized a loss of \$34 million (\$20 million after-tax) as an offset to goodwill recorded by Con Edison Development relating to certain of its generation assets.

During 2003, Con Edison completed the impairment test for its goodwill of \$406 million and determined that it was not impaired.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Had Con Edison been accounting for goodwill under SFAS No. 142 for all periods presented, its income and earnings per share would have been as follows:

| <i>(Millions of Dollars, except per share amounts)</i> | <i>For the years ended December 31,</i> | | |
|--|---|-------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2001</i> |
| Net income for common stock | | | |
| As reported | \$ 528 | \$ 646 | \$ 682 |
| Add back: goodwill amortization (net of tax) | - | - | 11 |
| Adjusted | \$ 528 | \$ 646 | \$ 693 |
| Basic earnings per share | | | |
| As reported | \$ 2.39 | \$ 3.03 | \$ 3.22 |
| Add back: goodwill amortization (net of tax) | - | - | .05 |
| Adjusted | \$ 2.39 | \$ 3.03 | \$ 3.27 |
| Diluted earnings per share | | | |
| As reported | \$ 2.38 | \$ 3.02 | \$ 3.21 |
| Add back: goodwill amortization (net of tax) | - | - | .05 |
| Adjusted | \$ 2.38 | \$ 3.02 | \$ 3.26 |

Con Edison's intangible assets consist of the following:

| <i>(Millions of Dollars)</i> | <i>December 31, 2003</i> | | | <i>December 31, 2002</i> | | |
|---|--------------------------|---------------------------------|------------|--------------------------|---------------------------------|------------|
| | <i>Gross</i> | <i>Accumulated Amortization</i> | <i>Net</i> | <i>Gross</i> | <i>Accumulated Amortization</i> | <i>Net</i> |
| Power purchase agreement of an unregulated subsidiary | \$ 112 | \$ 3 | \$ 109 | \$ 92 | \$ 10 | \$ 82 |

| | | | | | | | | | | | | |
|-------|----|-----|----|---|----|-----|----|----|----|----|----|----|
| Other | | 3 | | 1 | | 2 | | - | | - | | - |
| Total | \$ | 115 | \$ | 4 | \$ | 111 | \$ | 92 | \$ | 10 | \$ | 82 |

The power purchase agreement was written up to its fair value of \$112 million upon implementation of new FASB guidance on derivatives (Derivatives Implementation Group Issue C20), and is being amortized over its remaining useful life of 11 years. See Note V.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The amortization expense was \$6 million and \$4 million for the years ended December 31, 2003 and 2002 respectively, and is expected to be \$10 million annually for the years 2004-2008.

Note M - Income Tax

The components of income tax are as follows:

| (Millions of Dollars) | Con Edison | | | Con Edison of New York | | | O&R | | |
|---------------------------------------|---------------|---------------|---------------|------------------------|---------------|---------------|--------------|--------------|--------------|
| | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
| Charge/(benefit) to operations: | | | | | | | | | |
| State | | | | | | | | | |
| Current | \$ 10 | \$ (3) | \$ 69 | \$ 33 | \$ (2) | \$ 72 | \$ - | \$ 1 | \$ 2 |
| Deferred - net | 64 | 97 | 79 | 56 | 87 | 65 | 9 | 3 | 4 |
| Federal | | | | | | | | | |
| Current | (107) | 93 | 381 | (36) | 92 | 405 | (7) | 16 | 7 |
| Deferred - net | 364 | 217 | (57) | 325 | 183 | (100) | 32 | 5 | 13 |
| Amortization of investment tax credit | (6) | (6) | (7) | (6) | (6) | (7) | - | - | - |
| TOTAL CHARGE TO OPERATIONS | 325 | 398 | 465 | 372 | 354 | 435 | 34 | 25 | 26 |
| Charge/(benefit) to other income: | | | | | | | | | |
| State | | | | | | | | | |
| Current | (2) | (3) | (4) | (1) | (2) | 1 | - | - | - |
| Deferred - net | 5 | (1) | - | 4 | (1) | - | - | - | - |
| Federal | | | | | | | | | |
| Current | (11) | (13) | (9) | (6) | (5) | (1) | - | - | (1) |
| Deferred - net | (2) | (1) | (7) | (2) | - | (6) | - | - | - |
| Amortization of investment tax credit | - | (4) | (2) | - | (4) | (2) | - | - | - |
| TOTAL BENEFIT TO OTHER INCOME | (10) | (22) | (22) | (5) | (12) | (8) | - | - | (1) |
| TOTAL | \$ 315 | \$ 376 | \$ 443 | \$ 367 | \$ 342 | \$ 427 | \$ 34 | \$ 25 | \$ 25 |

The tax effect of temporary differences, which gave rise to deferred tax assets and liabilities, is as follows:

| (Millions of Dollars) | Con Edison | | Con Edison of New York | | O&R | |
|--|--------------|--------------|------------------------|--------------|------------|------------|
| | 2003 | 2002 | 2003 | 2002 | 2003 | 2002 |
| Liabilities: | | | | | | |
| Depreciation | \$ 1,599 | \$ 1,566 | \$ 1,493 | \$ 1,457 | \$ 98 | \$ 97 |
| Regulatory liability - future income tax | 629 | 614 | 589 | 575 | 40 | 39 |
| Other | 1,044 | 712 | 835 | 559 | 72 | 42 |
| TOTAL LIABILITIES | 3,272 | 2,892 | 2,917 | 2,591 | 210 | 178 |
| Assets: | | | | | | |

| | | | | | | |
|---------------|----------|----------|----------|----------|--------|--------|
| Other | (205) | (216) | (162) | (168) | (32) | (44) |
| TOTAL ASSETS | (205) | (216) | (162) | (168) | (32) | (44) |
| NET LIABILITY | \$ 3,067 | \$ 2,676 | \$ 2,755 | \$ 2,423 | \$ 178 | \$ 134 |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Reconciliation of the difference between income tax expense and the amount computed by applying the prevailing statutory income tax rate to income before income taxes is as follows:

| (% of Pre-tax income) | Con Edison | | | Con Edison of New York | | | O&R | | |
|---|------------|------------|------------|------------------------|------------|------------|------------|------------|------------|
| | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
| STATUTORY TAX RATE | | | | | | | | | |
| Federal | 35% | 35% | 35% | 35% | 35% | 35% | 35% | 35% | 35% |
| Changes in computed taxes resulting from: | | | | | | | | | |
| State income tax | 6 | 6 | 9 | 7 | 6 | 9 | 8 | 4 | 8 |
| Depreciation related differences | 7 | 5 | 3 | 6 | 5 | 4 | 3 | 1 | - |
| Cost of removal | (6) | (5) | (4) | (5) | (5) | (4) | (1) | (2) | (1) |
| Amortization of taxes associated with divested assets | - | - | - | - | - | - | - | (1) | (1) |
| Other | (5) | (6) | (4) | (5) | (5) | (4) | (2) | (2) | (1) |
| Effective Tax Rate | 37% | 35% | 39% | 38% | 36% | 40% | 43% | 35% | 40% |

Note N - Stock-Based Compensation

Under Con Edison's Stock Option Plan (the Plan), options may be granted to officers and key employees of Con Edison and its subsidiaries for up to a total of 10 million shares of Con Edison's common stock. Generally options vest three years after the grant date and expire 10 years from the grant date.

As permitted by SFAS No. 123, the Companies elected to follow APB No. 25 and related interpretations in accounting for their employee stock options. Under the intrinsic value method of APB No. 25, no compensation expense is recognized because the exercise price of Con Edison's employee stock options equals the market price of the underlying stock on the date of grant.

Under the Plan, exercise of Con Edison's employee stock options requires payment in full of the exercise price, unless the committee of Con Edison's Board of Directors that administers the Plan determines that options may be settled by paying to the option holder the difference between the fair market value of the common stock subject to the option and the exercise price (cash settlement). In 2002, to ensure that the exercise of currently exercisable options would comply with certain technical requirements of the Sarbanes-Oxley Act of 2002 applicable to certain officers of the Companies, the committee determined that 1996 and 1997 stock options covering 295,500 shares of common stock held by those officers may be settled by the cash settlement method. Charges to expense are recognized with respect to these options to the extent the fair market value of the common shares changes.

The following table summarizes the expense recognized in relation to the stock options subject to cash settlement:

| (Millions of Dollars) | Con Edison | | | Con Edison of New York | | | O&R | | |
|--------------------------------------|------------|------|------|------------------------|------|------|------|------|------|
| | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
| Compensation expense - stock options | \$ - | \$ 4 | \$ - | \$ - | \$ 3 | \$ - | \$ - | \$ - | \$ - |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Disclosure of pro forma information regarding net income and earnings per share is required by SFAS No. 123. See "Stock-Based Compensation" in Note A for an illustration of the effect on net income and earnings per share if the Companies had applied the fair value recognition provisions of SFAS No. 123 to their stock-based employee compensation. The fair values of options granted in 2003, 2002 and 2001 are \$4.30, \$6.37 and \$5.23 per share, respectively. These values were estimated at the date of grant using the Black-Scholes option pricing model with the following weighted-average assumptions:

| | | |
|------|------|------|
| 2003 | 2002 | 2001 |
|------|------|------|

| | | | |
|---------------------------|---------|---------|---------|
| Risk-free interest rate | 3.35% | 5.08% | 5.22% |
| Expected life | 6 years | 6 years | 8 years |
| Expected stock volatility | 21.44% | 21.43% | 21.32% |
| Expected dividend yield | 5.66% | 5.22% | 5.83% |

A summary of changes in the status of stock options awarded to officers and employees of the Companies as of December 31, 2003, 2002 and 2001 is as follows:

| | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|-------------------------|-------------------|---------------------------------|-------------------------------|---------------------------------|----------------|---------------------------------|
| | Shares | Weighted Average Exercise Price | Shares | Weighted Average Exercise Price | Shares | Weighted Average Exercise Price |
| Outstanding at 12/31/00 | 4,790,913 | \$ 37.749 | 4,485,113 | \$ 37.682 | 73,000 | \$ 32.500 |
| Granted | 1,487,050 | 37.758 | 1,287,550 | 37.760 | 101,000 | 37.750 |
| Exercised | (363,013) | 29.740 | (363,013) | 29.740 | - | - |
| Forfeited | (160,300) | 41.333 | (63,200) | 41.414 | - | - |
| Outstanding at 12/31/01 | 5,754,650 | 38.157 | 5,346,450 | 38.215 | 174,000 | 35.547 |
| Granted | 1,584,350 | 42.510 | 1,349,850 | 42.510 | 113,000 | 42.510 |
| Exercised | (413,899) | 30.813 | (413,199) | 30.793 | - | - |
| Forfeited | (127,450) | 44.103 | (116,950) | 44.491 | (2,000) | 35.125 |
| Outstanding at 12/31/02 | 6,797,651 | 39.506 | 6,166,151 | 39.532 | 285,000 | 38.311 |
| Granted | 1,621,700 | 39.639 | 1,346,700 | 39.704 | 113,000 | 39.505 |
| Exercised | (692,175) | 32.728 | (660,425) | 32.705 | (9,500) | 32.500 |
| Forfeited | (110,000) | 45.365 | (99,000) | 45.764 | - | - |
| Outstanding at 12/31/03 | 7,617,176 | \$ 40.065 | 6,753,426 | \$ 40.142 | 388,500 | \$ 38.800 |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The following table summarizes stock options outstanding at December 31, 2003 for each plan year for the Companies:

| Plan Year | <i>Con Edison</i> | | | | <i>Con Edison of New York</i> | | | | <i>O&R</i> | |
|-----------|----------------------------|---------------------|---------------------------------|---------------------|-------------------------------|---------------------------------|---------------------|---------------------|---------------------------------|---------------------|
| | Remaining Contractual Life | Options Outstanding | Weighted Average Exercise Price | Options Exercisable | Options Outstanding | Weighted Average Exercise Price | Options Exercisable | Options Outstanding | Weighted Average Exercise Price | Options Exercisable |
| 2003 | 9 | 1,619,700 | \$ 39.640 | - | 1,346,700 | \$ 39.704 | - | 113,000 | \$ 39.505 | - |
| 2002 | 8 | 1,573,850 | 42.510 | - | 1,340,350 | 42.510 | - | 113,000 | 42.510 | - |
| 2001 | 7 | 1,465,350 | 37.758 | - | 1,272,850 | 37.760 | - | 100,000 | 37.750 | - |
| 2000 | 6 | 909,200 | 32.499 | 909,200 | 798,700 | 32.499 | 798,700 | 62,500 | 32.500 | 62,500 |
| 1999 | 5 | 1,076,600 | 47.868 | 1,076,600 | 1,028,900 | 47.865 | 1,028,900 | - | - | - |
| 1998 | 4 | 667,200 | 42.563 | 667,200 | 660,650 | 42.563 | 660,650 | - | - | - |
| 1997 | 3 | 208,676 | 31.500 | 208,676 | 208,676 | 31.500 | 208,676 | - | - | - |
| 1996 | 2 | 96,600 | 27.875 | 96,600 | 96,600 | 27.875 | 96,600 | - | - | - |
| Total | | 7,617,176 | | 2,958,276 | 6,753,426 | | 2,793,526 | 388,500 | | 62,500 |

Pursuant to employment agreements, effective September 2000, certain senior officers of Con Edison and its subsidiaries were granted an aggregate of 350,000 restricted stock units, subject to the officers meeting the terms and conditions of the agreements. In June 2002, an additional 150,000 restricted stock units were granted to certain senior officers of Con Edison and its subsidiaries under similar terms. The units, each of which represents the right to receive one share of Con Edison common stock and related dividends, vest ratably through August 2005 or immediately upon the occurrence of certain events. Pursuant to APB No. 25, Con Edison is recognizing compensation expense and accruing a liability for the units over the vesting period.

The following table summarizes the expense recognized in relation to the restricted stock units:

| | <i>Con Edison</i> | <i>Con Edison of New York</i> | <i>O&R</i> |
|--|-------------------|-------------------------------|----------------|
|--|-------------------|-------------------------------|----------------|

| <i>(Millions of Dollars)</i> | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
|---|------|------|------|------|------|------|------|------|------|
| Compensation expense - restricted stock | \$ 5 | \$ 4 | \$ 3 | \$ 4 | \$ 4 | \$ 3 | \$ 1 | \$ - | \$ - |

In June 2002, Con Edison terminated its Directors' Retirement Plan applicable to non-officer directors (the termination is not applicable to directors who had previously retired from the board) and adopted a deferred stock compensation plan for these directors. Under this plan, directors were granted stock units for accrued service. Pursuant to APB No. 25, Con Edison is recognizing compensation expense and accruing a liability for these units.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The following table summarizes the expense recognized in relation to the non-officer director deferred stock compensation plan:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | | <i>Con Edison of New York</i> | | | <i>O&R</i> | | |
|---|-------------------|------|------|-------------------------------|------|------|----------------|------|------|
| | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 | 2003 | 2002 | 2001 |
| Compensation expense - Non-Officer Director deferred stock compensation | \$ 1 | \$ 2 | \$ - | \$ 1 | \$ 2 | \$ - | \$ - | \$ - | \$ - |

Con Edison's shareholders, at their annual meeting in May 2003, approved the Con Edison Long-Term Incentive Plan under which up to 10 million shares of its common stock may be issued. No shares have been issued under the plan.

Note O - Financial Information By Business Segment

The business segments of each of the Companies were determined based on similarities in economic characteristics, the regulatory environment, and management's reporting requirements.

Con Edison's principal business segments are Con Edison of New York's regulated electric, gas and steam utility activities, O&R's regulated electric and gas utility activities and other operations, Con Edison's unregulated subsidiaries and other (parent holding company interest and other expenses and consolidation adjustments). Con Edison of New York's principal business segments are its regulated electric, gas and steam utility activities. O&R's principal business segments are its regulated electric and gas utility activities and other operations.

All revenues of these business segments, excluding revenues earned by Con Edison Development on certain energy infrastructure projects, which are deemed to be immaterial, are from customers located in the United States of America. Also, all assets of the business segments, excluding certain investments in energy infrastructure projects by Con Edison Development (\$216 million at December 31, 2003), are located in the United States of America. The accounting policies of the segments are the same as those described in Note A to the financial statements of this report.

Common services shared by the business segments are assigned directly or allocated based on various cost factors, depending on the nature of the service provided.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The financial data for the business segments are as follows:

| <i>For the 12 Months Ended December 31, 2003</i> | <i>Operating revenues</i> | <i>Inter-segment revenues</i> | <i>Depreciation and amortization</i> | <i>Income tax expense</i> | <i>Operating income</i> | <i>Interest charges</i> | <i>Changes in accounting principles</i> | <i>Total assets</i> | <i>Construction expenditures</i> |
|--|---------------------------|-------------------------------|--------------------------------------|---------------------------|-------------------------|-------------------------|---|---------------------|----------------------------------|
| <i>(Millions of Dollars)</i> | | | | | | | | | |
| <i>Con Edison of New York</i> | | | | | | | | | |
| Electric | \$ 6,334 | \$ 11 | \$ 367 | \$ 301 | \$ 758 | \$ 292 | \$ - | \$ 13,675 | \$ 829 |
| Gas | 1,295 | 3 | 72 | 66 | 149 | 60 | - | 2,918 | 181 |
| Steam | 537 | 2 | 19 | 5 | 35 | 24 | - | 1,171 | 158 |
| Total Con Edison of New York | \$ 8,166 | \$ 16 | \$ 458 | \$ 372 | \$ 942 | \$ 376 | \$ - | \$ 17,764 | \$ 1,168 |
| <i>O&R</i> | | | | | | | | | |
| Electric | \$ 530 | \$ - | \$ 26 | \$ 26 | \$ 52 | \$ 14 | \$ - | \$ 906 | \$ 53 |
| Gas | 197 | - | 8 | 8 | 16 | 7 | - | 361 | 18 |

| | | | | | | | | | | |
|--------------------------|----------|------|--------|---------|---------|--------|------|------|-----------|----------|
| Other | - | - | - | - | - | - | - | - | 2 | - |
| Total O&R | \$ 727 | \$ - | \$ 34 | \$ 34 | \$ 68 | \$ 21 | \$ - | \$ - | \$ 1,269 | \$ 71 |
| Unregulated subsidiaries | \$ 931 | \$ - | \$ 37 | \$ (69) | \$ (88) | \$ 14 | \$ 3 | \$ - | \$ 1,554 | \$ 105 |
| Other | 3 | (16) | - | (12) | 12 | 23 | - | - | 379 | - |
| Total Con Edison | \$ 9,827 | \$ - | \$ 529 | \$ 325 | \$ 934 | \$ 434 | \$ 3 | \$ - | \$ 20,966 | \$ 1,344 |

| <i>For the 12 Months Ended December 31, 2002</i> | <i>Operating revenues</i> | <i>Inter-segment revenues</i> | <i>Depreciation and amortization</i> | <i>Income tax expense</i> | <i>Operating income</i> | <i>Interest charges</i> | <i>Changes in accounting principles</i> | <i>Total assets</i> | <i>Construction expenditures</i> |
|--|---------------------------|-------------------------------|--------------------------------------|---------------------------|-------------------------|-------------------------|---|---------------------|----------------------------------|
|--|---------------------------|-------------------------------|--------------------------------------|---------------------------|-------------------------|-------------------------|---|---------------------|----------------------------------|

(Millions of Dollars)

| | | | | | | | | | | |
|------------------------------|----------|-------|--------|--------|----------|--------|---------|-----------|----------|--|
| Con Edison of New York | | | | | | | | | | |
| Electric | \$ 5,775 | \$ 9 | \$ 352 | \$ 298 | \$ 759 | \$ 304 | \$ - | \$ 13,084 | \$ 825 | |
| Gas | 1,045 | 3 | 68 | 61 | 159 | 63 | - | 2,718 | 186 | |
| Steam | 404 | 2 | 18 | (5) | 36 | 25 | - | 1,035 | 84 | |
| Total Con Edison of New York | \$ 7,224 | \$ 14 | \$ 438 | \$ 354 | \$ 954 | \$ 392 | \$ - | \$ 16,837 | \$ 1,095 | |
| O&R | | | | | | | | | | |
| Electric | \$ 476 | \$ - | \$ 26 | \$ 20 | \$ 58 | \$ 20 | \$ - | \$ 880 | \$ 41 | |
| Gas | 159 | - | 8 | 5 | 14 | 8 | - | 318 | 17 | |
| Other | - | - | - | - | - | - | - | 3 | - | |
| Total O&R | \$ 635 | \$ - | \$ 34 | \$ 25 | \$ 72 | \$ 28 | \$ - | \$ 1,201 | \$ 58 | |
| Unregulated subsidiaries | \$ 643 | \$ - | \$ 23 | \$ 19 | \$ 34 | \$ 16 | \$ (22) | \$ 1,319 | \$ 282 | |
| Other | - | (14) | - | - | - | 6 | - | 310 | - | |
| Total Con Edison | \$ 8,502 | \$ - | \$ 495 | \$ 398 | \$ 1,060 | \$ 442 | \$ (22) | \$ 19,667 | \$ 1,435 | |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

| <i>For the 12 Months Ended December 31, 2001</i> | <i>Operating revenues</i> | <i>Inter-segment revenues</i> | <i>Depreciation and amortization</i> | <i>Income tax expense</i> | <i>Operating income</i> | <i>Interest charges</i> | <i>Changes in accounting principles</i> | <i>Total assets</i> | <i>Construction expenditures</i> |
|--|---------------------------|-------------------------------|--------------------------------------|---------------------------|-------------------------|-------------------------|---|---------------------|----------------------------------|
|--|---------------------------|-------------------------------|--------------------------------------|---------------------------|-------------------------|-------------------------|---|---------------------|----------------------------------|

(Millions of Dollars)

| | | | | | | | | | | |
|------------------------------|----------|-------|--------|--------|----------|--------|------|-----------|----------|--|
| Con Edison of New York | | | | | | | | | | |
| Electric | \$ 6,350 | \$ 12 | \$ 383 | \$ 359 | \$ 852 | \$ 301 | \$ - | \$ 11,356 | \$ 766 | |
| Gas | 1,268 | 3 | 64 | 70 | 167 | 63 | - | 2,416 | 153 | |
| Steam | 504 | 2 | 18 | 6 | 28 | 21 | - | 747 | 65 | |
| Total Con Edison of New York | \$ 8,122 | \$ 17 | \$ 465 | \$ 435 | \$ 1,047 | \$ 385 | \$ - | \$ 14,519 | \$ 984 | |
| O&R | | | | | | | | | | |
| Electric | \$ 538 | \$ - | \$ 25 | \$ 23 | \$ 50 | \$ 16 | \$ - | \$ 837 | \$ 41 | |
| Gas | 198 | - | 8 | 3 | 13 | 8 | - | 295 | 18 | |
| Other | - | - | - | - | - | - | - | 3 | - | |
| Total O&R | \$ 736 | \$ - | \$ 33 | \$ 26 | \$ 63 | \$ 24 | \$ - | \$ 1,135 | \$ 59 | |
| Unregulated subsidiaries | \$ 531 | \$ - | \$ 17 | \$ 4 | \$ 30 | \$ 17 | \$ - | \$ 1,017 | \$ 154 | |
| Other | - | (17) | 11 | - | (12) | 5 | - | 363 | - | |
| Total Con Edison | \$ 9,389 | \$ - | \$ 526 | \$ 465 | \$ 1,128 | \$ 431 | \$ - | \$ 17,034 | \$ 1,197 | |

Note P - Derivative Instruments and Hedging Activities

Effective January 2001, the Companies adopted SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," as amended (SFAS No. 133). Under SFAS No. 133, derivatives are recognized on the balance sheet at fair value, unless an exception is available under the standard. Certain qualifying derivative contracts have been designated as normal purchases or normal sales contracts. These contracts are not reported at fair value under SFAS No. 133.

Energy Price Hedging

Con Edison's subsidiaries hedge market price fluctuations associated with physical purchases and sales of electricity and natural gas by using derivative instruments including futures, forwards, basis swaps, transmission congestion contracts and financial transmission rights contracts. The fair values of these hedges at December 31, 2003 and 2002 were as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|------------------------------|-------------------|-------------|-------------------------------|-------------|----------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> |
| Fair value of net assets | \$ 27 | \$ 39 | \$ 15 | \$ 16 | \$ 5 | \$ 1 |

Cash Flow Hedges

Con Edison's subsidiaries designate a portion of derivative instruments held for purposes other than trading as cash flow hedges under SFAS No. 133. Under cash flow hedge accounting, to the extent a hedge is determined to be "effective," the unrealized gain or loss on the hedge is recorded in other comprehensive income (OCI) and reclassified to earnings at the time the underlying transaction is completed. A gain or loss relating to any portion of the hedge determined to be "ineffective" is recognized in earnings in the period in which such determination is made.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

For the Companies, unrealized gains and losses on cash flow hedges for energy transactions, net of tax, included in accumulated OCI for the years ended December 31, 2003 and 2002 were as follows:

Twelve Months Ended December 31,

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|--|-------------------|-------------|-------------------------------|-------------|----------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> |
| Unrealized gains/(losses) on derivatives qualified as cash flow hedges, net of taxes | \$ 11 | \$ 28 | \$ (1) | \$ 4 | \$ - | \$ - |
| Less: Reclassification adjustment of gains/(losses) included in net income, net of taxes | 20 | 2 | (1) | 1 | - | - |
| Unrealized gains/(losses) on derivatives qualified as cash flow hedges for the period | \$ (9) | \$ 26 | \$ - | \$ 3 | \$ - | \$ - |

The following table presents selected information related to these cash flow hedges included in accumulated OCI at December 31, 2003:

| <i>(Millions of Dollars/Term in Months)</i> | <i>Maximum Term</i> | | | <i>Accumulated Other Comprehensive Income/(Loss) Net of Tax</i> | | | <i>Portion Expected to be Reclassified to Earnings during the Next 12 Months</i> | | |
|---|---------------------|-------------------------------|----------------|---|-------------------------------|----------------|--|-------------------------------|----------------|
| | <i>Con Edison</i> | <i>Con Edison of New York</i> | <i>O&R</i> | <i>Con Edison</i> | <i>Con Edison of New York</i> | <i>O&R</i> | <i>Con Edison</i> | <i>Con Edison of New York</i> | <i>O&R</i> |
| Energy Price Hedges | 33 | 8 | 12 | \$ 5 | \$ - | \$ - | \$ 4 | \$ - | \$ - |

The actual amounts that will be reclassified to earnings may vary from the expected amounts presented above as a result of changes in market prices. The effect of reclassification from accumulated OCI to earnings will generally be offset by the recognition of the hedged transaction in earnings.

For the years ended December 31, 2003 and 2002, the Companies recognized in net earnings unrealized pre-tax net gains and losses relating to hedge ineffectiveness of these cash flow hedges as follows:

Twelve Months Ended December 31,

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|---|-------------------|-------------|-------------------------------|-------------|----------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> |
| Unrealized gains/(losses) on ineffective portion of derivatives qualified as hedges | \$ (1) | \$ 2 | \$ - | \$ - | \$ - | \$ - |

Other Derivatives

Con Edison of New York enters into certain non-trading derivative instruments, some of which are on behalf of O&R, that are not designated as hedges for accounting purposes. However, management believes these instruments represent economic hedges that mitigate exposure to fluctuations in commodity prices. The Utilities, with limited exceptions, recover all gains and losses on these instruments. See

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

"Recoverable Energy Costs" in Note A. Con Edison Solutions and Con Edison Energy also enter into certain other contracts that are derivatives, but do not qualify for hedge accounting under SFAS No. 133. Changes in the fair market value of these derivative contracts are recorded in earnings in the reporting period in which they occur. In the years ended December 31, 2003 and 2002, the Companies recognized in earnings unrealized pre-tax net gains and losses relating to these hedges as follows:

| <i>(Millions of Dollars)</i> | <i>Twelve Months Ended December 31,</i> | | | | | |
|------------------------------|---|-------------|-------------------------------|-------------|----------------|-------------|
| | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
| | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> |
| Unrealized gains/(losses) | \$ - | \$ 4 | \$ - | \$ - | \$ - | \$ - |

Energy Trading Activities

Con Edison Energy engages in energy-trading activities. Con Edison Energy makes wholesale purchases and sales of electric, gas and related energy trading products and provides risk management services to other unregulated Con Edison subsidiaries in order to optimize the value of their electric generating facilities and retail supply contracts. It also engages in a limited number of other wholesale commodity transactions. Con Edison Energy utilizes forward contracts for the purchase and sale of electricity and capacity, over-the-counter swap contracts, exchange-traded natural gas and crude oil futures and options, transmission congestion contracts and other physical and financial contracts. As of December 31, 2003, these contracts had terms of three years or less and their fair value was \$4 million as of December 31, 2003 and \$5 million as of December 31, 2002. Con Edison's unregulated subsidiaries recognized in earnings pre-tax net losses relating to energy trading contracts of \$3 million and \$1 million, including the amortization of premiums paid and received, and excluding the cumulative effect of a change in accounting principle, for the years ended December 31, 2003 and 2002, respectively.

Effective October 1, 2002, all derivative energy-trading contracts are reported at fair value, with corresponding changes in value recognized immediately in earnings in accordance with SFAS No. 133 and Emerging Issues Task Force (EITF) Issue No. 02-3, "Issues Involved in Accounting for Derivative Contracts Held for Trading Purposes and Contracts Involved in Energy Trading and Risk Management Activities." Prior to October 2002, energy-trading contracts were accounted for under EITF Issue No. 98-10, "Accounting for Contracts Involved in Energy Trading and Risk Management Activities," which was rescinded in October of 2002. As a result, previously recognized mark-to-market gains and losses on non-derivative contracts were reversed. Con Edison reported a \$2 million after-tax loss for the effect of the rescission as a cumulative effect of a change in accounting principle.

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Interest Rate Hedging

Con Edison's subsidiaries use interest rate swaps to manage interest rate exposure associated with debt. The fair values of these interest rate swaps at December 31, 2003 and 2002 were as follows:

| <i>(Millions of Dollars)</i> | <i>Con Edison</i> | | <i>Con Edison of New York</i> | | <i>O&R</i> | |
|------------------------------|-------------------|-------------|-------------------------------|-------------|----------------|-------------|
| | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> |

| | | | | | | | | | | | | |
|-----------------------------------|----|------|----|------|----|---|----|---|----|------|----|------|
| Fair value of interest rate swaps | \$ | (23) | \$ | (23) | \$ | 1 | \$ | 6 | \$ | (17) | \$ | (19) |
|-----------------------------------|----|------|----|------|----|---|----|---|----|------|----|------|

Con Edison of New York's swap (related to \$225 million of tax-exempt debt) is designated as a fair value hedge, which qualifies for "short-cut" hedge accounting under SFAS No. 133. Under this method, changes in fair value of the swap are recorded directly against the carrying value of the hedged bonds and have no impact on earnings.

Con Edison Development and O&R's swaps are designated as cash flow hedges under SFAS No. 133. Any gain or loss on the hedges is recorded in OCI and reclassified to interest expense and included in earnings during the periods in which the hedged interest payments occur. The contractual components of the interest rate swaps accounted for as cash flow hedges are as follows:

| <i>Debt</i> | <i>Maturity Date</i> | <i>Notional Amount (Millions of Dollars)</i> | <i>Fixed Rate Paid</i> | <i>Variable Rate Received</i> |
|---|----------------------|--|------------------------|-------------------------------|
| O&R | | | | |
| Pollution Control Refunding Revenue Bond, 1994 Series A | 2014 | \$ 55 | 6.09% | Current bond rate |
| Con Edison Development | | | | |
| Amortizing variable rate loans - Lakewood | 2008 | \$ 67 | 6.68% | LIBOR |

Unrealized gains and losses on these cash flow hedges, net of tax, included in accumulated OCI for the years ended December 31, 2003 and 2002 were as follows:

| <i>(Millions of Dollars)</i> | <i>Twelve Months Ended December 31,</i> | | | |
|---|---|-------------|----------------|-------------|
| | <i>Con Edison</i> | | <i>O&R</i> | |
| | <i>2003</i> | <i>2002</i> | <i>2003</i> | <i>2002</i> |
| Unrealized gains/(losses) on derivatives qualified as hedges, net of taxes | \$ 2 | \$ (9) | \$ 3 | \$ (4) |
| Less: Reclassification adjustment for gains/(losses) included in net income, net of taxes | (1) | (4) | 1 | (1) |
| Unrealized gains/(losses) on derivatives qualified as hedges for the period | \$ 3 | \$ (5) | \$ 2 | \$ (3) |

NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

The following table presents selected information related to these cash flow hedges included in the accumulated OCI at December 31, 2003:

| <i>(Millions of Dollars)</i> | <i>Accumulated Other Comprehensive Income/(Loss) Net of Tax</i> | | <i>Portion Expected to be Reclassified to Earnings during the Next 12 Months</i> | |
|------------------------------|---|----------------|--|----------------|
| | <i>Con Edison</i> | <i>O&R</i> | <i>Con Edison</i> | <i>O&R</i> |
| | Interest Rate Swaps | \$ (14) | \$ (10) | \$ (3) |

The actual amounts that will be reclassified to earnings may vary from the expected amounts presented above as a result of changes in interest rates. The effect of reclassification from accumulated OCI to earnings will generally be offset by the recognition of the hedged transaction in earnings. The reclassification to earnings has no impact on O&R's results of operations because these costs are currently recovered in O&R's rates.

Note Q - Northeast Utilities Litigation (Con Edison)

In March 2001, Con Edison commenced an action in the United States District Court for the Southern District of New York, entitled Consolidated Edison, Inc. v. Northeast Utilities (the First Federal Proceeding), seeking a declaratory judgment that Northeast Utilities has failed to meet certain conditions precedent to Con Edison's obligation to complete its acquisition of Northeast Utilities pursuant to their agreement and plan of merger, dated as of October 13, 1999, as amended and restated as of January 11, 2000 (the merger agreement). In May 2001, Con Edison amended its complaint. As amended, Con Edison's complaint seeks, among other things, recovery of damages sustained by it as a result of the material breach of the merger agreement by Northeast Utilities, the court's declaration that under the merger agreement Con Edison has no further or continuing obligations to Northeast Utilities and that Northeast Utilities has no further or continuing rights against Con Edison.

In June 2001, Northeast Utilities withdrew the separate action it commenced in March 2001 in the same court and filed as a counter-claim to the First Federal Proceeding its claim that Con Edison materially breached the merger agreement and that, as a result, Northeast Utilities and its shareholders have suffered substantial damages, including the difference between the consideration to be paid to Northeast Utilities shareholders pursuant to the merger agreement and the market value of Northeast Utilities common stock, expenditures in connection with regulatory approvals and lost business opportunities. Pursuant to the merger agreement, Con Edison agreed to acquire Northeast Utilities for \$26.00 per share (an estimated aggregate of not more than \$3.9 billion) plus \$0.0034 per share for each day after August 5, 2000 through the day prior to the completion of the transaction, payable 50 percent in cash and 50 percent in stock.

In March 2003, the court ruled on certain motions filed by Con Edison and Northeast Utilities in the First Federal Proceeding. The court ruled that Con Edison's claim against Northeast Utilities for hundreds of millions of dollars for breach of the merger agreement, as well as Con Edison's claim that Northeast Utilities underwent a material adverse change, will go to trial. The court also dismissed Con

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Edison's fraud and misrepresentation claims. In addition, the court ruled that Northeast Utilities' claims on behalf of its shareholders against Con Edison for damages in excess of \$1.2 billion will go to trial. The court has not yet ruled on subsequent motions by both parties regarding evidence to be presented at trial.

In May 2003, a lawsuit by a purported class of Northeast Utilities' shareholders, entitled Rimkoski, et al. v. Consolidated Edison, Inc., was filed in New York County Supreme Court (the State Proceeding) alleging breach of the merger agreement. The complaint defines the putative class as holders of Northeast Utilities' common stock on March 5, 2001, and alleges that the class members were intended third party beneficiaries of the merger agreement. The complaint seeks damages believed to be substantially duplicative of those sought by Northeast Utilities on behalf of its shareholders in the First Federal Proceeding. In December 2003, the court granted the State Proceeding plaintiffs' motion to intervene in the First Federal Proceeding and in February 2004, the State Proceeding was dismissed without prejudice. In January 2004, Rimkoski filed a motion to certify his action as a class action on behalf of all holders of Northeast Utilities' common stock on March 5, 2000 and to appoint Rimkoski as class representative. Northeast Utilities has opposed the motion.

In October 2003, a lawsuit by a purported class of Northeast Utilities' shareholders, entitled Siegel et al. v. Consolidated Edison, Inc., was commenced in the United States District Court for the Southern District of New York (the Second Federal Proceeding). The putative class in the Second Federal Proceeding is the same putative class as in the State Proceeding. The amended complaint in the Second Federal Proceeding seeks unspecified injunctive relief and damages believed to be substantially duplicative of the damages sought from Con Edison in the First Federal Proceeding and in the State Proceeding. In January 2004, both Con Edison and Northeast Utilities (which has sought to intervene in the Second Federal Proceeding) moved to dismiss the Second Federal Proceeding and the plaintiffs in the Second Federal Proceeding moved to consolidate that proceeding with the First Federal Proceeding.

Con Edison believes that Northeast Utilities materially breached the merger agreement, and that Con Edison did not materially breach the merger agreement. Con Edison believes it was not obligated to acquire Northeast Utilities because Northeast Utilities did not meet the merger agreement's conditions that Northeast Utilities perform all of its obligations under the merger agreement. Those obligations include the obligation that it carry on its businesses in the ordinary course consistent with past practice; that the representations and warranties made by it in the merger agreement were true and correct when made and remain true and correct; and that there be no material adverse change with respect to Northeast Utilities.

Con Edison is unable to predict whether or not any Northeast Utilities related lawsuits or other actions will have a material adverse effect on Con Edison's financial position, results of operations or liquidity.

Note R - Lower Manhattan Restoration (Con Edison and Con Edison of New York)

Con Edison of New York estimates that it will incur \$430 million of costs for emergency response to the September 11, 2001 attack on the World Trade Center, and for resulting temporary and subsequent

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

permanent restoration of electric, gas and steam transmission and distribution facilities damaged in the attack. Most of the costs are expected to be capital in nature. In December 2001, the company filed a petition with the PSC for authorization to defer the costs. The company estimates that \$90 million of the costs will be covered by insurance. It expects the PSC to permit recovery from customers of the costs, net of any federal reimbursement, insurance payments and tax savings. In August 2002, Congress appropriated funds for which the company is eligible to apply to recover costs it incurred in connection with the attack. In accordance with the procedural guidelines for disbursement of the federal funds, the company submitted its initial application for funds in October 2003 and received the first installment of \$29 million on October 31, 2003. The company will submit additional applications when appropriate. At December 31, 2003, the company had capitalized \$186 million of such costs as utility plant and deferred \$68 million, including interest, as a regulatory asset.

In addition, based upon New York City's announced plans for improvement projects in lower Manhattan, including a transportation hub, the company anticipates that over the next five to ten years it may incur up to \$250 million in incremental costs in lower Manhattan. The company expects that it would recover any such costs from customers through the utility ratemaking process.

Note S - Guarantees (Con Edison)

In November 2002, the FASB issued Interpretation No. 45 (FIN 45), "Guarantor's Accounting and Disclosure Requirements, Including Indirect Guarantees of Indebtedness of Others." FIN 45 requires that upon issuance of certain types of guarantees, a guarantor recognize and account for the fair value of the guarantee as a liability. FIN 45 contains exclusions to this requirement, including the exclusion of a parent's guarantee of its subsidiaries' debt to a third party. FIN 45 is effective on a prospective basis to guarantees issued or modified after December 31, 2002.

Con Edison and its subsidiaries enter into various agreements providing financial or performance assurance to third parties on behalf of their subsidiaries. In addition, a Con Edison Development subsidiary has issued guarantees on behalf of entities in which it has an equity interest. Con Edison's guarantees had maximum limits totaling \$1 billion at December 31, 2003 and 2002, as to which underlying guaranteed obligations of \$320 million and \$588 million, respectively, were outstanding.

The following table summarizes, by type and term, the total maximum amount of guarantees:

| Guarantee Type | Maximum Amount | | | |
|----------------------------|----------------|--------------|---------------|-----------------|
| | 0-3 years | 4-10 years | > 10 years | Total |
| (Millions of Dollars) | | | | |
| Commodity transactions | \$ 690 | \$ 35 | \$ 162 | \$ 887 |
| Affordable housing program | - | 49 | - | 49 |
| Intra-company guarantees | 5 | - | 51 | 56 |
| Other guarantees | 38 | 11 | 16 | 65 |
| TOTAL | \$ 733 | \$ 95 | \$ 229 | \$ 1,057 |

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Commodity Transactions—Con Edison guarantees payments on behalf of its subsidiaries in order to facilitate physical and financial transactions in gas, pipeline capacity, transportation, oil, electricity and related commodity services. In addition, a Con Edison Development subsidiary guaranteed payment for fuel oil purchases by a foreign generating project in which it has an equity interest. To the extent that liabilities exist under the contracts subject to these guarantees, such liabilities are included in the consolidated balance sheet.

Affordable Housing Program—Con Edison Development guarantees the repurchase and remarketing obligations of one of its subsidiaries with respect to the debt relating to moderate-income rental apartment properties eligible for tax credits under Section 42 of the Internal Revenue Code. In accordance with EITF Issue No. 94-01, "Accounting for Tax Benefits Resulting from Investments in Affordable Housing Projects," neither the rental apartment properties nor the related indebtedness is included on Con Edison's consolidated balance sheet.

Intra-company Guarantees

- \$50 million relates to a guarantee issued by Con Edison on behalf of Con Edison Communications to Con Edison of New York for payment relating to the use of space in the latter's facilities and the construction of new telecommunications underground facilities.
- \$6 million relates to commodity guarantees issued by Con Edison on behalf of Con Edison Energy and Con Edison Solutions to Rockland Electric and Con Edison of New York, respectively.

Other Guarantees—Con Edison, Con Edison Development and its subsidiaries also guarantee the following:

- \$21 million for guarantees, standby financial letters of credit and comfort letters in connection with investments in energy infrastructure power and cogeneration projects;
- \$7 million for franchise agreements with the City of New York and other localities;
- \$12 million for certain rent payment obligations of Con Edison's subsidiaries under various lease agreements for office buildings;
- \$25 million for a parental guarantee provided by Con Edison on Con Edison Solution's indemnity agreement for surety bonds.

Note T - Consolidation of Variable Interest Entities (Con Edison)

In December 2003, the FASB issued a revised Interpretation No. 46, "Consolidation of Variable Interest Entities" (FIN 46), which addresses the consolidation of variable interest entities (VIE's) by business enterprises that are the primary beneficiaries. A VIE is an entity that does not have sufficient equity investment at risk to permit it to finance its activities without additional subordinated financial support, or whose equity investors lack the characteristics of a controlling financial interest. The primary beneficiary of a VIE is the enterprise with the majority of the risks or rewards associated with the VIE.

| | | | | | | | | | | | | |
|---------------------------|----|----|----|----|----|----|----|----|----|----|----|----|
| Cost of services provided | \$ | 37 | \$ | 31 | \$ | 40 | \$ | 13 | \$ | 12 | \$ | 11 |
| Cost of services received | \$ | 25 | \$ | 24 | \$ | 24 | \$ | 20 | \$ | 15 | \$ | 14 |

In addition, O&R purchased from Con Edison of New York \$128 million, \$102 million and \$141 million of natural gas for the years ended December 31, 2003, 2002 and 2001, respectively. O&R purchased from Con Edison of New York \$16 million and \$25 million of electricity for the years ended December 31, 2003 and 2002, respectively. O&R also purchased from Con Edison Energy \$1 million of electricity for the year ended December 31, 2003.

In December 2003, the FERC authorized Con Edison of New York to lend funds to O&R, for periods of not more than 12 months, in amounts not to exceed \$150 million outstanding at any time, at prevailing market rates. O&R has not borrowed any funds from Con Edison of New York.

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Note V - New Financial Accounting Standards

In January 2003, the Financial Accounting Standards Board (FASB) issued Interpretation No. 46, "Consolidation of Variable Interest Entities" (FIN 46). For discussion of FIN 46, see Note T.

In January 2003, the Companies adopted SFAS No. 143, "Accounting for Asset Retirement Obligations." See "Plant and Depreciation—Utility Plant" in Note A.

SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities," which was effective in January 2003, requires companies to recognize costs associated with exit or disposal activities when they are incurred rather than at the date of a commitment to an exit or disposal plan. The adoption of this statement had no impact on the Companies' financial position, results of operations or liquidity.

In June 2003, the FASB issued final guidance on the use of broad market indices in power purchase and sale contracts (Derivatives Implementation Group Issue C20). In particular, this guidance clarifies whether the pricing in a contract that contains broad market indices (e.g., consumer price index) could qualify as a normal purchase or normal sale scope exception and therefore not be subject to fair value accounting under SFAS No. 133. The guidance became effective in the fourth quarter of 2003. Upon implementation of this guidance, Con Edison recognized to fair value certain power sales contracts at Con Edison Development. The cumulative effect of this change in accounting principle was an increase to net income of \$8 million.

In June 2003, the Companies adopted SFAS No. 149, "Amendment of Statement 133 on Derivative Instruments and Hedging Activities," which amends and clarifies financial accounting and reporting for derivative instruments, and SFAS No. 150, "Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity," which revises and expands the definition of a liability (FASB Concept Statement No. 5, "Elements of Financial Statements") and provides accounting and reporting guidance. Effective July 1, 2003, the Companies adopted EITF 01-8, "Determining Whether an Arrangement Contains a Lease." The adoption of SFAS No. 149, SFAS No. 150 and EITF 01-8, had no material impact on the Companies' financial position, results of operations or liquidity.

In August 2003, the EITF reached a consensus that realized gains and losses on derivative contracts not "held for trading purposes" should be reported on a net or gross basis based on the relevant facts and circumstances of the contract. In analyzing these facts and circumstances, Issue 99-19, "Reporting Revenue Gross as a Principal versus Net as an Agent," should be applied. The EITF consensus is effective for new transactions or arrangements entered into beginning in the fourth quarter of 2003. The adoption of this EITF consensus had no material impact on the Companies' financial position, results of operations or liquidity.

In January 2004, the FASB issued FASB Staff Position (FSP) No. FAS 106-1, "Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and Modernization Act of 2003." The FSP gives plan sponsors an option to defer recognizing the effects of the Act in the accounting for its plan under FASB Statement No. 106, "Employers' Accounting for Postretirement

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NOTES TO THE FINANCIAL STATEMENTS -- CONTINUED

Benefits Other Than Pensions," and in providing disclosures required by FASB Statement No. 132, "Employers' Disclosures about Pensions and Other Postretirement Benefits," until authoritative guidance is issued, or until certain other events (such as plan amendments) occur. Con Edison has elected not to defer the recognition of the Act. See Note F.

Note W - East 11th Street Accident

In January 2004, a woman died when she came into contact with the metal frame of a Con Edison of New York service box that had been installed in a New York City street. The frame was energized by a low voltage cable that in January 2003 was repaired by the company in a manner that varied from its written procedures. Following this accident, the company began "stray-voltage" inspection testing of its transformer vaults, manholes and service boxes in the portion of its service area in which its distribution facilities are underground. The company also tested certain of the City's Department of Transportation's street lights. The company has substantially completed this testing and has eliminated stray voltage conditions at the few locations tested where there was measurable voltage. The company has committed to add this testing to its annual inspection programs.

In February 2004, the PSC instituted a proceeding as to whether Con Edison of New York violated the safety requirements of the New York Public Service Law and ordered the company to show cause why the PSC should not commence an action seeking penalties from the company. The PSC also instituted a proceeding

to examine the safety of the company's electric transmission and distribution systems and ordered the company to complete testing for stray voltage and any necessary repair of additional equipment in the company's service area.

Con Edison of New York believes that its utility systems are safe and reliable. The company, however, is unable to predict whether or not any proceedings or other actions relating to this accident will have a material adverse effect on its financial condition, results of operations or liquidity.

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SCHEDULE I

Condensed Financial Information of Consolidated Edison, Inc.

CONDENSED BALANCE SHEET

At December 31,

2003

2002

(Millions of Dollars)

| | 2003 | 2002 |
|---|-----------------|-----------------|
| ASSETS | | |
| CURRENT ASSETS | | |
| Cash and temporary cash investments | \$ 1 | \$ - |
| Other current assets | 9 | (1) |
| TOTAL CURRENT ASSETS | 10 | (1) |
| Investments in subsidiaries | 7,527 | 7,001 |
| Goodwill | 409 | 409 |
| Other assets | 11 | 10 |
| TOTAL ASSETS | \$ 7,957 | \$ 7,419 |
| CAPITALIZATION AND LIABILITIES | | |
| COMMON SHAREHOLDERS' EQUITY | | |
| Common stock | \$ 1,982 | \$ 1,505 |
| Retained earnings | 5,392 | 5,371 |
| TOTAL COMMON SHAREHOLDERS' EQUITY | 7,374 | 6,876 |
| Long-term debt | 525 | 325 |
| TOTAL CAPITALIZATION | 7,899 | 7,201 |
| CURRENT LIABILITIES | | |
| Notes payable | 42 | 161 |
| Accounts payable | 10 | 49 |
| Other current liabilities | 15 | 12 |
| TOTAL CURRENT LIABILITIES | 67 | 222 |
| NONCURRENT LIABILITIES | | |
| | (9) | (4) |
| TOTAL LIABILITIES | 58 | 218 |
| TOTAL CAPITALIZATION AND LIABILITIES | \$ 7,957 | \$ 7,419 |

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Condensed Financial Information of Consolidated Edison, Inc.

CONDENSED INCOME STATEMENT

| | 2003 | 2002 | 2001 |
|--|---------------|---------------|---------------|
| <i>(Millions of Dollars, except per share amounts)</i> | | | |
| Equity in earnings of subsidiaries | \$ 537 | \$ 671 | \$ 701 |
| Other income (deductions), net of taxes | 12 | 4 | - |
| OPERATING EXPENSES | | | |
| Amortization of O&R goodwill | - | - | (11) |
| Other | - | - | - |
| Interest expense | (24) | (7) | (8) |
| Income before cumulative effect of changes in accounting principles | 525 | 668 | 682 |
| Cumulative effect of changes in accounting principles | 3 | (22) | - |
| NET INCOME | \$ 528 | \$ 646 | \$ 682 |
| Average number of shares outstanding (in thousands) | 221 | 213 | 212 |
| Basic earnings per common share | \$ 2.39 | \$ 3.03 | \$ 3.22 |
| Diluted earnings per share | \$ 2.38 | \$ 3.02 | \$ 3.21 |

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Condensed Financial Information of Consolidated Edison, Inc.

CONDENSED STATEMENT OF CASH FLOWS

| | 2003 | 2002 | 2001 |
|--|---------------|---------------|---------------|
| <i>(Millions of Dollars)</i> | | | |
| INCOME BEFORE CUMULATIVE EFFECT OF CHANGES IN ACCOUNTING PRINCIPLES | \$ 525 | \$ 668 | \$ 682 |
| Cumulative effect of changes in accounting principles | 3 | (22) | - |
| NET INCOME | 528 | 646 | 682 |
| Dividends received from: | | | |
| Consolidated Edison Company of New York, Inc. | 376 | 384 | 460 |
| Orange and Rockland Utilities, Inc. | 28 | 28 | 28 |
| Other—net | (683) | (640) | (570) |
| NET CASH FLOWS FROM OPERATING ACTIVITIES | 249 | 418 | 600 |
| INVESTING ACTIVITIES | | | |
| Contributions to subsidiaries | (435) | (335) | (65) |
| FINANCING ACTIVITIES | | | |
| Issuance of long-term debt | 200 | 325 | - |
| Common shares issued | 431 | 25 | - |
| Common stock dividends | (444) | (433) | (470) |
| NET CASH FLOWS FROM FINANCING ACTIVITIES | 187 | (83) | (470) |
| NET CHANGE FOR THE PERIOD | 1 | - | 65 |
| BALANCE AT BEGINNING OF PERIOD | \$ -- | \$ -- | \$ 5 |
| BALANCE AT END OF PERIOD | \$ 1 | \$ - | \$ 70 |
| LESS: RESTRICTED CASH | - | - | 70 |
| BALANCE: UNRESTRICTED CASH AND TEMPORARY CASH INVESTMENTS | \$ 1 | \$ - | \$ - |

VALUATION AND QUALIFYING ACCOUNTS

For the Years Ended December 31, 2003, 2002 and 2001

| Company | COLUMN A Description | COLUMN B Balance at Beginning of Period | COLUMN C Additions | | COLUMN D Deductions** | COLUMN E Balance At End Of Period |
|------------------------|--|--|--|--|--------------------------|--|
| | | | (1) Charged to Costs and Expenses | (2) Charged To Other Accounts | | |
| (Millions of Dollars) | | | | | | |
| Con Edison | Allowance for uncollectible accounts*: | | | | | |
| | | 2003 | \$35 | \$43 | - | \$42 |
| | | 2002 | \$35 | \$39 | - | \$39 |
| | | 2001 | \$34 | \$43 | - | \$42 |
| Con Edison of New York | Allowance for uncollectible accounts*: | | | | | |
| | | 2003 | \$29 | \$36 | - | \$35 |
| | | 2002 | \$29 | \$35 | - | \$35 |
| | | 2001 | \$26 | \$40 | - | \$36 |
| O&R | Allowance for uncollectible accounts*: | | | | | |
| | | 2003 | \$2 | \$3 | - | \$3 |
| | | 2002 | \$3 | \$2 | - | \$3 |
| | | 2001 | \$4 | \$4 | - | \$5 |

* This is a valuation account deducted in the balance sheet from the assets (Accounts receivable-customer) to which they apply.

** Accounts written off less cash collections, miscellaneous adjustments and amounts reinstated as receivables previously written off.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

CON EDISON

None.

CON EDISON OF NEW YORK

None.

O&R

None.

ITEM 9A. CONTROLS AND PROCEDURES

The Companies maintain disclosure controls and procedures designed to provide reasonable assurance that the information required to be disclosed in the reports that they submit to the Securities Exchange

Commission (SEC) is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. For each of the Companies, its management, with the participation of its principal executive officer and principal financial officer, has evaluated its disclosure controls and procedures as of the end of the period covered by this report and, based on such evaluation, has concluded that the controls and procedures are effective to provide such reasonable assurance. Reasonable assurance is not absolute assurance, however, and there can be no assurance that any design of controls or procedures would be effective under all potential future conditions, regardless of how remote.

There were no significant changes in internal controls or in other factors during the last quarter of 2003 that could significantly affect internal controls.

FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K includes forward-looking statements intended to qualify for the safe-harbor provisions of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are statements of future expectation and not facts. Words such as "expects," "estimates," "anticipates," "intends," "plans," "will" and similar expressions identify forward-looking statements.

Actual results or developments might differ materially from those included in the forward-looking statements because of various factors such as:

- results from outstanding rate case filings and future filings of the Utilities;
- further restructuring of the regulated public utility, and unregulated energy and telecommunications industries;
- competition, including competition in the delivery, supply, trading and services businesses;
- operating performance and condition of the Utilities energy delivery systems, generating assets and Con Edison's unregulated subsidiary's fiber optic communications network;
- success of completion of ongoing construction projects;
- legal proceedings, including proceedings relating to hazardous substances and Northeast Utilities (see "Application of Critical Accounting Policies—Accounting for Contingencies" in Item 7 of this report);
- wholesale energy markets, including availability, sufficiency and cost of energy and capacity and the effectiveness of the Companies' efforts to manage risks in these markets;
- capital markets, including availability, sufficiency and cost of liquidity and credit facilities and the effectiveness of the Companies' efforts to manage risks in these markets;
- availability, sufficiency and cost of other services and goods used in the Companies' businesses, including insurance coverage;
- investment returns on the assets of the Companies' pension and other post-employment benefit plans and actual experience regarding the plans' other actuarial assumptions (see Notes E and F to the financial statements in Item 8 of this report);
- employee matters, including changes in key executives and collective bargaining with union employees;
- economic conditions, including recession, inflation or deflation;
- technological developments;
- weather, including its effects on the Companies' sales and facilities;

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- laws, regulations or regulatory policies, including those relating to taxes or fees, the environment and any that would adversely effect the ability of the Utilities to operate or recover costs from their customers;
- public policy doctrines;
- accounting matters, including changes in policies, principles and interpretations generally accepted in the United States of America;
- acts of war or terrorism; and
- other presently unknown or unforeseen factors.

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PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

ITEM 11. EXECUTIVE COMPENSATION

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

CON EDISON

Information required by Part III as to Con Edison, other than the information required by Item 406 of Regulation S-K in Item 10, is incorporated by reference from Con Edison's definitive proxy statement for its Annual Meeting of Stockholders to be held on May 17, 2004. The proxy statement is to be filed pursuant to Regulation 14A not later than 120 days after December 31, 2003, the close of the fiscal year covered by this report.

The information required pursuant to Item 406 of Regulation S-K is as follows: Con Edison has adopted a code of ethics that applies to, among others, its principal executive officer, principal financial officer and principal accounting officer. The same code of ethics applies to Con Edison of New York and, among others, its principal executive officer, principal financial officer and principal accounting officer. The code of ethics, and any waivers of the code for any such officers are available on or through the Investor Information section of Con Edison's website (www.conedison.com) and Con Edison of New York's website (www.coned.com). This information is available in print to any person who requests it. Requests should be directed to: Corporate Secretary, Con Edison, 4 Irving Place, New York, NY 10003.

In accordance with General Instruction G(3) to Form 10-K, other information regarding Con Edison's Executive Officers may be found in Part I of this report under caption "Executive Officers of the Registrant."

CON EDISON OF NEW YORK

Information required by Part III as to Con Edison of New York, other than the information required by Item 406 of Regulation S-K in Item 10, is incorporated by reference from Con Edison of New York's definitive information statement for its Annual Meeting of Stockholders to be held on May 17, 2004. The information statement is to be filed pursuant to Regulation 14C not later than 120 days after December 31, 2003, the close of the fiscal year covered by this report. The information required pursuant to Item 406 of Regulation S-K for Con Edison of New York is shown above under "Con Edison" in this Part III.

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In accordance with General Instruction G(3) to Form 10-K, other information regarding Con Edison of New York's Executive Officers may be found in Part I of this report under the caption "Executive Officers of the Registrant."

O&R

In accordance with General Instruction I of Form 10-K, O&R is omitting the information required by Part III, other than the information required by Item 14, which follows:

Fees paid or payable by O&R to its principal accountant, PricewaterhouseCoopers LLP, for services rendered during 2003 and 2002 were as follows:

| <i>Fee Type</i> | <i>2003</i> | <i>2002</i> |
|--------------------|-------------------|-------------------|
| Audit Fees | \$ 259,957 | \$ 243,273 |
| Audit-Related Fees | 28,754 | 18,000 |
| Tax Fees | - | - |
| Other Fees | - | - |
| Total Fees | \$ 288,711 | \$ 261,273 |

The items included in Audit-Related Fees in 2003 and 2002 were audits of the company's pension and other benefit plans (\$14,700) and (\$18,000), respectively. Also included in the 2003 amount, was advice on the implementation of Sarbanes-Oxley section 404 (\$14,054).

The Audit Committee of Con Edison's Board of Directors approves, in advance, all auditing services and non-audit services permitted by law, including tax services, to be provided to O&R by PricewaterhouseCoopers LLP.

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PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

(a) Documents filed as part of this report:

- 1. List of Financial Statements**—See financial statements listed in Item 8.
- 2. List of Financial Statement Schedules**—See schedules listed in Item 8.
- 3. List of Exhibits**

Exhibits listed below which have been filed previously with the Securities and Exchange Commission pursuant to the Securities Act of 1933 and the Securities Exchange Act of 1934, and which were designated as noted below, are hereby incorporated by reference and made a part of this report with the same effect as if filed with the report. Exhibits listed below that were not previously filed are filed herewith.

CON EDISON

- 2.1 Amended and Restated Agreement and Plan of Merger, dated as of October 13, 1999, as amended and restated as of January 11, 2000, among Con Edison, Northeast Utilities, Consolidated Edison, Inc. (a Delaware corporation, originally incorporated as CWB Holdings, Inc.) and N Acquisition LLC. (Designated in Con Edison's Current Report on Form 8-K, dated January 11, 2000 (File No. 1-14514) as Exhibit 2.)
- 3.1.1 Restated Certificate of Incorporation of Consolidated Edison, Inc. ("Con Edison") (Designated in the Registration Statement on Form S-4 of Con Edison (No. 333-39164) as Exhibit 3.1.)
- 3.1.2 By-laws of Con Edison, effective as of June 23, 1998. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1998 (File No. 1-14514) as Exhibit 3.2.1)
- 4.1.1 Indenture, dated as of April 1, 2002, between Con Edison and JP Morgan Chase Bank (formerly known as The Chase Manhattan Bank), as Trustee. (Designated in the Registration Statement on Form S-3 of Con Edison (No. 333-102005) as Exhibit 4.1.)
- 4.1.2 The form of Con Edison's 7.25% Debentures, Series 2002 A. (Designated in Con Edison's Current Report on Form 8-K, dated April 3, 2002. (File No. 1-14514) as Exhibit 4.)
- 4.1.3 The form of Con Edison's 3.625% Debentures, Series 2003 A. (Designated in Con Edison's Current Report on Form 8-K, dated July 22, 2003. (File No. 1-14514) as Exhibit 4.)
- 10.1.1 Con Edison 1996 Stock Option Plan, as amended and restated effective February 24, 1998. (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1997 (File No. 1-1217) as Exhibit 10.20.)
- 10.1.2 The following employment agreements, and amendments thereto, between Con Edison and the executive officer listed below, dated as of the effective dates listed below, which are designated as follows:

| Executive Officer | Effective Date | Securities Exchange Act File No. 1-14514 | | |
|-------------------|--------------------|---|----------|---------|
| | | Form | Date | Exhibit |
| Eugene R. McGrath | Agreement: 9/1/00 | 10-Q | 9/30/00 | 10.1.1 |
| | Amendment: 5/31/02 | 10-Q | 6/30/02 | 10.1.1 |
| Joan S. Freilich | Agreement: 9/1/00 | 10-Q | 9/30/00 | 10.1.2 |
| | Amendment: 5/31/02 | 10-Q | 6/30/02 | 10.1.2 |
| Kevin Burke | Agreement: 9/1/00 | 10-K | 12/31/00 | 10.1.6 |
| | Amendment: 5/31/02 | 10-Q | 6/30/02 | 10.1.3 |
| John D. McMahan | Agreement: 9/1/00 | 10-K | 12/31/00 | 10.1.5 |
| | Amendment: 5/31/02 | 10-Q | 6/30/02 | 10.1.4 |

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- 10.1.3 Restricted Stock Unit Award Agreement, dated as of May 31, 2002, between Con Edison and Stephen B. Bram. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2002 (File No. 1-14514) as Exhibit 10.1.5.)
- 10.1.4 Severance Program for Officers of Consolidated Edison, Inc. and its Subsidiaries, effective as of September 1, 2000. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2000 (File No. 1-14514) as Exhibit 10.1.3)
- 10.1.5.1 The Consolidated Edison, Inc. Stock Purchase Plan. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2000 (File No. 1-14514) as Exhibit 10)
- 10.1.5.2 Amendment, dated April 8, 2002, to The Consolidated Edison, Inc. Stock Purchase Plan. (Designated in Con Edison's Registration Statement on Form S-8 (No. 333-86820) as Exhibit 10.2.)
- 10.1.5.3 Amendment, dated February 19, 2004 to The Consolidated Edison, Inc. Stock Purchase Plan.
- 10.1.6 Consolidated Edison, Inc. Deferred Stock Compensation Plan for Non-Officer Directors, effective July 1, 2002. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2002 (File No. 1-14514) as Exhibit 10.1.1.)
- 10.1.7.1 The Con Edison Retirement Plan, effective January 1, 2001. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2002 (File No. 1-14514) as Exhibit 10.1.2.1.)
- 10.1.7.2 Amendment No. 1 to the Consolidated Edison Retirement Plan. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2002 (File No. 1-14514) as Exhibit 10.1.2.2.)
- 10.1.8.1 The Consolidated Edison Thrift Plan, as amended effective May 8, 2002. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2002 (File No. 1-14514) as Exhibit 10.1.3.)
- 10.1.9.1 Guaranty, dated as of November 14, 2000, from Consolidated Edison, Inc. in favor of Hawkeye Funding, Limited Partnership. (Designated in Con Edison's Annual Report on Form 10-K for the year ended December 31, 2002 (File No. 1-14514) as Exhibit 10.9.1.)
- 10.1.9.2 Lease Agreement, dated as of November 14, 2000, between Hawkeye Funding, Limited Partnership, as Lessor, and Newington Energy, L.L.C., as Lessee (the Newington Project Lease). (Designated in Con Edison's Annual Report on Form 10-K for the year ended December 31, 2002 (File No. 1-14514) as Exhibit 10.9.2.)
- 10.1.9.3 Amendment No. 1, dated as of April 1, 2002, to the Newington Project Lease. (Designated in Con Edison's Annual Report on Form 10-K for the year ended December 31, 2002 (File No. 1-14514) as Exhibit 10.9.3.)

| | |
|---------|--|
| 10.1.10 | Consolidated Edison, Inc. Long-Term Incentive Plan. (Designated in Con Edison's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2003 (File No. 1-14514) as Exhibit 10.9.3.) |
| 10.1.11 | Consolidated Edison, Inc. Annual Incentive Plan. |
| 12.1 | Statement of computation of Con Edison's ratio of earnings to fixed charges for the years 1999-2003. |
| 21.1 | Subsidiaries of Con Edison. |
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| | |
|--------|--|
| 23.1 | Consent of PricewaterhouseCoopers LLP. |
| 24.1 | Powers of Attorney of each of the persons signing this report by attorney-in-fact. |
| 31.1.1 | Rule 13a-14(a)/15d-14(a) Certifications—Chief Executive Officer. |
| 31.1.2 | Rule 13a-14(a)/15d-14(a) Certifications—Chief Financial Officer. |
| 32.1.1 | Section 1350 Certifications—Chief Executive Officer. |
| 32.1.2 | Section 1350 Certifications—Chief Financial Officer. |

CON EDISON OF NEW YORK

| | |
|---------|--|
| 3.2.1.1 | Restated Certificate of Incorporation of Con Edison filed with the Department of State of the State of New York on December 31, 1984. (Designated in the Annual Report on Form 10-K of Con Edison of New York for the year ended December 31, 1989 (File No. 1-1217) as Exhibit 3(a).) |
| 3.2.1.2 | The following certificates of amendment of Restated Certificate of Incorporation of Con Edison of New York filed with the Department of State of the State of New York, which are designated as follows: |

| Date Filed With Department of State | Securities Exchange Act File No. 1-1217 | | |
|--|--|----------|---------|
| | Form | Date | Exhibit |
| 5/16/88 | 10-K | 12/31/89 | 3(b) |
| 6/2/89 | 10-K | 12/31/89 | 3(c) |
| 4/28/92 | 8-K | 4/24/92 | 4(d) |
| 8/21/92 | 8-K | 8/20/92 | 4(e) |
| 2/18/98 | 10-K | 12/31/97 | 3.1.2.3 |

| | |
|-------|---|
| 3.2.2 | By-laws of Con Edison of New York, effective June 20, 2002. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2002 (File 1-1217) as Exhibit 3.2.) |
| 4.2.1 | Participation Agreement, dated as of December 1, 1992, between New York State Energy Research and Development Authority ("NYSERDA") and Con Edison of New York (designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1992 (File No. 1-1217) as Exhibit 4(f)), and the following amendments thereto, which are designated as follows: |

| Supplemental Participation Agreement | | Securities Exchange Act File No. 1-1217 | | |
|---|---------|--|----------|---------|
| Number | Date | Form | Date | Exhibit |
| First | 3/15/93 | 10-Q | 6/30/93 | 4.1 |
| Second | 10/1/93 | 10-Q | 9/30/93 | 4.3 |
| Third | 12/1/94 | 10-K | 12/31/94 | 4.7.3 |
| Fourth | 7/1/95 | 10-Q | 6/30/95 | 4.2 |

| | |
|-------|--|
| 4.2.2 | Participation Agreement, dated as of July 1, 1999, between NYSERDA and Con Edison of New York. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1999 (File No. 1-1217) as Exhibit 4.1.) |
| 4.2.3 | Participation Agreement, dated as of June 1, 2001, between NYSERDA and Con Edison of New York. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2001 (File No. 1-1217) as Exhibit 10.2.1) |
| 4.2.4 | Supplemental Participation Agreement, dated as of October 1, 2002, to Participation Agreement, dated as of June 1, 2001 between NYSERDA and Con Edison of New York. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2002 (File 1-1217) as Exhibit 4.2.2.) |

| | |
|-------|--|
| 4.2.5 | Participation Agreement, dated as of November 1, 2001, between NYSERDA and Con Edison of New York. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2001 (File No. 1-1217) as Exhibit 10.2.1.) |
| 4.2.6 | Participation Agreement, dated as of January 1, 2004, between NYSERDA and Con Edison of New York. |
| 4.2.7 | Participation Agreement, dated as of January 1, 2004, between NYSERDA and Con Edison of New York. |
| 4.2.8 | Indenture of Trust, dated as of December 1, 1992, between NYSERDA and Morgan Guaranty Trust Company of New York, as Trustee (Morgan Guaranty) (designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1992 (File No. 1-1217) as |

Exhibit 4(i)), and the following amendments thereto, which are designated as follows:

| Supplemental Indenture of Trust | | Securities Exchange Act File No. 1-1217 | | |
|---------------------------------|---------|---|----------|---------|
| Number | Date | Form | Date | Exhibit |
| First | 3/15/93 | 10-Q | 6/30/93 | 4.2 |
| Second | 10/1/93 | 10-Q | 9/30/93 | 4.4 |
| Third | 12/1/94 | 10-K | 12/31/94 | 4.11.3 |
| Fourth | 7/1/95 | 10-Q | 6/30/95 | 4.3 |

- 4.2.9.1 Indenture of Trust, dated as of July 1, 1999 between NYSEERDA and HSBC Bank USA, as trustee. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1999 (File No. 1-1217) as Exhibit 4.2.)
- 4.2.9.2 Supplemental Indenture of Trust, dated as of July 1, 2001, to Indenture of Trust, dated July 1, 1999 between NYSEERDA and HSBC Bank USA, as trustee. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2001 (File No. 1-1217) as Exhibit 10.2.2.)
- 4.2.10.1 Indenture of Trust, dated as of June 1, 2001 between NYSEERDA and The Bank of New York, as trustee. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2001 (File No. 1-1217) as Exhibit 10.2.3.)
- 4.2.10.2 Supplemental Indenture of Trust, dated as of October 1, 2002, to Indenture of Trust, dated as of June 1, 2002, between NYSEERDA and The Bank of New York, as trustee. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2002 (File 1-1217) as Exhibit 4.2.1.)
- 4.2.11 Indenture of Trust, dated as of November 1, 2001, between NYSEERDA and The Bank of New York, as trustee. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2001 (File No. 1-1217) as Exhibit 10.2.2.)
- 4.2.12 Indenture of Trust, dated as of January 1, 2004, between NYSEERDA and The Bank of New York, as trustee.
- 4.2.13 Indenture of Trust, dated as of January 1, 2004, between NYSEERDA and The Bank of New York, as trustee.
- 4.2.14.1 Indenture, dated as of December 1, 1990, between Con Edison of New York and The Chase Manhattan Bank (National Association), as Trustee (the "Debenture Indenture"). (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1990 (File No. 1-1217) as Exhibit 4(h).)
- 4.2.14.2 First Supplemental Indenture (to the Debenture Indenture), dated as of March 6, 1996, between Con Edison of New York and The Chase Manhattan Bank (National Association), as Trustee. (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1995 (File No. 1-1217) as Exhibit 4.13.)

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- 4.2.14.3 The following forms of Con Edison of New York's Debentures:

| Debenture | Securities Exchange Act File No. 1-1217 | | | Debenture | Securities Exchange Act File No. 1-1217 | | |
|---|---|----------|---------|---|---|----------|---------|
| | Form | Date | Exhibit | | Form | Date | Exhibit |
| 7 ⁵ / ₈ % Series 1992 B | 8-K | 2/5/92 | 4(b) | 8 ¹ / ₈ % Series 2000 A | 8-K | 5/3/00 | 4 |
| 7 ¹ / ₂ % Series 1993 G | 8-K | 6/7/93 | 4 | 7 ¹ / ₂ % Series 2000 B | 8-K | 8/23/00 | 4 |
| 6 ⁵ / ₈ % Series 1995 A | 8-K | 6/21/95 | 4 | 6 ⁵ / ₈ % Series 2000 C | 8-K | 12/12/00 | 4 |
| 7 ³ / ₄ % Series 1996 A | 8-K | 4/24/96 | 4 | 7 ¹ / ₂ % Series 2001 A | 8-K | 6/14/01 | 4 |
| 6.45% Series 1997 B | 8-K | 11/24/97 | 4 | 5.625% Series 2002 A | 8-K | 6/19/02 | 4 |
| 6 ¹ / ₄ % Series 1998 A | 8-K | 1/29/98 | 4.1 | 4.875% Series 2002 B | 8-K | 12/19/02 | 4 |
| 7.10% Series 1998 B | 8-K | 1/29/98 | 4.2 | 5.875% Series 2003 A | 8-K | 4/7/03 | 4 |
| 6.15% Series 1998 C | 8-K | 6/22/98 | 4 | 3.85% Series 2003 B | 8-K | 6/12/03 | 4.1 |
| 6.90% Series 1998 D | 8-K | 9/24/98 | 4 | 5.10% Series 2003 C | 8-K | 6/12/03 | 4.2 |
| 7.35% Series 1999 A | 8-K | 6/25/99 | 4 | 4.70% Series 2004 A | 8-K | 2/11/04 | 4.1 |
| 7.15% Series 1999 B | 8-K | 12/1/99 | 4 | 5.70% Series 2004 B | 8-K | 2/11/04 | 4.2 |

- 10.2.1 Amended and Restated Agreement and Settlement, dated September 19, 1997, between Con Edison of New York and the Staff of the New York State Public Service Commission (without Appendices). (Designated in Con Edison of New York's Current Report on Form 8-K, dated September 23, 1997, (File No. 1-1217) as Exhibit 10.)
- 10.2.2 Settlement Agreement, dated October 2, 2000, by and among Con Edison of New York, the Staff of the New York State Public Service Commission and certain other parties. (Designated in Con Edison of New York's Current Report on Form 8-K, dated September 22, 2000, (File No. 1-1217) as Exhibit 10.)
- 10.2.3.1 Planning and Supply Agreement, dated March 10, 1989, between Con Edison of New York and the Power Authority of the State of New York. (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1992 (File No. 1-1217) as Exhibit 10(gg).)
- 10.2.3.2 Delivery Service Agreement, dated March 10, 1989, between Con Edison of New York and the Power Authority of the State of New York.

(Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1992 (File No. 1-1217) as Exhibit 10(hh).)

- 10.2.4 Employment Contract, dated May 22, 1990, between Con Edison of New York and Eugene R. McGrath (designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1990 (File No. 1-1217) as Exhibit 10) and the following amendments thereto, which are designated as follows:

| Amendment Date | Securities Exchange Act File No. 1-1217 | | |
|----------------|---|----------|---------|
| | Form | Date | Exhibit |
| 8/27/91 | 10-Q | 9/30/91 | 19 |
| 8/25/92 | 10-Q | 9/30/92 | 19 |
| 2/18/93 | 10-K | 12/31/92 | 10(o) |
| 8/24/93 | 10-Q | 9/30/93 | 10.1 |
| 8/24/94 | 10-Q | 9/30/94 | 10.1 |
| 8/22/95 | 10-Q | 9/30/95 | 10.3 |
| 7/23/96 | 10-Q | 6/30/96 | 10.2 |
| 7/22/97 | 10-Q | 6/30/97 | 10 |
| 7/28/98 | 8-K | 9/24/98 | 10 |
| 7/27/99 | 10-Q | 9/30/99 | 10.2 |
| 7/20/00 | 10-Q | 9/30/00 | 10.2.1 |

- 10.2.5 Agreement and Plan of Exchange, entered into on October 28, 1997, between Con Edison and Con Edison of New York. (Designated in the Registration Statement on Form S-4 of Con Edison (No. 333-39164) as Exhibit 2.)

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- 10.2.6 The Consolidated Edison Company of New York, Inc. Executive Incentive Plan, as amended and restated as of August 1, 2000. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2001 (File No. 1-1217) as Exhibit 10.2.1.)

- 10.2.7 Consolidated Edison Company of New York, Inc Supplemental Retirement Income Plan, as amended and restated as of April 1, 1999. (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1998 (File No. 1-1217) as Exhibit 10.10.)

- 10.2.8 Deferred Compensation Plan for the Benefit of Trustees of Con Edison of New York, dated February 27, 1979, and amendments thereto, dated September 19, 1979 (effective February 27, 1979), February 26, 1980, and November 24, 1992 (effective January 1, 1993). (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1991 (File No. 1-1217) as Exhibit 10(i).)

- 10.2.9 Supplemental Medical Plan for the Benefit of Con Edison of New York's officers. (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1991 (File No. 1-1217) as Exhibit 10(aa).)

- 10.2.10 The Consolidated Edison Retiree Health Program for Management Employees, effective as of January 1, 1993 (designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1992 (File No. 1-1217) as Exhibit 10(ll) and the following amendments thereto, which are designated as follows:

| Amendment Date | Securities Exchange Act File No. 1-1217 | | |
|----------------|---|----------|---------|
| | Form | Date | Exhibit |
| 10/31/94 | 10-Q | 9/30/94 | 10.3 |
| 12/28/94 | 10-K | 12/31/95 | 10.44 |
| 12/29/95 | 10-K | 12/31/95 | 10.45 |
| 7/1/96 | 10-K | 12/31/96 | 10.39 |
| 11/14/97 | 10-K | 12/31/97 | 10.18.3 |
| 12/30/98 | 10-K | 12/31/98 | 10.16.3 |

- 10.2.11 The Con Edison of New York Severance Pay Plan for Management Employees. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 1997 (File No. 1-1217) as Exhibit 10.)

- 10.2.12.1 The Consolidated Edison Company of New York, Inc. Deferred Income Plan, as amended and restated as of April 1, 1999. (Designated in Con Edison of New York's Annual Report on Form 10-K for the year ended December 31, 1998 (File No. 1-1217) as Exhibit 10.19.)

- 10.2.12.2 Amendment No. 1 to The Consolidated Edison Company of New York, Inc. Deferred Income Plan, effective as of September 1, 2000. (Designated in Con Edison of New York's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2001 (File No. 1-1217) as Exhibit 10.2.2.)

- 12.2 Statement of computation of Con Edison of New York's ratio of earnings to fixed charges for the years 1999 - 2003.

- 23.2 Consent of PricewaterhouseCoopers LLP.

- 24.2 Powers of Attorney of each of the persons signing this report by attorney-in-fact. (Included as part of Exhibit 24.1.)

- 31.2.1 Rule 13a-14(a)/15d-14(a) Certifications—Chief Executive Officer.

31.2.2 Rule 13a-14(a)/15d-14(a) Certifications—Chief Financial Officer.

32.2.1 Section 1350 Certifications—Chief Executive Officer.

32.2.2 Section 1350 Certifications—Chief Financial Officer.

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O&R

3.3.1.1 Restated Certificate of Incorporation of O&R, dated May 7, 1996. (Designated in O&R's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 1996 (File No. 1-4315) as Exhibit 3.4.)

3.3.1.2 Certificate of Amendment of the Restated Certificate of Incorporation of O&R, dated July 14, 1999. (Designated in O&R's Quarterly Report on Form 10-Q for the period ended June 30, 1999 (File No. 1-4315) as Exhibit 3.1.)

3.3.2 By-laws of O&R, as Adopted on July 8, 1999. (Designated in O&R's Quarterly Report on Form 10-Q for the period ended June 30, 1999 (File No. 1-4315) as Exhibit 3.2.)

4.3.1.1 Indenture, dated as of June 15, 2000, between O&R and JPMorgan Chase Bank (formerly known as The Chase Manhattan Bank), as Trustee. (Designated in O&R's Annual Report on Form 10-K for the year ended December 31, 2002 (File No. 1-4315) as Exhibit 4.3.1.1.)

4.3.1.2 The form of O&R's 7.50% Debentures, Series 2000 A. (Designated in O&R's Current Report on Form 8-K, dated June 13, 2000 (File No. 1-4315) as Exhibit 4.)

4.3.2 Mortgage Trust Indenture of Rockland Electric Company, dated as of July 1, 1954. (Designated in O&R's Registration Statement No. 2-14159 as Exhibit 2.16.)

4.3.3 Mortgage Trust Indenture of Pike County Light & Power Company, dated as of July 15, 1971. (Designated in O&R's Registration Statement No. 2-45632 as Exhibit 4.31.)

10.3 Annual Team Incentive Plan (ATIP) Policy.

12.3 Statement of computation of O&R's ratio of earnings to fixed charges for the years ended 1999 - 2003.

21.3 Subsidiaries of O&R. (Included as part of Exhibit 21.1 hereto.)

23.3 Consent of PricewaterhouseCoopers LLP.

24.3 Powers of Attorney of each of the persons signing this report by attorney-in-fact. (Included as part of Exhibit 24.1 hereto.)

31.3.1 Rule 13a-14(a)/15d-14(a) Certifications—Chief Executive Officer.

31.3.2 Rule 13a-14(a)/15d-14(a) Certifications—Chief Financial Officer.

32.3.1 Section 1350 Certifications—Chief Executive Officer.

32.3.2 Section 1350 Certifications—Chief Financial Officer.

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(b) Reports on Form 8-K

The Companies filed combined Current Reports of Form 8-K, dated October 16, 2003, reporting (under Item 5) third quarter financial results and furnishing (under Item 12) a copy of Con Edison's press release, dated October 16, 2003, with respect to, among other things, its third quarter earnings. Con Edison and Con Edison of New York filed a Current Report on Form 8-K dated November 21, 2003, reporting (under Item 5) the Con Edison of New York filing with the PSC to increase charges for gas and steam service discussed under "Regulatory Matters" in Item 7 of this report. In addition, Con Edison and Con Edison of New York filed a Current Report on Form 8-K, dated December 2, 2003, reporting (under Item 5) the settlement discussed under "Nuclear Generation" in Item 3 of this report.

The Companies filed combined Current Reports of Form 8-K, dated January 22, 2004, reporting (under Item 5) 2003 financial results and furnishing (under Item 12) a copy of Con Edison's press release, dated January 22, 2004, with respect to, among other things, its 2003 earnings.

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Signatures

Pursuant to the requirements of Section 13 or 15(d) of the Securities and Exchange Act of 1934, each Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on February 24, 2004.

Consolidated Edison, Inc.

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PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

ITEM 11. EXECUTIVE COMPENSATION

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K

Signatures

Amendment No. 2

To

THE CONSOLIDATED EDISON, INC.

STOCK PURCHASE PLAN

Effective April 1, 2004

CONSOLIDATED EDISON, INC.

Pursuant to the resolution adopted by the Board of Directors of Consolidated Edison, Inc., at a meeting duly held on January 15, 2004, the undersigned hereby approves the amendments set forth below to the Consolidated Edison, Inc., Stock Purchase Plan effective April 1, 2004:

1. Article 1. Definitions, is amended as follows:

Paragraph (a) is amended by changing "Article 11" in line 3 to read "Article 12."

Paragraph (1) is amended, by changing "3(a), 3(b), 5(a), 5(b) and 5(d)" in line 2 to read "4(a), 4(b), 6(a), 6(b) and 6(d)" and by changing "3(c)" in line 4 to read "4(c)."

Subparagraph (a) of paragraph (r) is amended by renaming it "(i)" and by changing "Article 5" in line 4 to read "Article 6."

Subparagraph (b) of paragraph (r) is amended by renaming it "(ii)" and by changing "Article 5" in line 9 to read "Article 6."

A new paragraph (s) is added to read as follows:

"**Shareholders' Approval Date**" means the date of the Company's 2004 Annual Meeting of Shareholders at which a majority of the Shares voting on the Plan approve it.

2. Articles 2 through 11 are renumbered Articles 3 through 12. A new Article 2 is added to read as follows:

Article 2. Shares Subject to Plan and Duration.

The Plan terminates on the tenth anniversary of the Shareholders' Approval Date, unless sooner terminated by the Board of Directors. The Employee's rights upon termination shall be as set forth in Article 11 (a).

3. Article 3. Maximum Employee Investment is amended as follows:

Paragraph (a) is amended by changing "Article 6(e)" in line 1 to read "Article 7(e)," by adding the words: ", other than an Employee who is a member of the Board of Directors, Board of Trustees or board of directors of a Participating Employer and who is not otherwise an Employee," after "Employee" in line 2; by deleting the words

"and provided further than an Employee who is a member of the Board of Directors or Board of Trustees or board of directors of a Participating Employer and who is not otherwise an Employee may invest up to \$1,000 in each Purchase Period;" in lines 6-9 and by changing "Article 3(c)" to read "Article 4(c)" in line 10.

Paragraph (b) is amended by changing "Article 2" to read "Article 3" in line 2 and line 11 and by changing "Article 6(e)" to read "Article 7(e)" in line 14.

4. Article 4. Means of Payment of Employee Contributions is amended as follows:

Line 1 is amended by changing "Article 2" to read "Article 3."

Paragraph (a) is amended by inserting after "Employee" in line 3 " , other than an Employee who is a member of the Board of Directors, Board of Trustees or board of directors of a Participating Employer and who is not otherwise an Employee;," by changing "Articles 2(b), 6(e) or 7(b)" in line 13 to read "Articles 3(b), 7(e) or 8(b)" and by changing "Article 5(c)" in line 30 to read "Article 6(c)."

Paragraph (b) is amended by adding after the words "The aggregate amount so delivered by an Employee" in the last sentence the words " , except for an Employee who is a member of the Board of Directors, Board of Trustees or board of directors of a Participating Employer who is not otherwise an Employee;".

Paragraph (d) is amended by changing "Articles 3(a), (b) and (c)" in line 2 to read "Articles 4(a), (b) and (c);" by adding a comma and deleting "or" after "Company" in line 3.

5. Article 5. Employer Contributions is amended as follows:

“(a)” is added at the beginning of the first paragraph and “(b)” is added at the beginning of the second paragraph.

6. Article 6. Purchase of Shares is amended as follows:

Paragraph (b) is amended by changing “Article 5(c)” in line 5 to read “Article 6(c).”

Paragraph (c) is amended by adding “(i)” before the subparagraph that begins with the words “If the Shares are newly issued” and adding “(ii)” before the subparagraph that begins with the words “If the Shares are purchased other than for the Company.”

Paragraph (d) is amended by changing “Article 5(a) and (b)” to read “Article 6(a) and (b)” in line 1 and line 4, by adding “or CEI” after the words “return any Investment Funds held by the Agent” in line 2, by changing “Article 3” to read “Article 4,” in line 8 and by changing “Article 4” to read “Article 5” in line 9.

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Paragraph (e) is amended by changing “Article 5(a), 5(b) and 5(c)” in line 6 to read “Articles 6(a), (b) and (c).”

7. Article 7. Custody of Shares; Distribution from Accounts is amended as follows:

Paragraph (a) is amended by changing “Article 5(b)” in line 9 to read “Article 6(b)” and changing “Article 6(b)” in line 12 to read “Article 7(b).”

Paragraph (d) is amended by changing “Article 6” in line 1 to read “Article 7”.

Paragraph (e) is amended by changing “Article 11(c)” in line 1 to read “Article 12(c)” and by changing “Article 6(b)” in line 3 and line 9 to read “Article 7(b).”

Subparagraph (i) of paragraph (e) is amended by changing “Article 3(a)” in line 2 to read “Article 4(a),” changing “Article 3(c)” in line 3 to read “Article 4(c),” changing “Article 5(d)” in line 5 to read “Article 6(d),” and by changing “Article 3(b)” in line 6 to read “Article 4(b).”

Subparagraph (ii) of paragraph (e) is amended by changing “Article 6(b), 7(a) or 11(c)” in line 2 to read “Articles 7(b), 8(a) or (12(c)).”

Subparagraph (iii) of paragraph (e) is amended by changing “Article 6(a)” in line 2 to read “Article 7(a),” by changing “Article 6(b)” in line 4 to read “Article 7(b),” and by changing “Article 6(e)” in line 9 to read “Article 7(e).”

8. Article 8. Termination of Status as Employees; Leave of Absence is amended as follow:

Paragraph (a) is amended by changing “Article 6(b)” in line 6 to read “Article 7(b),” and by changing “Article 5(d)” in line 16 to read “Article 6(d).”

Paragraph (b) is amended by changing “Article 6(e)” in line 5 to read “Article 7(e).”

9. Article 9. Stock Dividends and Stock Splits; Rights Offerings; Other Non-Cash in Distribution is amended as follows:

Paragraph (b) is amended by changing “Article 8(b)” in line 4 to read “Article 9(b).”

Paragraph (c) is amended by changing “Articles 8(a) or 8(b)” in line 2 to read “Articles 9(a) or (b).”

10. Article 11. Termination and Modification; Responsibility of Company and Plan Director is amended as follows:

Paragraph (a) is amended by changing “Article 7(a)” in line 13 to read “Article 8(a).”

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11. Article 12. Administration, Operation and General Provisions is amended as follows:

Paragraph (c) is amended by changing “Article 4” in line 6 to read “Article 5” and changing “Article 3(a)” in line 7 to read “Article 4(a).”

Subparagraph (i) of paragraph (d) is amended by changing “Article 6(b)” in line 8 to read “Article 7(b).”

12. APPENDIX A – EMPLOYEE CONTRIBUTIONS is amended as follows:

Paragraph (b) is amended by changing “Article 3(a)” in line 3 to read “Article 4(a).”

Paragraph (c) is amended by changing “Article 3(b)” in line 2 to read “Article 4(b).”

Paragraph (d) is amended by changing “Article 3(c)” in line 6 to read “Article 4(c).”

Paragraph (e) is amended by changing “Article 5” in line 4 to read “Article 6.”

IN WITNESS WHEREOF, the undersigned has executed this instrument this 19th day of February 2004.

/s/

Claude Trahan
Vice President - Human Resources
Consolidated Edison Company of
New York, Inc.

CONSOLIDATED EDISON INC.

ANNUAL INCENTIVE PLAN

Effective as of January 1, 2003

CONSOLIDATED EDISON INC.

ANNUAL INCENTIVE PLAN

PURPOSE

The purpose of the Plan is to provide executives of the Company or any of its Non-utility Subsidiaries designated by the Company's Board of Directors as eligible to participate in the Plan with incentives to achieve goals which are important to shareholders and customers of the Company and the Non-utility Subsidiaries, to supplement their salary and benefit programs so as to provide overall compensation for such executives which is competitive with corporations with which the Company and the Non-utility Subsidiaries must compete for the best executive talent, and to assist the Company and the Non-utility Subsidiaries in attracting and retaining executives who are important to their continued success.

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ARTICLE I. DEFINITIONS

The following terms when capitalized herein shall have the meanings set forth below.

- 1.01 **Affiliated Company** shall mean any company other than the Company which is a member of a controlled group of corporations (as defined in Section 414(b) of the Code) which also includes as a member the Company; any trade or business under common control (as defined in Section 414(c) of the Code) with the Company; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Section 414(m) of the Code) which includes the Company; and any other entity required to be aggregated with the Company pursuant to regulations under Section 414(o) of the Code.
- 1.02 **Annual Incentive Award** shall have the meaning set forth in Section 4.02.
- 1.03 **Annual Salary** means the annual rate of salary of each Participant or such salary as in effect at the end of such year.
- (a) If such Participant's employment is terminated during the year, the annual salary rate of such Participant in effect at the time of such termination shall be deemed to be the annual salary rate of such Participant at the end of such year;
- (b) A Participant's annual rate of salary shall be determined without any deduction for pre-tax contributions or after-tax contributions made pursuant to the Consolidated Edison Thrift Savings Plan, the Con Edison Flexible Reimbursement Account Plan for Management Employees, the Con Edison OPTIONS Program for Management Employees, or Basic Salary or Supplemental Salary Contributions to the Deferred Income Plan.
- 1.04 **Award Date** shall mean with respect to any Annual Incentive Award the date the Board approves the Annual Incentive Award.
- 1.05 **Board or Board of Directors** shall mean the Board of Directors of the Company.
- 1.06 **Code** means the Internal Revenue Code of 1986, as amended from time to time.
- 1.07 **Company** shall mean Consolidated Edison, Inc. ("CEI"), its successors or assigns.
- 1.08 **Deferred Income Plan** shall mean the Consolidated Edison Company of New York, Inc. Deferred Income Plan, as amended from time to time.
- 1.09 **Deferral Portion** shall mean the portion of each Annual Incentive Award that is deferred pursuant to Article V.
-
- 1.10 **Incentive Percentage** shall have the meaning set forth in Section 4.01.
- 1.11 **Management Development and Compensation Committee** shall mean the Management Development and Compensation Committee of the Board or such other committee as may be appointed by the Board to determine whether the Participant is entitled to an Annual Incentive Award under the terms of this Plan.
- 1.12 **Non-utility Subsidiaries** shall mean Consolidated Edison Communications, Inc., Consolidated Edison Development, Inc., Consolidated Edison Energy, Inc., Consolidated Edison Competitive Shared Services, Inc., Consolidated Edison Solutions, Inc. and any additional Affiliated Companies that the Board determines to include in this Plan.
- 1.13 **Participant** shall mean any officer of the Company or its Non-utility subsidiaries who at any time has been designated by the Board as a participant in the Plan.
- 1.14 **Plan** shall mean the Consolidated Edison Inc. Annual Incentive Plan, as in effect from time to time.
- 1.15 **Plan Administrator** shall mean the individual appointed by the Company's Chief Executive Officer to administer the Plan as provided in Article III.
- 1.16 **Valuation Date** shall have the meaning set forth in Article VI.

ARTICLE II. ELIGIBILITY

The Board, in its discretion, from time to time, may designate and change the designation of the executives of the Company or any of the Non-utility Subsidiaries eligible to participate in the Plan. To be eligible to receive an award under the Plan for a particular year, an executive must: (a) have been employed by the Company or a Non-utility Subsidiary during any portion of such year and (b) be designated by the Board as eligible to participate in the Plan.

ARTICLE III. ADMINISTRATION

Except as otherwise provided in the Plan, all determinations, other than who is eligible to participate, in connection with the Plan shall be made by the Plan Administrator, whose decisions shall be final and conclusive upon all Participants and any persons asserting any claim derived from a Participant. The Plan Administrator shall make such determinations after receiving the recommendations of the Company's Chief Executive Officer (except as to matters relating to the participation of the Company's Chief Executive Officer in the Plan). The Plan Administrator shall abstain from any determination under the Plan in which he or she has a personal interest, in which case such determination shall be made by the Company's Chief Executive Officer. The Plan Administrator shall be responsible for the administration of the Plan under the direction of the Company's Chief Executive Officer.

ARTICLE IV. DETERMINATION OF AWARDS

4.01 Incentive Percentage

The Board shall determine a percentage of Annual Salary deemed to constitute an appropriate incentive for each Participant eligible to participate in the Plan. Each such percentage is herein called an "Incentive Percentage." The Board may from time to time, increase or decrease any Incentive Percentage for any Participant as the Board deems appropriate.

4.02 Annual Incentive Award

In January of any year, the Management Development and Compensation Committee of the Board, upon the recommendation of the Company's Chief Executive Officer, shall make, subject to confirmation by the Board, awards to individual Participants who are eligible to participate in the Plan for such year. Such awards are herein called "Annual Incentive Awards." The Annual Incentive Award shall be determined in the following manner:

- (a) Each Annual Incentive Award shall be determined in light of the contribution of the Participant to the overall performance of any of the Non-utility Subsidiaries and the Company, and the Participant's individual performance, taking into account such factors as the Committee and the Board deem relevant.
- (b) An Annual Incentive Award may range from zero to 150 percent of the Participant's Incentive Percentage.
- (c) The determination of the Committee, upon Board approval, as to the amount of the Annual Incentive Award to be awarded, shall be final and conclusive.

ARTICLE V. DEFERRAL OF AWARDS

All or any portion of each Annual Incentive Award may, at the Participant's election, be deferred ("Deferral Portion") into the Deferred Income Plan ("DIP") and shall be administered and accounted for under the DIP.

ARTICLE VI. VALUATION OF NON-DEFERRED AWARDS

The Valuation Date of any portion of an Annual Incentive Award that is not deferred pursuant to Article V shall be the Award Date, and the value on the Valuation Date shall be equal to the amount of such portion.

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ARTICLE VII. PAYMENT OF AWARDS

7.01 Time of Payment

Any portion of an Annual Incentive Award for which a deferral election under Article V has not been made shall become payable as soon as administratively practicable after its respective Valuation Date.

7.02 Amount of Payment

Any portion of an Annual Incentive Award for which a deferral election under Article V has not been made shall be paid at its value on the Valuation Date, as determined pursuant to Article VI.

7.03 Manner of Payment

Any portion of an Annual Incentive Award for which a deferral election under Article V has not been made shall be paid to the Participant in a single lump sum.

7.04 Posthumous Payments

Subject to Section 9.05, if a Participant shall die before all payments to be made to the Participant under this Plan have been made, the remaining payment or payments shall be made to the Participant's estate or personal representative in a single lump sum, with such posthumous payment to be made as soon as administratively practicable after the Participant's death.

ARTICLE VIII. DEFERRAL ELECTIONS

8.01 Manner

The deferral elections permitted to Participants by Article V shall be made by a writing signed by the Participant and delivered to the Plan Administrator. A separate deferral election may be made with respect to each Annual Incentive Award. A deferral election made for any Annual Incentive Award shall be irrevocable with respect to that Annual Incentive Award and shall govern all subsequent Annual Incentive Awards, until a new deferral election is timely made as to subsequent Annual Incentive Awards.

4

8.02 Timing

Consolidated Edison, Inc.

Ratio of Earnings to Fixed Charges

(Millions of Dollars)

| | For the Twelve Months Ended December 31, | | | | |
|---|--|-----------------|-----------------|-----------------|-----------------|
| | 2003 | 2002 | 2001 | 2000 | 1999 |
| Earnings | | | | | |
| Net Income for Common Stock | \$ 528 | \$ 646 | \$ 682 | \$ 583 | \$ 701 |
| Preferred Stock Dividend | 11 | 13 | 14 | 14 | 13 |
| Cumulative Effect of Changes in Accounting Principles (Income) or Loss from Equity Investees | (3) | 22 | — | — | — |
| Minority Interest Loss | 2 | 2 | 2 | 1 | — |
| Income Tax | 315 | 376 | 442 | 307 | 373 |
| Pre-Tax Income from Continuing Operations | \$ 853 | \$ 1,059 | \$ 1,140 | \$ 904 | \$ 1,088 |
| Add: Fixed Charges* | 491 | 493 | 480 | 452 | 378 |
| Add: Distributed Income of Equity Investees | — | — | — | 1 | 1 |
| Subtract: Interest Capitalized | 5 | 14 | — | — | — |
| Subtract: Preferred Stock Dividend Requirement | 17 | 19 | 22 | 21 | 21 |
| Earnings | \$ 1,322 | \$ 1,519 | \$ 1,598 | \$ 1,336 | \$ 1,446 |
| * Fixed Charges | | | | | |
| Interest on Long-term Debt | \$ 388 | \$ 373 | \$ 384 | \$ 351 | \$ 306 |
| Amortization of Debt Discount, Premium and Expense | 13 | 12 | 13 | 12 | 13 |
| Interest Capitalized | 5 | 14 | — | — | — |
| Other Interest | 45 | 61 | 42 | 50 | 20 |
| Interest Component of Rentals | 22 | 14 | 19 | 18 | 18 |
| Preferred Stock Dividend Requirement | 18 | 19 | 22 | 21 | 21 |
| Fixed Charges | \$ 491 | \$ 493 | \$ 480 | \$ 452 | \$ 378 |
| Ratio of Earnings to Fixed Charges | 2.7 | 3.1 | 3.3 | 3.0 | 3.8 |

CONSOLIDATED EDISON, INC.**SUBSIDIARIES**

1. Consolidated Edison Company of New York, Inc. (“Con Edison of New York”), a New York corporation, all of the common stock of which is owned by Consolidated Edison, Inc. (“Con Edison”).

2. Orange and Rockland Utilities, Inc. (“O&R”), a New York corporation, wholly-owned by Con Edison, and O&R’s subsidiaries: Rockland Electric Company, a New Jersey corporation, and Pike County Light & Power Company, a Pennsylvania corporation, each of which is wholly-owned by O&R.

Neither Con Edison, Con Edison of New York nor O&R have any significant subsidiaries other than as indicated above. Pursuant to Item 601(b) (21) of Regulation S-K, the names of subsidiaries, which considered in the aggregate as a single subsidiary, would not constitute a “significant subsidiary” (as defined under Rule 1-02(w) of Regulation S-X) as of December 31, 2002 have been omitted.

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in: (i) the Registration Statement on Form S-3 (No. 333-84156) relating to the Con Edison Automatic Dividend Reinvestment and Cash Payment Plan; (ii) the Registration Statement on Form S-8 (No. 333-04463-99) relating to the Con Edison 1996 Stock Option Plan; (iii) the Registration Statement on Form S-8 (No. 333-86820) relating to The Consolidated Edison Stock Purchase Plan; (iv) the Registration Statement on Form S-8 (No. 333-108903) relating to The Consolidated Edison, Inc. Long Term Incentive Plan and Senior Executive Restricted Stock Awards and (v) the Registration Statements on Form S-3 (No. 333-102005) relating to debt and equity securities of Con Edison of our report dated February 19, 2004 relating to the financial statements and financial statement schedules of Consolidated Edison, Inc. which appears in this Annual Report on Form 10-K.

PricewaterhouseCoopers LLP
New York, NY
February 24, 2004

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 24th day of February 2004.

/s/ Eugene R. McGrath
Eugene R. McGrath

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 24th day of February 2004.

/s/ Joan S. Freilich
Joan S. Freilich

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same

with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 24th day of February 2004.

/s/ Edward J. Rasmussen
Edward J. Rasmussen

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 24th day of February 2004.

/s/ John D. McMahon
John D. McMahon

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 24th day of February 2004.

/s/ Louis M. Bevilacqua
Louis M. Bevilacqua

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as

amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 20th day of February 2004.

/s/ Vincent A. Calarco

Vincent A. Calarco

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 19th day of February 2004.

/s/ George Campbell Jr.

George Campbell Jr.

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 17th day of February 2004.

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 18th day of February 2004.

/s/ Michael J. Del Guidice
Michael J. Del Guidice

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 19th day of February 2004.

/s/ Ellen V. Futter
Ellen V. Futter

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 24th day of February 2004.

/s/ Sally Hernandez-Pinero
Sally Hernandez-Pinero

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 18th day of February 2004.

/s/ Peter W. Likins
Peter W. Likins

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 24th day of February 2004.

/s/ Frederic V. Salerno
Frederic V. Salerno

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 15th day of February 2004.

/s/ Richard A. Voell
Richard A. Voell

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 19th day of February 2004.

/s/ Stephen R. Volk
Stephen R. Volk

POWER OF ATTORNEY

WHEREAS Consolidated Edison, inc. ("Con Edison"), Consolidated Edison Company of New York, Inc. ("Con Edison of New York") and Orange and Rockland Utilities, Inc. ("O&R") each intends to file with the Securities and Exchange Commission, under the Securities Exchange Act of 1934, as amended (the "Act"), its Annual Report on Form 10-K for the fiscal year ended December 31, 2003 (the "Form 10-K") with any and all exhibits and other documents having relation thereto, as prescribed by the Securities and Exchange Commission pursuant to the Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that the undersigned, in his or her capacity as a director and/or officer, as the case may be, of one or more of Con Edison, Con Edison of New York and O&R, as the case may be, does hereby constitute and appoint Joan S. Freilich, Edward J. Rasmussen and Peter A. Irwin, and each of them severally, his or her true and lawful attorneys-in-fact, with power to act with or without the others and with full power of substitution and resubstitution, to execute in his or her name, place and stead, the Form 10-K for the company or companies as to which the undersigned serves in such capacity, and any and all amendments thereto, and all instruments necessary or incidental in connection therewith, and to file or cause to be filed the same with the Securities and Exchange Commission. Each of said attorneys shall have full power and authority to do and perform, in the name and on behalf of the undersigned, in any and all capacities, every act whatsoever necessary or desirable to be done in the premises, as fully to all intents and purposes as the

undersigned might or could do in person, the undersigned hereby ratifying and confirming all that said attorneys-in-fact or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 18th day of February 2004.

/s/ George Strayton
George Strayton

CERTIFICATIONS

CON EDISON - Principal Executive Officer

I, Eugene R. McGrath, the principal executive officer of Consolidated Edison, Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2003 of Consolidated Edison, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) [Paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986.]
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2004

/s/ Eugene R. McGrath
Eugene R. McGrath
Chairman, President and Chief
Executive Officer

CERTIFICATIONS

CON EDISON - Principal Financial Officer

I, Joan S. Freilich, the principal financial officer of Consolidated Edison, Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2003 of Consolidated Edison, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) [Paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986.]
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2004

/s/ Joan S. Freilich

Joan S. Freilich
Executive Vice President and Chief
Financial Officer

Certification Required Under Section 906 of the Sarbanes-Oxley Act of 2002

I, Eugene R. McGrath, the Chief Executive Officer of Consolidated Edison, Inc. (the "Company") certify that the Company's Annual Report on Form 10-K for the year ended December 31, 2003, which this statement accompanies, (the "Form 10-K") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Eugene R. McGrath
Eugene R. McGrath

Dated: February 24, 2004

Certification Required Under Section 906 of the Sarbanes-Oxley Act of 2002

I, Joan S. Freilich, the Chief Financial Officer of Consolidated Edison, Inc. (the "Company") certify that the Company's Annual Report on Form 10-K for the year ended December 31, 2003, which this statement accompanies, (the "Form 10-K") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Joan S. Freilich

Joan S. Freilich

Dated: February 24, 2004

NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY

and

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

PARTICIPATION AGREEMENT

Dated as of January 1, 2004

relating to
\$98,325,000 Facilities Revenue Bonds, Series 2004A
(Consolidated Edison Company of New York, Inc. Project)

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ACKNOWLEDGMENTS

This PARTICIPATION AGREEMENT, dated as of January 1, 2004, between NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, a body corporate and politic, constituting a public benefit corporation, established and existing under and by virtue of the laws of the State of New York (the "Authority") and CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a corporation duly organized and existing and qualified to do business as a public utility under the laws of the State of New York (the "Company"),

WITNESSETH:

WHEREAS, pursuant to a special act of the Legislature of the State of New York (Title 9 of Article 8 of the Public Authorities Law of New York, as from time to time amended and supplemented, herein called the "Act"), the Authority has been established, as a body corporate and politic, constituting a public benefit corporation; and

WHEREAS, pursuant to the Act, the Authority is empowered to contract with any power company to participate in the construction of facilities for the furnishing of electric energy and the furnishing of gas to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics; and

WHEREAS, pursuant to the Act, the Authority is also authorized to extend credit and make loans from bond proceeds to any person for the construction, acquisition, installation, reconstruction, improvement, maintenance, equipping, furnishing or leasing of any special energy project (as defined in the Act) including, but not limited to, facilities for the distribution of steam or for the reimbursement to any person for costs incurred in connection with a special energy project completed or not completed at the time of such credit or loan, which credits or loans may, but need not, be secured by mortgages, contracts, leases or other instruments, upon such terms and conditions as the Authority shall determine reasonable in connection with such credits or loans; and

WHEREAS, the Authority is also authorized under the Act to borrow money and issue its negotiable bonds and notes to provide sufficient monies for achieving its corporate purposes, including the refunding of its outstanding obligations; and

WHEREAS, the Authority is also authorized under the Act to enter into any contracts and to execute all instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes; and

WHEREAS, the Company is a public utility corporation doing business in the State of New York and provides electric energy and gas service in The City of New York and the County of Westchester, New York and provides steam service in the Borough of Manhattan; and

WHEREAS, the Company has requested that the Authority issue bonds for the purpose of refunding the Authority's 6% Facilities Revenue Bonds, Series 1993 A (Consolidated Edison Company of New York, Inc. Project), in the aggregate principal amount of \$101,000,000 (the "Prior Bonds") issued to finance the acquisition, construction and installation of certain facilities for the furnishing of gas within the Company's gas service area; and

WHEREAS, the Authority proposes to issue a series of such bonds in the aggregate principal amount of \$98,325,000 Facilities Revenue Bonds, Series 2004A (Consolidated Edison Company of New York, Inc. Project) (the "Bonds"), which will be used, together with Company funds, to refund the Prior Bonds, such Bonds to be issued under and secured by a Trust Indenture dated as of January 1, 2004, between the Authority and The Bank of New York, as Trustee (the "Indenture"); and

WHEREAS, the Authority, by Resolution No. 1024, adopted January 13, 2003, has determined to issue the Bonds, in an aggregate principal amount not to exceed \$101,000,000, for the purpose of refunding the Prior Bonds, all such Bonds to be issued under and secured by the Indenture;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, it is hereby agreed by and between the parties as follows:

ARTICLE I

DEFINITIONS; EFFECTIVE DATE AND DURATION
OF PARTICIPATION AGREEMENT

Section 1.01. Definitions. The terms used in this Participation Agreement which are defined in the Indenture shall have the meanings, respectively, herein which such terms are given in the Indenture.

Section 1.02. Effective Date of Participation Agreement; Duration of Participation Agreement. This Participation Agreement shall become effective upon its execution and delivery, and shall continue in full force and effect until the principal of and premium, if any, and interest on the Note

ARTICLE II

REPRESENTATIONS

Section 2.01. Representations and Warranties by the Authority. The Authority represents and warrants as follows:

- (a) The Authority is a body corporate and politic, constituting a public benefit corporation, established and existing under the laws of the State of New York;
- (b) The Authority has full power and authority to execute and deliver the Bonds, this Participation Agreement, the Tax Regulatory Agreement, the Indenture, the Bond Purchase Trust Agreement and to consummate the transactions contemplated hereby and thereby and perform its obligations hereunder and thereunder;
- (c) The Authority is not in violation of or in default under any of the provisions of the laws or the Constitution of the State of New York which would affect its existence or its powers referred to in the preceding paragraph (b);
- (d) The Authority has determined that its participation in the Project and the refunding of the Prior Bonds, as contemplated by this Participation Agreement, is in the public interest;
- (e) The Authority has duly authorized the execution and delivery of this Participation Agreement, the Indenture, the Tax Regulatory Agreement and the Bond Purchase Trust Agreement and the execution and delivery of the other documents incidental to this transaction and all necessary authorizations therefor or in connection with the performance by the Authority of its obligations hereunder or thereunder have been obtained and are in full force and effect; and
- (f) The execution and delivery by the Authority of the Bonds, this Participation Agreement, the Tax Regulatory Agreement, the Indenture, the Bond Purchase Trust Agreement and the other documents incidental to this transaction and the consummation of the transactions herein or therein contemplated will not violate or cause a default under any indenture, mortgage, loan agreement or other contract or instrument to which the Authority is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to the Authority.

Section 2.02. Representations and Warranties by the Company. The Company represents and warrants as follows:

- (a) The Company is a corporation duly incorporated and in good standing under the laws of the State of New York, is duly qualified and authorized to transact business as a public utility in the State of New York and is not in violation of any provision of its Certificate of Incorporation or its By-Laws, has power to enter into, execute and deliver this Participation Agreement, the Tax Regulatory Agreement and the

Note and by proper corporate action has duly authorized the execution and delivery of this Participation Agreement, the Tax Regulatory Agreement and the Note;

- (b) The execution and delivery by the Company of this Participation Agreement, the Tax Regulatory Agreement and the Note and the consummation of the transactions herein and therein contemplated will not conflict with or constitute a breach of or a default under the Company's Certificate of Incorporation or By-Laws or a default in any material respect under any indenture, mortgage, loan agreement or other contract or instrument to which the Company is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to the Company;
- (c) This Participation Agreement, the Tax Regulatory Agreement and the Note have been duly executed and delivered by the Company and constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other laws relating to or affecting the enforcement of creditors' rights or contractual obligations generally or principles of equity or judicial discretion;
- (d) The execution and delivery by the Company of this Participation Agreement and the Note in the manner and for the purposes herein set forth have been duly authorized by order of the Public Service Commission of the State of New York; and
- (e) No additional authorizations for or approvals of the execution and delivery by the Company of this Participation Agreement, the Tax Regulatory Agreement and the Note need be obtained by the Company or if any such authorization or approval is necessary it has been obtained.

ARTICLE III

THE PROJECT; ISSUANCE OF BONDS

Section 3.01. The Project. Construction of the Project is complete. The Project is the property of the Company. In order to effectuate the purposes of this Participation Agreement, the Company, in its own name, will do or cause to be done all things requisite or proper for the fulfillment of the

obligations of the Company under this Participation Agreement.

Section 3.02. Sale of Bonds and Deposit of Proceeds. In order to provide funds for the refunding of the Prior Bonds, the Authority, on the date specified in the Bond Purchase Agreement or as soon thereafter as practicable, and concurrently with the issuance and delivery to the Trustee of the Note as provided in Section 4.01 hereof, will issue, sell and deliver the Bonds, all pursuant to and as provided in the Bond Purchase Agreement and subject to the conditions set forth in Section 2.06 of the Indenture, and will deposit the proceeds of such sale including the accrued interest, if any, paid by the initial purchasers of the Bonds in the Project Fund.

Section 3.03. Disbursements from Project Fund. 1. The Authority has in the Indenture authorized and directed the Trustee to make payments from the Project Fund in accordance with Section 8.01 of the Indenture, to pay the redemption price of the Prior Bonds and costs related thereto upon receipt from time to time of letters signed by an Authorized Company Representative in accordance with Section 8.01 of the Indenture. Concurrently with the delivery by the Company of each such letter to the Trustee, the Company will deliver to the Authority a copy thereof and any attachments thereto. The Company will indemnify and save harmless the Authority and the Trustee from any liability incurred in connection with any letter so delivered and any payments made in reliance thereon.

2. All monies remaining in the Project Fund after the redemption of the Prior Bonds and payment of all costs related thereto shall, at the written direction of an Authorized Company Representative, be paid to the Company.

Section 3.04. Adequacy of Project Fund. The Company acknowledges that the monies in the Project Fund are not sufficient to pay the redemption price of the Prior Bonds and costs related thereto in full. The Company shall pay that portion of the redemption price of the Prior Bonds and costs related thereto in excess of the monies available therefor in the Project Fund with its own funds.

Section 3.05. Ownership and Possession of the Project. Issuance of the Bonds will not vest in the owners thereof, the Trustee, the Authority or any other person, ownership, or the right to possession, of the Project. The Company is entitled to sole and exclusive ownership and possession of the Project.

Section 3.06. Operation, Maintenance and Repair. The Company agrees to proceed in good faith to maintain the availability of the Project for use as an authorized project under the Act. Notwithstanding the foregoing, the Authority and the Company recognize that the Project will constitute integrated portions of gas distribution facilities of the Company and that it

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is not feasible to administer the Project separately from such facilities. The Company shall operate the Project (with such changes, improvements or additions as the Company may deem desirable) as part of such facilities for the joint useful lives of the Project and such facilities and shall maintain and repair the Project in conformity with the Company's normal maintenance and repair programs for such facilities; provided that the Company shall have no obligation to operate, maintain or repair any element or item of the Project the operation, maintenance or repair of which becomes uneconomic to the Company because of damage or destruction or obsolescence (including physical, functional and economic obsolescence), or change in government standards and regulations, or the termination by the Company of the operation of the facilities to which the element or item of the Project is an adjunct.

Section 3.07. Investment of Monies in Funds Under the Indenture. Any monies held as a part of any fund created under the Indenture shall, at the direction of an Authorized Company Representative, be invested or reinvested by the Trustee as provided in Article IX of the Indenture.

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ARTICLE IV

NOTE AND PAYMENTS

Section 4.01. Execution and Delivery of Note to Trustee. Concurrently with the authentication by the Trustee and delivery by the Authority of the Bonds and in order to evidence the obligation of the Company to the Authority to repay the Bonds, the Authority hereby directs the Company, and the Company hereby agrees, to execute and deliver to the Trustee its Note, duly and validly executed and delivered, relating to the Bonds. The Note shall be in substantially the form attached hereto as Exhibit C with only such changes to such form as may be approved by the Authority. Thereafter, the Company shall be obligated to make the Note Payments, constituting payments of principal of, and premium, if any, and interest on the Note, and the Additional Payments required by this Participation Agreement. Such obligations shall terminate on the date when the Note has been paid in full. The Note may be prepaid in accordance with Section 4.04 hereof. Upon payment or provision for payment in full of all amounts payable or to become payable under the Note, the Trustee shall cancel the Note and deliver the same to the Company. Provision for payment in full of all amounts payable or to become payable under the Note shall be deemed to have occurred upon receipt by the Trustee of written notice from the Authority acknowledging that the Company has satisfied its obligations to the Authority under the Note. The Authority agrees to deliver such written notice to the Trustee and the Bond Insurer promptly when such provision for payment in full has been made.

Section 4.02. Payments Payable; Note Payments; Additional Payments. (a) The Company covenants and agrees to pay the Payments as and when the same are due and payable in accordance with the Note and this Section 4.02. The Company shall provide the Trustee with a written allocation of amounts paid under this Section 4.02 among the various purposes set forth in this Section 4.02.

(b) The Note Payments shall be in an aggregate amount sufficient for, together with other amounts held by the Trustee and available under the Indenture for application to, the payment in full of the Bonds consisting of (i) the total interest becoming due and payable on the Bonds to the date of payment thereof, and (ii) the total principal amount plus premium, if any, of the Bonds.

(c) The Company shall make Note Payments as set forth in Section 4.02(b) at or prior to the time the corresponding payment is due on the Bonds. Each installment of Note Payments paid by the Company shall be increased as may be necessary to make up any previous deficiency of any of the required payments and to make up any deficiency in the Bond Fund.

(d) In addition, the Company shall pay to the Registrar and Paying Agent for deposit in the Bond Purchase Fund and credit to the Company Account therein an amount sufficient to provide for the payment of the Purchase Price (as defined in the Bond Purchase Trust Agreement) of any Bond tendered for purchase pursuant to the Bond Purchase Trust Agreement to the extent that sufficient moneys are not available for the payment of such Purchase Price from the other sources described therein.

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(e) The Company covenants that it shall deposit, or cause to be deposited with the Trustee, sufficient funds to assure that no default shall occur in the payment of the principal of or premium, if any, or the interest on, or the Purchase Price of, the Bonds as and when due, and that no unreasonable delay shall occur in the payment of the costs and expenses payable from Additional Payments.

(f) The Company further covenants and agrees to pay, when due and payable, as Additional Payments, certain additional amounts and costs and expenses. Each installment of Additional Payments, if any, shall be equal to the sum of the amounts set forth in clauses (i) to (iv), inclusive, below, and shall be paid directly to the persons entitled to such payments. "Additional Payments" is hereby defined to be the aggregate of the installments of the following:

(i) the reasonable fees and expenses payable to the Trustee, any Indexing Agent, the Registrar and Paying Agent, any issuer of a Support Facility and any Remarketing Agent under any Remarketing Agreement (and in the case of Auction Rate Bonds, the Auction Agent under the Auction Agency Agreement, any Broker-Dealers under the respective Broker-Dealer Agreements), and of any counsel or agents of any of the foregoing;

(ii) all costs incurred in connection with the transfer, exchange, purchase or redemption of Bonds not otherwise paid by the holders thereof, including all charges of the Authority (and in the case of Auction Rate Bonds, the Auction Agent, any Broker-Dealer and any Remarketing Agent), the Registrar and Paying Agent and the Trustee with respect thereto, to the extent monies are not otherwise available therefor;

(iii) the reasonable fees and other costs incurred for services of such attorneys and accountants as are employed to make examinations, provide services, render opinions and prepare reports required under this Participation Agreement, the Tax Regulatory Agreement, the Bond Purchase Trust Agreement, and the Indenture; and

(iv) initial administration fees of the Authority in the amount of \$245,812.50 on the date of authentication and delivery of the Bonds to the initial purchasers thereof, an annual fee equal to \$130 per million dollar principal amount of the Bonds on January 1, 2005 and on January 1 of each year thereafter, based upon the amount of Bonds Outstanding as of such January 1 and for purposes of the calculation of such fee, rounding up to the nearest whole million dollars, and all reasonable expenses, disbursements, advances, taxes, assessments or impositions, not otherwise paid under this Participation Agreement or the Indenture, incurred by or imposed upon the Authority in connection with its administration and enforcement of, and compliance with, this Participation Agreement, the Auction Agency Agreement, the Bond Purchase Trust Agreement, any Remarketing Agreement and the Indenture, which amounts the Company is obligated to pay, including, but not limited to, reasonable attorneys' fees. In addition, the Company shall deliver to the Authority a check payable to the State

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of New York with respect to a bond issuance charge applicable to the Bonds pursuant to Section 2976 of the Public Authorities Law of the State of New York in the amount specified by such section on the date of authentication and delivery of the Bonds.

(g) In the event that the Company shall fail to make any Payment as required by Sections 4.02(a) - (e) hereof, the Payment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid, and the Company agrees to pay the same with interest thereon, which interest shall also constitute an obligation of the Company at the maximum rate of interest payable on the Bonds pursuant to the Indenture, to the extent permitted by law, from the date of default until paid; provided, that the Company agrees in the event the Company shall fail to make any Payment during an Auction Rate Period, the Payment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid, and the Company agrees to pay the same with interest thereon, which interest shall also constitute an obligation of the Company at the Overdue Rate, to the extent permitted by law, from the date of default until paid. Nothing in this Section 4.02 shall require the Company to pay costs and expenses mentioned in clause (f)(iii) above so long as the validity or the reasonableness thereof shall be contested in good faith unless the Trustee shall receive an opinion of independent counsel that such contest jeopardizes the respective interests of the Authority and the Trustee in this Participation Agreement, the Auction Agency Agreement, the Bond Purchase Trust Agreement, the Indenture or any Remarketing Agreement, in which event the Company shall pay such costs and expenses (without prejudice to any rights of the Company to recover such costs and expenses if not valid or reasonable) to the end that the respective interests of the Authority and the Trustee, in the opinion of independent counsel, are not jeopardized.

Section 4.03. Notice to Pay; Medium of Payment; Acceleration. Failure to receive any prior notice of the due date of any Payment will not relieve the Company of its obligation to pay such Payment when it is due and payable. The Company covenants and agrees that it will pay or cause to be paid when due and payable hereunder the Payments, and every installment thereof, without notice or demand therefor and without abatement, reduction or set-off of any kind or nature whatsoever, in lawful money of the United States of America.

If pursuant to the provisions of Section 12.03 of the Indenture, the Bonds are accelerated or shall otherwise be declared due and payable immediately, then the Company shall forthwith pay or cause to be paid to the Trustee an amount sufficient with all other funds available therefor, to pay the Bonds in full and, secondly an amount which shall be sufficient, with all other funds available therefor, to pay all other obligations of the Authority or the Company incurred or to be incurred under the Indenture, this Participation Agreement, the Auction Agency Agreement, the Bond Purchase Trust Agreement or any Remarketing Agreement.

Section 4.04. Prepayment of Note Payments. The Note may be prepaid, in whole or in part, at the option of the Company in connection with an optional redemption of the Bonds pursuant to Article V of the Indenture and shall be prepaid, in whole or in part, in

connection with any mandatory redemption of the Bonds pursuant to Article V of the Indenture other than a mandatory redemption pursuant to Section 5.07 of the Indenture. Prepayment of the Note pursuant to the preceding sentence shall be with or without premium, as required to provide sufficient funds to redeem the Bonds being redeemed pursuant to Article V of the Indenture. The Note also may be prepaid in whole or in part at any time, without premium, at the option of the Company subsequent to the redemption of the Bonds with moneys furnished by the State of New York pursuant to Section 5.07 of the Indenture.

The Company shall give notice to the Trustee and the Authority of any intention to prepay the Note in whole or in part and of the principal amount to be prepaid not more than sixty (60) nor less than thirty-five (35) days prior to the date on which such prepayment is to be made on the Note. Such optional prepayment may be made not later than one (1) Business Day prior to the date of prepayment of the Bonds.

The Company may also elect to provide for the defeasance of the Bonds in accordance with Article XV of the Indenture and upon the defeasance of the Bonds, the Note will be deemed paid, in whole or in applicable part.

Section 4.05. Company's Payments as Trust Funds. All Note Payments and Additional Payments required to be made by the Company under this Participation Agreement and the Note to the Authority, the Trustee or the Registrar and Paying Agent which under the Indenture are required to be applied in payment of or as security for the Bonds, shall be and constitute and are hereby declared to be trust funds, whether held by the Authority, the Trustee, the Registrar and Paying Agent, or any bank or trust company, designated for such purpose and shall continue to be impressed with a trust until such monies are applied in the manner provided in the Indenture.

Section 4.06. Absolute Obligation to Make Payments. The obligation of the Company to pay the Note Payments and the Additional Payments, as required by this Participation Agreement and the Note, and to satisfy any other financial liabilities incurred hereunder and thereunder shall be an absolute, direct, general obligation, and shall be unconditional and shall not be abated, rebated, set off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever (other than for prior payment), regardless of any rights of set-off, recoupment or counterclaim that the Company might otherwise have against the Authority or the Trustee or any other party or parties and regardless of any contingency, act of God, event or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place including, but without limiting the generality of the foregoing, the following:

- (a) any damage to or destruction of any part or all of the Project;
- (b) the taking or damaging of any part or all of the Project by any public authority or agency in the exercise of the power of eminent domain or otherwise;
- (c) any assignment, novation, merger, consolidation, transfer of assets, subleasing or other similar transaction of or affecting the Company whether with or

without the approval of the Trustee, except as otherwise expressly provided in this Participation Agreement;

- (d) with respect solely to the obligation of the Company to pay the Additional Payments, the termination of this Agreement and payment or provision for payment in full of the amount due under the Note pursuant to the provisions hereof;
- (e) any failure of any party to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Participation Agreement, the Note, the Auction Agency Agreement, any Broker-Dealer Agreement, any Remarketing Agreement, the Bond Purchase Trust Agreement or the Indenture;
- (f) any change or delay in the time of availability of the Project or any part thereof for use of the Project or any part thereof;
- (g) any acts or circumstances that may constitute an eviction or constructive eviction from any part of the Project;
- (h) failure of consideration, failure of title to any part of the Project or commercial frustration; and
- (i) any change in the tax or other laws of the United States or of any state or other governmental authority;

provided, however, that the foregoing shall not be deemed to be a waiver of any right of recourse the Company may have against the Authority, the holder of any Bond or others, including but not limited to, the rights, causes of action or claims which may arise out of the breach of their respective obligations or the inaccuracy of their respective warranties, provided, however, that the Company may pursue any such right, claim or cause of action only by a separate proceeding or action and not by counterclaim or set-off hereunder and the bringing of such separate proceeding or action shall not affect the Company's absolute, irrevocable and unconditional obligation to make payments pursuant to this Section 4.06.

Section 4.07. Assignment of Authority's Rights. As security for the payment of the Bonds, the Authority will assign to the Trustee the Participation Agreement and the Note and all of the Authority's rights, remedies and interest under this Participation Agreement and the Note, including the right to receive payments under this Participation Agreement and the Note (except the Authority's rights with respect to (a) administrative compensation, attorney's fees and indemnification, (b) the receipt of notices, opinions, reports, copies of instruments and other items of a similar nature required to be delivered to the Authority under this Participation Agreement, (c) granting approvals and consents and making determinations when required under this Participation Agreement, (d) making requests for information and inspections in accordance with this Participation Agreement, (e) Article III and Sections 4.02(f), 4.14 and 5.09 of this Participation Agreement and, insofar as the obligations of the Company under Section 4.12 of this Participation Agreement relate to taxes and assessments imposed upon the Authority and not the Trustee, Section 4.12 thereof and (f) the right to amend this Participation Agreement) and

hereby directs the Company to make said payments directly to the Trustee or in the case of the Purchase Price to the Registrar and Paying Agent. The Company herewith assents to such assignment and will make payments under this Participation Agreement and the Note (except payments made pursuant to Sections 4.02(f) and 5.09 hereof which shall be made directly to the Authority) directly to the Trustee (or in the case of the Purchase Price, to the Registrar and Paying Agent) without defense or set-off by reason of any dispute between any of the Company, the Trustee or Registrar and Paying Agent. Except as provided in the Indenture, the Authority will not sell, assign, transfer, convey or otherwise dispose of its interest in this Participation Agreement during the term of this Participation Agreement.

Section 4.08. Actions with Respect to or by or on behalf of the Authority under the Indenture. The Authority hereby grants the right to the Company to request the Authority to take certain actions under the Indenture and/or to perform or undertake certain actions as specified under the Indenture. The Company agrees to request the Authority to take action or undertake or perform any action solely in compliance with or after complying with the requirements and provisions of the Indenture. The Company further agrees to consent to any removal and appointment of the Auction Agent by the Authority pursuant to the second paragraph of Section 11.21 of the Indenture.

Section 4.09. Agreements of Company relating to Support Facilities. The Company agrees not to request that the interest rate mode applicable to the Bonds be adjusted to an Adjustable Rate or a Fixed Rate unless on the effective date of the applicable Change in the Interest Rate Mode the Bonds shall be rated at least "A" by S&P or "A2" by Moody's or "A" by Fitch or an equivalent rating by any nationally recognized rating agency. Subject to the requirements of the next paragraph, such rating of the Bonds may, but is not required to, be achieved by obtaining a Support Facility which meets the requirements of Article VI of the Indenture.

The Company further agrees that it will maintain a Liquidity Facility acceptable to the Bond Insurer with respect to the Bonds at all times, except with respect to Bonds bearing interest at an Auction Rate, a Fixed Rate or a Term Rate for a period of at least five years.

Section 4.10. Compensation of Trustee and Paying Agents. The Company agrees:

- (1) to pay to the Trustee from time to time such compensation for all services rendered by it in any capacity under the Indenture as shall from time to time be agreed in writing (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);
- (2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred by the Trustee under the Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

- (3) to pay to the Registrar and Paying Agent, if other than the Trustee, reasonable compensation for all services rendered by it as Registrar and Paying Agent under the Indenture and reimburse it for its reasonable expenses incurred under the Indenture, except any such expense as may be attributable to its negligence or bad faith.

Section 4.11. Project not Security for Bonds. It is expressly recognized by the parties that the Project will not constitute any part of the security for the Bonds. The principal security for the Bonds shall be the Note and the absolute, irrevocable and unconditional obligation of the Company to make the Note Payments.

Section 4.12. Payment of Taxes and Assessments; No Liens or Charges. The Company will (a) pay, when the same shall become due and payable, all taxes and assessments, including income, profits, property or excise taxes, if any, or other municipal or governmental charges, imposed, levied or assessed by the Federal, state or any municipal government upon the Authority or the Trustee in respect of any payments (other than payments made pursuant to Section 4.10) made or to be made pursuant to this Participation Agreement or the Notes and (b) pay or cause to be discharged, within sixty (60) days after the same shall accrue, any lien or charge upon any such payment (except as aforesaid) made or to be made under this Participation Agreement; provided that the Company shall not be required to pay any such tax, assessment or charge so long as (i) the Company at its expense contests by appropriate legal proceedings conducted in good faith and with due diligence the amount, validity or application of any such tax, assessment or charge, (ii) such proceedings shall have the effect of suspending the collection thereof from the Authority and the Trustee, and (iii) the Company shall indemnify and hold the Authority and the Trustee harmless from any losses, costs, charges, expenses (including reasonable attorneys' fees and disbursements), judgments and liabilities arising in respect of such tax, assessment or charge and the nonpayment thereof.

Section 4.13. Company to Pay Attorneys' Fees and Disbursements. If the Company shall default under any of the provisions of this Participation Agreement and the Authority or the Trustee or both shall employ attorneys or incur other expenses for the collection of payments due under this Participation Agreement or the Note or for the enforcement of performance or observance of any obligation or agreement on the part of the Company contained in this Participation Agreement, the Company will on demand therefor reimburse the reasonable fees of such attorneys and such other reasonable disbursements so incurred.

Section 4.14. No Abatement of Administration Fees and Other Charges. It is understood and agreed that so long as any Bonds are outstanding under the Indenture, the Administration Fees and other charges payable to the Authority pursuant to this Participation Agreement or the Note shall continue to be payable at the times and in the amount herein specified, whether or not the Project, or any portion thereof, shall have been destroyed by fire or other casualty, or title thereto or the use thereof shall have been taken by the exercise of the power of eminent domain, and that there shall be no abatement of any such Administration Fees and other charges by reason thereof.

SPECIAL COVENANTS

Section 5.01. No Warranty as to Suitability of Project. The Authority makes no warranty, either express or implied, with respect to actual or designed capacity of the Project, as to the suitability of the Project for the purposes specified in this Participation Agreement, as to the condition of the Project, or that the Project will be suitable for the Company's purposes or needs.

Section 5.02. Authority's Right to Inspect Project. The Authority shall have the right at all reasonable times to examine and inspect the Project.

Section 5.03. Company Consent to Amendment of Indenture. The Authority and the Trustee shall not enter into any indenture supplemental to or amendatory of the Indenture which affects the rights or obligations of the Company without the prior consent of the Company as evidenced by a certificate in writing signed by an Authorized Company Representative.

Section 5.04. Tax Covenant. Notwithstanding any other provision hereof, the Company covenants and agrees that it will not take or authorize any action or permit any action within its reasonable control to be taken, or fail to take any action within its reasonable control, with respect to the Project, or the proceeds of any series of the Bonds, including any amounts treated as proceeds of the Bonds for any purpose of Section 103 of the Code, which will result in the loss of the exclusion of interest on any series of Bonds from gross income for Federal income tax purposes under Section 103 of the Code (except for any Bond during any period while any such Bond is held by a person referred to in Section 147(a) of the Code). This provision shall control in case of conflict or ambiguity with any other provision of this Participation Agreement. In furtherance of such covenant and agreement as it relates to the Bonds, the Authority and the Company have entered into the Tax Regulatory Agreement and the Company hereby covenants and agrees to comply with the provisions thereof.

Section 5.05. Company Agrees to Perform Obligations Imposed by Indenture. The Company agrees to perform such obligations as may be required of it by the provisions of the Indenture.

Section 5.06. Authority Agrees to Take Certain Actions at Direction of Company. The Authority agrees to exercise any option to redeem the Bonds pursuant to Section 5.01 of the Indenture at the direction of the Company. The Authority agrees to exercise its rights under Article XV of the Indenture upon the request of the Company.

Section 5.07. Certificates as to Defaults. The Company shall file with the Trustee and the Bond Insurer, on or before August 15 of each year, commencing on August 15, 2004, a certificate signed by an Authorized Company Representative stating that, to the best of his or her knowledge, information and belief, the Company has kept, observed, performed and fulfilled each and every one of its covenants and obligations contained in this Participation Agreement, the Tax Regulatory Agreement and in the Note and, to the best of his knowledge, information and belief, there does not exist at the date of such certificate any Event of Default

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hereunder or other event which, with notice or the lapse of time specified in Section 7.01 hereof, or both, would become an Event of Default or, if any such Event of Default or other event shall so exist, specifying the same and the nature and status thereof.

Section 5.08. Recording and Filing. The Company hereby covenants that it will cause all financing statements related to the Indenture and all supplements thereto and this Participation Agreement and all supplements thereto, as well as such other security agreements, financing statements and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may from time to time be required by law in order to preserve and protect fully the security of Holders of the Bonds and the rights of the Trustee hereunder, and to take or cause to be taken any and all other action necessary to perfect the security interest created by the Indenture and shall, within ten (10) days after such filing, cause there to be furnished to the Trustee and the Bond Insurer an opinion of counsel as to the adequacy and details of such filing and specifying any re-filing to be effected in the future.

Section 5.09. Limited Obligation of Authority; Indemnification of Authority, Registrar and Paying Agent, Auction Agent and Trustee. The Bonds shall not be general obligations of the Authority, and shall not constitute an indebtedness of or a charge against the general credit of the Authority or give rise to any pecuniary liability of the Authority. The liability of the Authority under the Bonds shall be enforceable only to the extent provided in the Indenture, and the Bonds shall be payable solely from the Note Payments and any other funds held by the Trustee under the Indenture and available for such payment. The Bonds shall not be a debt of the State of New York, and the State of New York shall not be liable thereon.

No member, officer, agent or employee of the Authority shall be personally liable for the payment of the Bonds or any money or damages hereunder or related hereto. Notwithstanding the fact that it is the intention of the parties hereto that the Authority and all officers and employees thereof shall not incur pecuniary liability by reason of the terms of this Participation Agreement, or the undertakings required of the Authority hereunder or any officer or employee thereof, by reason of the issuance of the Bonds, the execution and delivery of any document, including, but not limited to, the Indenture, the Tax Regulatory Agreement, this Participation Agreement, the Note, the Auction Agency Agreement, any Remarketing Agreement, the Bond Purchase Trust Agreement, any Broker-Dealer Agreement or any final official statement, or by reason of the performance or non-performance of any act required of it by this Participation Agreement or any such other agreement, or the performance or non-performance of any act requested of it by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing; nevertheless, if the Authority (including any person at any time serving as an officer or employee of the Authority) should incur any such pecuniary liability, then in such event the Company shall indemnify and hold harmless the Authority (including any person at any time serving as an officer or employee of the Authority) against all claims by or on behalf of any person, firm or corporation or other legal entity, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon.

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The Company releases the Authority (including any person at any time serving as an officer or employee of the Authority), the Registrar and Paying Agent, the Auction Agent and the Trustee (including any person at any time serving as an officer or employee of the Trustee, the Registrar and

Paying Agent or the Auction Agent) from, agrees that the Authority (including any person at any time serving as an officer or employee of the Authority), the Registrar and Paying Agent, the Auction Agent and the Trustee (including any person at any time serving as an officer or employee of the Trustee, the Registrar and Paying Agent or the Auction Agent) shall not be liable for, and agrees to indemnify and hold the Authority (including any person at any time serving as an officer or employee of the Authority) and the Trustee, the Auction Agent, the Registrar and Paying Agent (including any person at any time serving as an officer or employee of the Trustee, Auction Agent or the Registrar and Paying Agent) harmless, to the fullest extent permitted by law from any losses, costs, charges, expenses (including reasonable attorneys' and agents' fees and expenses), by reason of (i) any liability for any loss or damage to property or any injury to, or death of, any person that may be occasioned by any cause whatsoever arising out of the construction or operation of the Project, or (ii) any action, suit or proceeding instituted or threatened in connection with the transactions contemplated by this Participation Agreement, the Indenture and the Note, provided, however, that the Company shall not be liable as the result of the negligence of the Authority, the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent or bad faith or wilful misconduct of the Authority, the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent (including any person at any time serving as an officer or employee of the Authority or the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent). If any such claim is asserted, the Authority, any individual indemnified herein, the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent, as the case may be, shall give prompt notice to the Company and permit the Company to participate in the defense thereof at its own expense. The Company will reimburse the indemnified parties for any legal or other expenses reasonably incurred by the indemnified parties in investigating or defending against any such claim, provided that the Company shall not be required to reimburse any of the indemnified parties for fees and expenses of counsel other than one counsel selected by the Trustee in its sole discretion for all indemnified parties in which proceedings are brought or threatened to be brought unless and to the extent there are actual or potential conflicts of interest between or among indemnified parties or defenses available to some indemnified parties that are not available to other indemnified parties in which case, the Company will reimburse the indemnified parties for any legal or other expenses reasonably incurred by the indemnified parties in investigating or defending against any such claim by each counsel of each of the indemnified parties affected. The obligation of the parties hereto under this Section shall survive the termination of this Participation Agreement and the Indenture.

Section 5.10. Provision of Information. The Company shall provide the Trustee with the forms of any notices required to be sent to holders of Bonds in connection with any redemption of Bonds, a change in the Auction Period, the Interest Period or Change in the Interest Rate Mode pursuant to Articles III, IV and V of the Indenture or the establishment of a Fixed Rate on the Bonds pursuant to Section 4.02 of the Indenture.

Section 5.11. Ratings. During any Auction Rate Period, the Company shall take all reasonable action necessary to enable at least two nationally recognized, statistical rating

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organizations (as that term is used in the rules and regulations of the Commission under the Exchange Act) to provide ratings for the Auction Rate Bonds.

Section 5.12. Notices. During any Auction Rate Period, the Company on behalf of the Authority shall provide the Trustee and, so long as no Event of Default has occurred and is continuing and the ownership of any Auction Rate Bonds is maintained in book-entry form by the Securities Depository, the Auction Agent, with notice of any change in (a) the Statutory Corporate Tax Rate under the Indenture, (b) the Applicable Percentage, or (c) the maximum rate permitted by law on the Bonds. There is currently no such maximum rate.

Section 5.13. Maintenance of Office or Agency. So long as the Note remains outstanding and unpaid, the Company will at all times keep, in New York, New York, or another location in the State of New York, an office or agency where notices and demands with respect to the Note may be served, and will, from time to time, give written notice to the Trustee of the location of such office or agency; and, in case the Company shall fail so to do, notices may be served and demands may be made at the principal office of the Trustee.

Section 5.14. Maintenance of Properties. So long as the Note remains outstanding and unpaid, the Company will at all times make or cause to be made such expenditures for repairs, maintenance and renewals, or otherwise, as shall be necessary to maintain its properties in good repair, working order and condition as an operating system or systems to the extent necessary to meet the Company's obligations under the Public Service Law of the State of New York and the Participation Agreement.

Section 5.15. Insurance. So long as the Note remains outstanding and unpaid, the Company will keep or cause to be kept its properties that are of an insurable nature, insured against loss or damage by fire or other risks, the risk of which in the opinion of an Authorized Company Representative (who shall be an officer or employee of the Company responsible for the management of such risks) is customarily insured against by companies similarly situated and operating like properties, to the extent that property of similar character is, in such Authorized Company Representative's opinion, customarily insured against by such companies, either (a) by reputable insurers or (b) in whole or in part in the form of reserves or of one or more insurance funds created by the Company, whether alone or with other Corporations.

Section 5.16. Proper Books of Record and Account. So long as the Note remains outstanding and unpaid, the Company will at all times keep or cause to be kept proper books of record and account, in which full, true and correct entry will be made of all dealings, business and affairs of the Company, including proper and complete entries to capital or property accounts covering property worn out, obsolete, abandoned or sold, all in accordance with the requirements of any system of accounting or keeping accounts or the rules, regulations or orders prescribed by a regulatory commission with jurisdiction over the rates of the Company giving rise to at least fifty-one percent (51%) of the Company's gross revenues, or if there are no such requirements or rules, regulations or orders, then in compliance with generally accepted accounting principles.

Section 5.17. Compliance with Laws. So long as the Note remains outstanding and unpaid, the Company agrees to use its best efforts to comply in all material respects with all

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applicable laws, rules and regulations and orders of any governmental authority, non-compliance with which would have a material adverse effect on its business, financial condition or results of operations (to the extent the Company deems it can reasonably comply while maintaining its public utility operations) or would materially adversely affect the Company's ability to perform its obligations hereunder or under the Participation Agreement, except laws, rules, regulations or orders being contested in good faith or laws, rules, regulations or orders which the Company has applied for variances from, or exceptions to.

Section 5.18. Consolidation, Merger or Sale of Assets. So long as the Note remains outstanding and unpaid, the Company will not consolidate with or permit itself to be merged into any other corporation or corporations, or sell, lease, transfer or otherwise dispose of all or substantially all of its properties and assets, except in the manner and upon the terms and conditions set forth in this Section 5.18.

Nothing contained herein or in the Note shall prevent (and the Note shall be construed as permitting and authorizing, without acceleration of the maturity of the Note) any lawful consolidation or merger of the Company with or into any other corporation or corporations lawfully authorized to acquire and operate the properties of the Company, or a series of consolidations or mergers, or successive consolidations or mergers, in which the Company or its successor or successors shall be a party, or any sale of all or substantially all the properties of the Company as an entirety to a corporation lawfully authorized to acquire and operate the same; provided that, upon any consolidation, merger or sale, the corporation formed by such consolidation, or into which such merger may be made if other than the Company, or making such purchase shall execute and deliver to the Trustee an instrument, in form reasonably satisfactory to the Trustee, whereby such corporation shall effectually assume the due and punctual payment of the principal of and premium, if any, and interest on the Note according to its tenor and the due and punctual performance and observance of all covenants and agreements to be performed by the Company pursuant to the Note and the Participation Agreement on the part of the Company to be performed and observed; and, thereupon, such corporation shall succeed to and be substituted for the Company hereunder, with the same effect as if such successor corporation had been named herein as obligor.

Every such successor corporation shall possess, and may exercise, from time to time, each and every right and power hereunder of the Company, in its name or otherwise; and any act, proceeding, resolution or certificate by any of the terms of the Note required or provided to be done, taken and performed or made, executed or verified by any board or officer of the Company shall and may be done, taken and performed or made, executed and verified with like force and effect by the corresponding board or officer of any such successor Company.

If consolidation, merger or sale or other transfer is made as permitted by this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or sale or other transfer shall be made except in compliance with the provisions of this Section.

Section 5.19. Financial Statements of Company. The Company agrees to have an annual audit made by independent accountants and to furnish the Trustee with a balance sheet and statements of income, retained earnings and cash flow showing the financial condition of the

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Company and its consolidated subsidiaries, if any, at the close of each fiscal year, and the results of operations of the Company and its consolidated subsidiaries, if any, for each fiscal year, as audited by said accountants, on or before the last day of the third month following the close of the fiscal year or as soon thereafter as they are reasonably available. The Company further agrees to furnish to the Trustee, the Authority and to any owner of Bonds if requested in writing by such owner all financial statements which it sends to its shareholders. The delivery of such financial statements to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein, including the Company's compliance with any of its covenants hereunder.

Section 5.20. Information to Bond Insurer. (a) To the extent that the Company has entered into a continuing disclosure agreement with respect to the Bonds, the Bond Insurer shall be included as party to be notified.

(b) The Company shall immediately notify the Bond Insurer if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any Event of Default hereunder.

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ARTICLE VI

REDEMPTION OF BONDS

Section 6.01. Redemption of Bonds. If the Company is not in default in making Note Payments, the Authority and the Trustee, at the request of the Company, at any time the aggregate monies in the Bond Fund are sufficient to effect a redemption of Bonds and if the same are then redeemable under the provisions of the Indenture and the Bonds, shall forthwith take all steps that may be necessary under the applicable redemption provisions of Article V of the Indenture to effect redemption of all or part of the then Outstanding Bonds as may be specified by the Company on such redemption date.

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ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default Defined. The following shall be an "Event of Default" under this Participation Agreement and the term "Event of Default" shall mean, whenever it is used in this Participation Agreement, any one or more of the following events:

(a) Failure by the Company to pay or cause to be paid, when due and payable, any installment of Note Payments and, in the case of failure to pay any installment of interest on the Note, continuance of such failure for one (1) Business Day.

(b) Failure by the Company to observe and perform any covenant, condition or agreement in this Participation Agreement or the Note on its part to be observed or performed, other than as referred to in subsection (a) of this Section 7.01 (and other than failure to pay the amounts due under Sections 4.02(f), 4.13 and 5.09 of this Participation Agreement), for a period of ninety (90) days after written notice, specifying such failure

and requesting that it be remedied, has been given to the Company unless the Trustee (with any required consent of Bondholders under the provisions of the Indenture) shall agree in writing to an extension of such time prior to its expiration, provided that if any such failure shall be such that it cannot be cured or corrected within such ninety-day period, it shall not constitute an Event of Default hereunder if curative or corrective action is instituted within such period and diligently pursued until the failure of performance is cured or corrected.

(c) The dissolution or liquidation of the Company or the filing by the Company of a voluntary petition in bankruptcy, or failure by the Company promptly to discharge or cause to be discharged any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations generally or the commission by the Company of any act of bankruptcy, or adjudication of the Company as a bankrupt, or assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Company in any proceeding for its reorganization instituted under the provisions of the federal bankruptcy laws or the Company becomes insolvent or is unable to pay its debts as they become due. The term “dissolution or liquidation of the Company”, as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Company resulting either from a merger or consolidation of the Company into or with another corporation or a dissolution or liquidation of the Company following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such action with respect to the Company contained in Section 5.18 hereof.

(d) The occurrence of an Event of Default as defined in Section 12.01 of the Indenture.

Subsection (b) of this Section 7.01 is subject to the following limitations: Except for the obligations of the Company contained in Article IV hereof, if by reason of force majeure

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the Company is unable in whole or in part to carry out the agreements on its part herein contained, the Company shall not be deemed in default during the continuance of such inability. The term “force majeure” as used herein shall include the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State of New York or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; typhoons; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company. The Company agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Company from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Company, and the Company shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Company unfavorable to the Company.

Section 7.02. Remedies on Default. In the event any of the Bonds shall at the time be Outstanding and unpaid and provision for the payment thereof shall not have been made in accordance with the provisions of the Indenture, whenever any Event of Default referred to in Section 7.01 hereof shall have happened and be subsisting, the Authority, with respect to those rights not assigned to the Trustee, or the Trustee, following acceleration of the Bonds in accordance with provisions of Section 12.03 of the Indenture where so provided, may take any one or more of the following remedial steps:

(a) The Trustee as provided in the Indenture may, at its option, or shall, to the extent required by the Indenture, declare all payments payable under clauses (a) - (e) of Section 4.02 hereof and the Note for the remainder of the term of this Participation Agreement to be immediately due and payable, whereupon the same shall become immediately due and payable.

(b) The Authority, with respect to those rights not assigned to the Trustee, or the Trustee may take whatever action at law or in equity that may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Participation Agreement or the Note whether for specific performance of any covenant or agreement contained herein or therein or in aid of the execution of any power herein granted.

Any amounts collected pursuant to action taken under this Section 7.02 shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

If any such declaration of acceleration of the Bonds shall have been annulled pursuant to the terms of the Indenture and if, at any time after such declaration, but before all the Bonds shall have matured by their terms, all arrears of interest upon the Note, and interest on overdue installments of interest (to the extent enforceable under applicable law) at the rate or rates per annum specified for the Note and the principal of and premium, if any, on the Note which shall have become due and payable otherwise than by acceleration, and all other sums

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payable hereunder, except the principal of, and interest on, the Note which pursuant to such declaration shall have become due and payable, shall have been paid by or on behalf of the Company or provision satisfactory to the Trustee shall have been made for such payment, then such acceleration of the Note shall ipso facto be deemed to be rescinded and any such Event of Default and its consequences shall ipso facto be deemed to be annulled, but no such annulment shall extend to or affect any subsequent Event of Default or impair or exhaust any right or remedy consequent thereon.

Section 7.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or to the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Participation Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Authority hereunder shall also extend to the Trustee and, the Trustee, the Bond Insurer and the Holders of the Bonds issued under the Indenture shall be deemed third party beneficiaries of all covenants and agreements herein contained.

In case the Trustee (as assignee of the Authority under the Indenture) or the Authority shall have proceeded to enforce its rights under this Participation Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Authority, then and in every such case, the Company, the Authority and the Trustee shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Authority and the Trustee shall continue as though no such proceeding had been taken.

The Company covenants that, in case an Event of Default shall occur with respect to any Note Payments payable under Sections 4.02(a) - (e) hereof and the Note, then, upon demand of the Trustee (as assignee of the Authority under the Indenture) the Company will pay to the Trustee the whole amount that then shall have become due and payable under said Sections, with interest (to the extent permitted by law) on said amount at the rate of interest then borne by the Bonds pursuant to the Indenture, but not exceeding the maximum rate permitted by law, until paid, and in addition thereto, such further amounts as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee, its agents, attorneys, and counsel, and any other expenses or liabilities incurred by the Trustee other than those incurred through bad faith or negligence.

In case the Company shall fail forthwith to pay such amounts upon such demand, the Authority, with respect to those rights not assigned to the Trustee, or the Trustee (as assignee of the Authority under the Indenture) shall be entitled and empowered to institute any action or proceeding at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such

judgment or final decree against the Company and collect, in the manner provided by law out of the property of the Company, the monies adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company under the Federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or in the case of any other similar judicial proceedings relative to the Company or to the creditors or property of the Company, the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and provide a claim or claims for the whole amount owing and unpaid pursuant to this Participation Agreement and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Holders and the Trustee allowed in such judicial proceedings relative to the Company, its creditors, or its property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee, and to pay to the Trustee any amount due it for compensation and expenses, including reasonable counsel fees and expenses incurred by it up to the date of such distribution.

Nothing herein contained shall be construed to prevent the Authority from enforcing directly any of its rights under Sections 4.02(f), 4.13 and 5.09 hereof; provided that, in case the Company shall have failed to pay amounts required to be paid under Sections 4.02(f), 4.13 and 5.09 hereof which event shall have continued for a period of thirty (30) days after the date on which written notice of such failure, requiring the Company to remedy the same, shall have been given to the Company by the Authority or the Trustee, the Authority or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to enforce performance or observance of any obligations or agreements of the Company under Sections 4.02(f), 4.13 and 5.09 hereof.

Section 7.04. No Additional Waiver Implied by One Waiver. In the event any agreement contained herein or in the Note should be breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Disposition of Amounts after Payment of Bonds. Any amounts remaining in the funds created under the Indenture after payment in full of principal of and premium, if any, and interest on all the Bonds, or provision for payment thereof having been made in accordance with the provisions of the Indenture, and payment of all the fees, charges and expenses of the Authority, the Trustee, the Auction Agent, any Remarketing Agent, and the Registrar and Paying Agent and any other paying agent in accordance with the Indenture and this Participation Agreement, shall belong to and be promptly paid to the Company by the Trustee in accordance with the provisions of the Indenture.

Section 8.02. Notices. All notices, certificates, requests or other communications between the Authority, the Company and the Trustee required to be given under this Participation Agreement or under the Indenture shall be sufficiently given and shall be deemed given when delivered by hand or first class mail, postage prepaid, addressed as follows: if to the Authority, at 17 Columbia Circle, Albany, New York 12203-6399, Attention: President; if to the Company, at 4 Irving Place, New York, New York 10003, Attention: Secretary; and if to the Trustee or the Registrar and Paying Agent, at The Bank of New York, 101 Barclay Street - 21W, New York, New York 10286, Attention: Corporate Trust Trustee Administration. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Authority, the Company or the Trustee shall also be given to the others. The Company, the Authority and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 8.03. Successors and Assigns. This Participation Agreement shall inure to the benefit of and shall be binding upon the Authority, the Company, the Trustee and their respective successors and assigns.

Section 8.04. Amendment of Participation Agreement. This Participation Agreement may not be amended except by an instrument in writing signed by the parties and upon compliance with the provisions of Sections 14.06 and 14.07 of the Indenture.

Section 8.05. Participation Agreement Supersedes Any Prior Agreements. This Participation Agreement and the Bond Purchase Agreement supersede any other prior agreements or understandings, written or oral, between the parties with respect to the transactions contemplated hereby and thereby.

Section 8.06. Further Assurances and Corrective Instruments. The Authority and the Company agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or for carrying out the expressed intention of this Participation Agreement in accordance with the provisions of the Indenture.

Section 8.07. Counterparts. This Participation Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same Participation Agreement.

Section 8.08. Severability. If any clause, provision or section of this Participation Agreement is held illegal, invalid or unenforceable by any court or administrative body, this Participation Agreement shall be construed and enforced as if such illegal or invalid or unenforceable clause, provision or section had not been contained in this Participation Agreement. In case any agreement or obligation in this Participation Agreement be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the Authority or the Company, as the case may be, to the full extent permitted by law.

Section 8.09. Delegation of Duties by Authority. It is agreed that under the terms of this Participation Agreement and also under the terms of the Indenture the Authority has delegated certain of its duties hereunder to the Company. The fact of such delegation shall be deemed a sufficient compliance by the Authority to satisfy the duties so delegated and the Authority shall not be liable in any way by reason of acts done or omitted by the Company or any Authorized Company Representative. The Authority shall have the right at all times to act in reliance upon the authorization, representation or certification of an Authorized Company Representative unless such reliance is in bad faith.

Section 8.10. Survival of Representations, Warranties and Covenants. The respective agreements, representations, warranties and covenants set forth herein will remain in full force and will survive the execution and delivery of this Participation Agreement.

Section 8.11. NEW YORK LAW TO GOVERN. THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION OF THIS PARTICIPATION AGREEMENT.

Section 8.12. Third Party Beneficiary. To the extent that this Participation Agreement confers upon or gives or grants to the Bond Insurer any right, remedy or claim under or by reason of this Participation Agreement, the Bond Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right remedy or claim conferred, given or granted hereunder.

[Signature Page of this Agreement Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Participation Agreement to be duly executed as of the day and year first written above.

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT
AUTHORITY

(SEAL)

By: _____
Acting President

Attest:

Assistant Secretary

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

(SEAL)

By: _____
Executive Vice President and
Chief Financial Officer

Attest:

Secretary

EXHIBIT A

(To Participation Agreement,
dated as of January 1, 2004,
between New York State Energy Research and Development Authority
and Consolidated Edison Company of New York, Inc.)

**DESCRIPTION OF PROJECT
EXEMPT FACILITIES**

[A copy of Exhibit A to the Participation Agreement
entered into in connection with the Prior Bonds will be inserted at this place]

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EXHIBIT B

(To Participation Agreement
dated as of January 1, 2004,
between New York State Energy Research and Development Authority
and Consolidated Edison Company of New York, Inc.)

DESCRIPTION OF OTHER PROJECT FACILITIES

[A copy of Exhibit B to the Participation Agreement
entered into in connection with the Prior Bonds will be inserted at this place]

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EXHIBIT C

(To Participation Agreement dated as of January 1, 2004 between
New York State Energy Research and Development Authority and
Consolidated Edison Company of New York, Inc.,
relating to Series 2004A Bonds)

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

\$ PROMISSORY NOTE

FOR

FACILITIES REVENUE BONDS, SERIES 2004A
(CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. PROJECT)

New York, New York
January 29, 2004

FOR VALUE RECEIVED, Consolidated Edison Company of New York, Inc., a New York corporation (the "Company"), promises to pay to the order of The Bank of New York, as trustee (the "Trustee") under the hereinafter referred to Indenture, in lawful money of the United States, moneys that are in the aggregate sufficient for, together with other amounts held by the Trustee and available under the Indenture (as defined below) for application to, the payment of the principal sum of \$[], together with interest thereon at such rate or rates applicable to, and with such redemption premiums, if any, becoming due and payable on, the Facilities Revenue Bonds, Series 2004A (Consolidated Edison Company of New York, Inc. Project) (the "Bonds"), issued by New York State Energy Research and Development Authority (the "Authority") in the aggregate principal amount of \$98,325,000 pursuant to a Trust Indenture (the "Indenture") dated as of January 1, 2004, between the Authority and the Trustee, and at such times as provided in the Indenture. This Note is being delivered pursuant to and in accordance with the Participation Agreement dated as of January 1, 2004, between the Company and the Authority (the "Participation Agreement"), the terms and provisions of which are incorporated herein by reference and made a part hereof. All terms used and not otherwise defined herein are used as defined in the Indenture.

In the event the Company should fail to make any payment required by this Note, the Company's obligation to make such payment shall continue as an obligation of the Company until the amount in default shall have been fully paid, and the Company agrees to pay the same with interest thereon at the rate of interest borne by the Bonds, to the extent, but not exceeding the maximum rate, permitted by law, until paid.

This Note is subject to optional and mandatory prepayment and to acceleration as provided in the Participation Agreement.

All payments hereunder shall be payable at the principal corporate trust office of the Trustee in New York, New York.

The obligation of the Company to make payments under this Note shall be an absolute, direct, general obligation, and shall be unconditional and shall not be abated, rebated, set off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever (other than for prior payment).

The Company hereby waives presentment for payment, demand, demand and protest and notice of protest, demand and dishonor and nonpayment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

(SEAL)

By: _____

Executive Vice President and
Chief Financial Officer

ATTEST:

Assistant Secretary

NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY

and

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

PARTICIPATION AGREEMENT

Dated as of January 1, 2004

relating to
\$146,975,000 Facilities Revenue Bonds, Series 2004B
(Consolidated Edison Company of New York, Inc. Project)

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ACKNOWLEDGMENTS

[EXHIBIT A](#) [Description of Project Exempt Facilities](#)

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[EXHIBIT C](#) [Form of Note](#)

This PARTICIPATION AGREEMENT, dated as of January 1, 2004, between NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, a body corporate and politic, constituting a public benefit corporation, established and existing under and by virtue of the laws of the State of New York (the "Authority") and CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., a corporation duly organized and existing and qualified to do business as a public utility under the laws of the State of New York (the "Company"),

WITNESSETH :

WHEREAS, pursuant to a special act of the Legislature of the State of New York (Title 9 of Article 8 of the Public Authorities Law of New York, as from time to time amended and supplemented, herein called the "Act"), the Authority has been established, as a body corporate and politic, constituting a public benefit corporation; and

WHEREAS, pursuant to the Act, the Authority is empowered to contract with any power company to participate in the construction of facilities for the furnishing of electric energy and the furnishing of gas to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics; and

WHEREAS, pursuant to the Act, the Authority is also authorized to extend credit and make loans from bond proceeds to any person for the construction, acquisition, installation, reconstruction, improvement, maintenance, equipping, furnishing or leasing of any special energy project (as defined in the Act) including, but not limited to, facilities for the distribution of steam or for the reimbursement to any person for costs incurred in connection with a special energy project completed or not completed at the time of such credit or loan, which credits or loans may, but need not, be secured by mortgages, contracts, leases or other instruments, upon such terms and conditions as the Authority shall determine reasonable in connection with such credits or loans; and

WHEREAS, the Authority is also authorized under the Act to borrow money and issue its negotiable bonds and notes to provide sufficient monies for achieving its corporate purposes, including the refunding of its outstanding obligations; and

WHEREAS, the Authority is also authorized under the Act to enter into any contracts and to execute all instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes; and

WHEREAS, the Company is a public utility corporation doing business in the State of New York and provides electric energy and gas service in The City of New York and the County of Westchester, New York and provides steam service in the Borough of Manhattan; and

WHEREAS, the Company has requested that the Authority issue bonds for the purpose of refunding the Authority's 5 1/4% Facilities Refunding Revenue Bonds, Series 1993 B (Consolidated Edison Company of New York, Inc. Project), in the aggregate principal amount of \$127,715,000 and the Authority's 5 3/8% Facilities Refunding Revenue Bonds, Series 1993C (Consolidated Edison Company of New York, Inc. Project), in the aggregate principal amount of

\$19,760,000 (the "Prior Bonds"). The Prior Bonds were issued for the purpose of refunding a portion of the Authority's 9% Electric Facilities Revenue Bonds, Series 1985A (Consolidated Edison Company of New York, Inc. Project) and 9 1/4% Electric Facilities Revenue Bonds, Series 1987B (Consolidated Edison Company of New York, Inc. Project), which were issued to finance the acquisition, construction, and installation (or any combination thereof) of certain facilities of the Company for the local furnishing of electric energy within the Company's electric energy service area; and

WHEREAS, the Authority proposes to issue a series of such bonds in the aggregate principal amount of \$146,975,000 Facilities Revenue Bonds, Series 2004B (Consolidated Edison Company of New York, Inc. Project) (the "Bonds"), which will be used, together with Company funds, to refund the Prior Bonds, such Bonds to be issued under and secured by a Trust Indenture dated as of January 1, 2004, between the Authority and The Bank of New York, as Trustee (the "Indenture"); and

WHEREAS, the Authority, by Resolution No. 1039, adopted September 22, 2003, has determined to issue the Bonds, in an aggregate principal amount not to exceed \$147,715,000, for the purpose of refunding the Prior Bonds, all such Bonds to be issued under and secured by the Indenture;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, it is hereby agreed by and between the parties as follows:

Section 1.01. Definitions. The terms used in this Participation Agreement which are defined in the Indenture shall have the meanings, respectively, herein which such terms are given in the Indenture.

Section 1.02. Effective Date of Participation Agreement; Duration of Participation Agreement. This Participation Agreement shall become effective upon its execution and delivery, and shall continue in full force and effect until the principal of and premium, if any, and interest on the Note and Bonds have been fully paid (or provision for their payment has been made in accordance with the provisions of the Indenture), and all sums to which the Authority or the Trustee are entitled hereunder have been fully paid.

ARTICLE II

REPRESENTATIONS

Section 2.01. Representations and Warranties by the Authority. The Authority represents and warrants as follows:

- (a) The Authority is a body corporate and politic, constituting a public benefit corporation, established and existing under the laws of the State of New York;
- (b) The Authority has full power and authority to execute and deliver the Bonds, this Participation Agreement, the Tax Regulatory Agreement, the Indenture, the Bond Purchase Trust Agreement and to consummate the transactions contemplated hereby and thereby and perform its obligations hereunder and thereunder;
- (c) The Authority is not in violation of or in default under any of the provisions of the laws or the Constitution of the State of New York which would affect its existence or its powers referred to in the preceding paragraph (b);
- (d) The Authority has determined that its participation in the Project and the refunding of the Prior Bonds, as contemplated by this Participation Agreement, is in the public interest;
- (e) The Authority has duly authorized the execution and delivery of this Participation Agreement, the Indenture, the Tax Regulatory Agreement and the Bond Purchase Trust Agreement and the execution and delivery of the other documents incidental to this transaction and all necessary authorizations therefor or in connection with the performance by the Authority of its obligations hereunder or thereunder have been obtained and are in full force and effect; and
- (f) The execution and delivery by the Authority of the Bonds, this Participation Agreement, the Tax Regulatory Agreement, the Indenture, the Bond Purchase Trust Agreement and the other documents incidental to this transaction and the consummation of the transactions herein or therein contemplated will not violate or cause a default under any indenture, mortgage, loan agreement or other contract or instrument to which the Authority is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to the Authority.

Section 2.02. Representations and Warranties by the Company. The Company represents and warrants as follows:

- (a) The Company is a corporation duly incorporated and in good standing under the laws of the State of New York, is duly qualified and authorized to transact business as a public utility in the State of New York and is not in violation of any provision of its Certificate of Incorporation or its By-Laws, has power to enter into, execute and deliver this Participation Agreement, the Tax Regulatory Agreement and the

Note and by proper corporate action has duly authorized the execution and delivery of this Participation Agreement, the Tax Regulatory Agreement and the Note;

- (b) The execution and delivery by the Company of this Participation Agreement, the Tax Regulatory Agreement and the Note and the consummation of the transactions herein and therein contemplated will not conflict with or constitute a breach of or a default under the Company's Certificate of Incorporation or By-Laws or a default in any material respect under any indenture, mortgage, loan agreement or other contract or instrument to which the Company is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to the Company;
- (c) This Participation Agreement, the Tax Regulatory Agreement and the Note have been duly executed and delivered by the Company and constitute valid and legally binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other laws relating to or affecting the enforcement of creditors' rights or contractual obligations generally or principles of equity or judicial discretion;
- (d) The execution and delivery by the Company of this Participation Agreement and the Note in the manner and for the purposes herein set forth have been duly authorized by order of the Public Service Commission of the State of New York; and
- (e) No additional authorizations for or approvals of the execution and delivery by the Company of this Participation Agreement, the Tax Regulatory Agreement and the Note need be obtained by the Company or if any such authorization or approval is necessary it has been obtained.

ARTICLE III

THE PROJECT; ISSUANCE OF BONDS

Section 3.01. The Project. Construction of the Project is complete. The Project is the property of the Company. In order to effectuate the purposes of this Participation Agreement, the Company, in its own name, will do or cause to be done all things requisite or proper for the fulfillment of the obligations of the Company under this Participation Agreement.

Section 3.02. Sale of Bonds and Deposit of Proceeds. In order to provide funds for the refunding of the Prior Bonds, the Authority, on the date specified in the Bond Purchase Agreement or as soon thereafter as practicable, and concurrently with the issuance and delivery to the Trustee of the Note as provided in Section 4.01 hereof, will issue, sell and deliver the Bonds, all pursuant to and as provided in the Bond Purchase Agreement and subject to the conditions set forth in Section 2.06 of the Indenture, and will deposit the proceeds of such sale including the accrued interest, if any, paid by the initial purchasers of the Bonds in the Project Fund.

Section 3.03. Disbursements from Project Fund. 1. The Authority has in the Indenture authorized and directed the Trustee to make payments from the Project Fund in accordance with Section 8.01 of the Indenture, to pay the redemption price of the Prior Bonds and costs related thereto upon receipt from time to time of letters signed by an Authorized Company Representative in accordance with Section 8.01 of the Indenture. Concurrently with the delivery by the Company of each such letter to the Trustee, the Company will deliver to the Authority a copy thereof and any attachments thereto. The Company will indemnify and save harmless the Authority and the Trustee from any liability incurred in connection with any letter so delivered and any payments made in reliance thereon.

2. All monies remaining in the Project Fund after the redemption of the Prior Bonds and payment of all costs related thereto shall, at the written direction of an Authorized Company Representative, be paid to the Company.

Section 3.04. Adequacy of Project Fund. The Company acknowledges that the monies in the Project Fund are not sufficient to pay the redemption price of the Prior Bonds and costs related thereto in full. The Company shall pay that portion of the redemption price of the Prior Bonds and costs related thereto in excess of the monies available therefor in the Project Fund with its own funds.

Section 3.05. Ownership and Possession of the Project. Issuance of the Bonds will not vest in the owners thereof, the Trustee, the Authority or any other person, ownership, or the right to possession, of the Project. The Company is entitled to sole and exclusive ownership and possession of the Project.

Section 3.06. Operation, Maintenance and Repair. The Company agrees to proceed in good faith to maintain the availability of the Project for use as an authorized project under the Act. Notwithstanding the foregoing, the Authority and the Company recognize that the Project will constitute integrated portions of electric energy distribution facilities of the

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Company and that it is not feasible to administer the Project separately from such facilities. The Company shall operate the Project (with such changes, improvements or additions as the Company may deem desirable) as part of such facilities for the joint useful lives of the Project and such facilities and shall maintain and repair the Project in conformity with the Company's normal maintenance and repair programs for such facilities; provided that the Company shall have no obligation to operate, maintain or repair any element or item of the Project the operation, maintenance or repair of which becomes uneconomic to the Company because of damage or destruction or obsolescence (including physical, functional and economic obsolescence), or change in government standards and regulations, or the termination by the Company of the operation of the facilities to which the element or item of the Project is an adjunct.

Section 3.07. Investment of Monies in Funds Under the Indenture. Any monies held as a part of any fund created under the Indenture shall, at the direction of an Authorized Company Representative, be invested or reinvested by the Trustee as provided in Article IX of the Indenture.

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ARTICLE IV

NOTE AND PAYMENTS

Section 4.01. Execution and Delivery of Note to Trustee. Concurrently with the authentication by the Trustee and delivery by the Authority of the Bonds and in order to evidence the obligation of the Company to the Authority to repay the Bonds, the Authority hereby directs the Company, and the Company hereby agrees, to execute and deliver to the Trustee its Note, duly and validly executed and delivered, relating to the Bonds. The Note shall be in substantially the form attached hereto as Exhibit C with only such changes to such form as may be approved by the Authority. Thereafter, the Company shall be obligated to make the Note Payments, constituting payments of principal of, and premium, if any, and interest on the Note, and the Additional Payments required by this Participation Agreement. Such obligations shall terminate on the date when the Note has been paid in full. The Note may be prepaid in accordance with Section 4.04 hereof. Upon payment or provision for payment in full of all amounts payable or to become payable under the Note, the Trustee shall cancel the Note and deliver the same to the Company. Provision for payment in full of all amounts payable or to become payable under the Note shall be deemed to have occurred upon receipt by the Trustee of written notice from the Authority acknowledging that the Company has satisfied its obligations to the Authority under the Note. The Authority agrees to deliver such written notice to the Trustee and the Bond Insurer promptly when such provision for payment in full has been made.

Section 4.02. Payments Payable; Note Payments; Additional Payments. (a) The Company covenants and agrees to pay the Payments as and when the same are due and payable in accordance with the Note and this Section 4.02. The Company shall provide the Trustee with a written allocation of amounts paid under this Section 4.02 among the various purposes set forth in this Section 4.02.

(b) The Note Payments shall be in an aggregate amount sufficient for, together with other amounts held by the Trustee and available under the Indenture for application to, the payment in full of the Bonds consisting of (i) the total interest becoming due and payable on the Bonds to the date of payment thereof, and (ii) the total principal amount plus premium, if any, of the Bonds.

(c) The Company shall make Note Payments as set forth in Section 4.02(b) at or prior to the time the corresponding payment is due on the Bonds. Each installment of Note Payments paid by the Company shall be increased as may be necessary to make up any previous deficiency of any of the required payments and to make up any deficiency in the Bond Fund.

(d) In addition, the Company shall pay to the Registrar and Paying Agent for deposit in the Bond Purchase Fund and credit to the Company Account therein an amount sufficient to provide for the payment of the Purchase Price (as defined in the Bond Purchase Trust Agreement) of any Bond tendered for purchase pursuant to the Bond Purchase Trust Agreement to the extent that sufficient moneys are not available for the payment of such Purchase Price from the other sources described therein.

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(e) The Company covenants that it shall deposit, or cause to be deposited with the Trustee, sufficient funds to assure that no default shall occur in the payment of the principal of or premium, if any, or the interest on, or the Purchase Price of, the Bonds as and when due, and that no unreasonable delay shall occur in the payment of the costs and expenses payable from Additional Payments.

(f) The Company further covenants and agrees to pay, when due and payable, as Additional Payments, certain additional amounts and costs and expenses. Each installment of Additional Payments, if any, shall be equal to the sum of the amounts set forth in clauses (i) to (iv), inclusive, below, and shall be paid directly to the persons entitled to such payments. "Additional Payments" is hereby defined to be the aggregate of the installments of the following:

(i) the reasonable fees and expenses payable to the Trustee, any Indexing Agent, the Registrar and Paying Agent, any issuer of a Support Facility and any Remarketing Agent under any Remarketing Agreement (and in the case of Auction Rate Bonds, the Auction Agent under the Auction Agency Agreement, any Broker-Dealers under the respective Broker-Dealer Agreements), and of any counsel or agents of any of the foregoing;

(ii) all costs incurred in connection with the transfer, exchange, purchase or redemption of Bonds not otherwise paid by the holders thereof, including all charges of the Authority (and in the case of Auction Rate Bonds, the Auction Agent, any Broker-Dealer and any Remarketing Agent), the Registrar and Paying Agent and the Trustee with respect thereto, to the extent monies are not otherwise available therefor;

(iii) the reasonable fees and other costs incurred for services of such attorneys and accountants as are employed to make examinations, provide services, render opinions and prepare reports required under this Participation Agreement, the Tax Regulatory Agreement, the Bond Purchase Trust Agreement, and the Indenture; and

(iv) initial administration fees of the Authority in the amount of \$245,812.50 on the date of authentication and delivery of the Bonds to the initial purchasers thereof, an annual fee equal to \$130 per million dollar principal amount of the Bonds on January 1, 2005 and on January 1 of each year thereafter, based upon the amount of Bonds Outstanding as of such January 1 and for purposes of the calculation of such fee, rounding up to the nearest whole million dollars, and all reasonable expenses, disbursements, advances, taxes, assessments or impositions, not otherwise paid under this Participation Agreement or the Indenture, incurred by or imposed upon the Authority in connection with its administration and enforcement of, and compliance with, this Participation Agreement, the Auction Agency Agreement, the Bond Purchase Trust Agreement, any Remarketing Agreement and the Indenture, which amounts the Company is obligated to pay, including, but not limited to, reasonable attorneys' fees. In addition, the Company shall deliver to the Authority a check payable to the State

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of New York with respect to a bond issuance charge applicable to the Bonds pursuant to Section 2976 of the Public Authorities Law of the State of New York in the amount specified by such section on the date of authentication and delivery of the Bonds.

(g) In the event that the Company shall fail to make any Payment as required by Sections 4.02(a) - (e) hereof, the Payment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid, and the Company agrees to pay the same with interest thereon, which interest shall also constitute an obligation of the Company at the maximum rate of interest payable on the Bonds pursuant to the Indenture, to the extent permitted by law, from the date of default until paid; provided, that the Company agrees in the event the Company shall fail to make any Payment during an Auction Rate Period, the Payment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid, and the Company agrees to pay the same with interest thereon, which interest shall also constitute an obligation of the Company at the Overdue Rate, to the extent permitted by law, from the date of default until paid. Nothing in this Section 4.02 shall require the Company to pay costs and expenses mentioned in clause (f)(iii) above so long as the validity or the reasonableness thereof shall be contested in good faith unless the Trustee shall receive an opinion of independent counsel that such contest jeopardizes the respective interests of the Authority and the Trustee in this Participation Agreement, the Auction Agency Agreement, the Bond Purchase Trust Agreement, the Indenture or any Remarketing Agreement, in which event the Company shall pay such costs and expenses (without prejudice to any rights of the Company to recover such costs and expenses if not valid or reasonable) to the end that the respective interests of the Authority and the Trustee, in the opinion of independent counsel, are not jeopardized.

Section 4.03. Notice to Pay; Medium of Payment; Acceleration. Failure to receive any prior notice of the due date of any Payment will not relieve the Company of its obligation to pay such Payment when it is due and payable. The Company covenants and agrees that it will pay or cause to be paid when due and payable hereunder the Payments, and every installment thereof, without notice or demand therefor and without abatement, reduction or set-off of any kind or nature whatsoever, in lawful money of the United States of America.

If pursuant to the provisions of Section 12.03 of the Indenture, the Bonds are accelerated or shall otherwise be declared due and payable immediately, then the Company shall forthwith pay or cause to be paid to the Trustee an amount sufficient with all other funds available therefor, to pay the Bonds in full and, secondly an amount which shall be sufficient, with all other funds available therefor, to pay all other obligations of the Authority or the Company incurred or to be incurred under the Indenture, this Participation Agreement, the Auction Agency Agreement, the Bond Purchase Trust Agreement or any Remarketing Agreement.

Section 4.04. Prepayment of Note Payments. The Note may be prepaid, in whole or in part, at the option of the Company in connection with an optional redemption of the Bonds pursuant to Article V of the Indenture and shall be prepaid, in whole or in part, in

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connection with any mandatory redemption of the Bonds pursuant to Article V of the Indenture other than a mandatory redemption pursuant to Section 5.07 of the Indenture. Prepayment of the Note pursuant to the preceding sentence shall be with or without premium, as required to provide sufficient funds to redeem the Bonds being redeemed pursuant to Article V of the Indenture. The Note also may be prepaid in whole or in part at any time, without premium, at the option of the Company subsequent to the redemption of the Bonds with moneys furnished by the State of New York pursuant to Section 5.07 of the Indenture.

The Company shall give notice to the Trustee and the Authority of any intention to prepay the Note in whole or in part and of the principal amount to be prepaid not more than sixty (60) nor less than thirty-five (35) days prior to the date on which such prepayment is to be made on the Note. Such optional prepayment may be made not later than one (1) Business Day prior to the date of prepayment of the Bonds.

The Company may also elect to provide for the defeasance of the Bonds in accordance with Article XV of the Indenture and upon the defeasance of the Bonds, the Note will be deemed paid, in whole or in applicable part.

Section 4.05. Company's Payments as Trust Funds. All Note Payments and Additional Payments required to be made by the Company under this Participation Agreement and the Note to the Authority, the Trustee or the Registrar and Paying Agent which under the Indenture are required to be applied in payment of or as security for the Bonds, shall be and constitute and are hereby declared to be trust funds, whether held by the Authority, the Trustee, the Registrar and Paying Agent, or any bank or trust company, designated for such purpose and shall continue to be impressed with a trust until such monies are applied in the manner provided in the Indenture.

Section 4.06. Absolute Obligation to Make Payments. The obligation of the Company to pay the Note Payments and the Additional Payments, as required by this Participation Agreement and the Note, and to satisfy any other financial liabilities incurred hereunder and thereunder shall be an absolute, direct, general obligation, and shall be unconditional and shall not be abated, rebated, set off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever (other than for prior payment), regardless of any rights of set-off, recoupment or counterclaim that the Company might otherwise have against the Authority or the Trustee or any other party or parties and regardless of any contingency, act of God, event or cause whatsoever and notwithstanding any circumstance or occurrence that may arise or take place including, but without limiting the generality of the foregoing, the following:

- (a) any damage to or destruction of any part or all of the Project;
- (b) the taking or damaging of any part or all of the Project by any public authority or agency in the exercise of the power of eminent domain or otherwise;
- (c) any assignment, novation, merger, consolidation, transfer of assets, subleasing or other similar transaction of or affecting the Company whether with or

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without the approval of the Trustee, except as otherwise expressly provided in this Participation Agreement;

- (d) with respect solely to the obligation of the Company to pay the Additional Payments, the termination of this Agreement and payment or provision for payment in full of the amount due under the Note pursuant to the provisions hereof;
- (e) any failure of any party to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Participation Agreement, the Note, the Auction Agency Agreement, any Broker-Dealer Agreement, any Remarketing Agreement, the Bond Purchase Trust Agreement or the Indenture;
- (f) any change or delay in the time of availability of the Project or any part thereof for use of the Project or any part thereof;
- (g) any acts or circumstances that may constitute an eviction or constructive eviction from any part of the Project;
- (h) failure of consideration, failure of title to any part of the Project or commercial frustration; and
- (i) any change in the tax or other laws of the United States or of any state or other governmental authority;

provided, however, that the foregoing shall not be deemed to be a waiver of any right of recourse the Company may have against the Authority, the holder of any Bond or others, including but not limited to, the rights, causes of action or claims which may arise out of the breach of their respective obligations or the inaccuracy of their respective warranties, provided, however, that the Company may pursue any such right, claim or cause of action only by a separate proceeding or action and not by counterclaim or set-off hereunder and the bringing of such separate proceeding or action shall not affect the Company's absolute, irrevocable and unconditional obligation to make payments pursuant to this Section 4.06.

Section 4.07. Assignment of Authority's Rights. As security for the payment of the Bonds, the Authority will assign to the Trustee the Participation Agreement and the Note and all of the Authority's rights, remedies and interest under this Participation Agreement and the Note, including the right to receive payments under this Participation Agreement and the Note (except the Authority's rights with respect to (a) administrative compensation, attorney's fees and indemnification, (b) the receipt of notices, opinions, reports, copies of instruments and other items of a similar nature required to be delivered to the Authority under this Participation Agreement, (c) granting approvals and consents and making determinations when required under this Participation Agreement, (d) making requests for information and inspections in accordance with this Participation Agreement, (e) Article III and Sections 4.02(f), 4.14 and 5.09 of this Participation Agreement and, insofar as the obligations of the Company under Section 4.12 of this Participation Agreement relate to taxes and assessments imposed upon the Authority and not the Trustee, Section 4.12 thereof and (f) the right to amend this Participation Agreement) and

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hereby directs the Company to make said payments directly to the Trustee or in the case of the Purchase Price to the Registrar and Paying Agent. The Company herewith assents to such assignment and will make payments under this Participation Agreement and the Note (except payments made pursuant to Sections 4.02(f) and 5.09 hereof which shall be made directly to the Authority) directly to the Trustee (or in the case of the Purchase Price, to the Registrar and Paying Agent) without defense or set-off by reason of any dispute between any of the Company, the Trustee or Registrar and Paying Agent. Except as provided in the Indenture, the Authority will not sell, assign, transfer, convey or otherwise dispose of its interest in this Participation Agreement during the term of this Participation Agreement.

Section 4.08. Actions with Respect to or by or on behalf of the Authority under the Indenture. The Authority hereby grants the right to the Company to request the Authority to take certain actions under the Indenture and/or to perform or undertake certain actions as specified under the Indenture. The Company agrees to request the Authority to take action or undertake or perform any action solely in compliance with or after complying with the requirements and provisions of the Indenture. The Company further agrees to consent to any removal and appointment of the Auction Agent by the Authority pursuant to the second paragraph of Section 11.21 of the Indenture.

Section 4.09. Agreements of Company relating to Support Facilities. The Company agrees not to request that the interest rate mode applicable to the Bonds be adjusted to an Adjustable Rate or a Fixed Rate unless on the effective date of the applicable Change in the Interest Rate Mode the Bonds shall be rated at least "A" by S&P or "A2" by Moody's or "A" by Fitch or an equivalent rating by any nationally recognized rating agency. Subject to the requirements of the next paragraph, such rating of the Bonds may, but is not required to, be achieved by obtaining a Support Facility which meets the requirements of Article VI of the Indenture.

The Company further agrees that it will maintain a Liquidity Facility acceptable to the Bond Insurer with respect to the Bonds at all times, except with respect to Bonds bearing interest at an Auction Rate, a Fixed Rate or a Term Rate for a period of at least five years.

Section 4.10. Compensation of Trustee and Paying Agents. The Company agrees:

- (1) to pay to the Trustee from time to time such compensation for all services rendered by it in any capacity under the Indenture as shall from time to time be agreed in writing (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);
- (2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred by the Trustee under the Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

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- (3) to pay to the Registrar and Paying Agent, if other than the Trustee, reasonable compensation for all services rendered by it as Registrar and Paying Agent under the Indenture and reimburse it for its reasonable expenses incurred under the Indenture, except any such expense as may be attributable to its negligence or bad faith.

Section 4.11. Project not Security for Bonds. It is expressly recognized by the parties that the Project will not constitute any part of the security for the Bonds. The principal security for the Bonds shall be the Note and the absolute, irrevocable and unconditional obligation of the Company to make the Note Payments.

Section 4.12. Payment of Taxes and Assessments; No Liens or Charges. The Company will (a) pay, when the same shall become due and payable, all taxes and assessments, including income, profits, property or excise taxes, if any, or other municipal or governmental charges, imposed, levied or assessed by the Federal, state or any municipal government upon the Authority or the Trustee in respect of any payments (other than payments made pursuant to Section 4.10) made or to be made pursuant to this Participation Agreement or the Notes and (b) pay or cause to be discharged, within sixty (60) days after the same shall accrue, any lien or charge upon any such payment (except as aforesaid) made or to be made under this Participation Agreement; provided that the Company shall not be required to pay any such tax, assessment or charge so long as (i) the Company at its expense contests by appropriate legal proceedings conducted in good faith and with due diligence the amount, validity or application of any such tax, assessment or charge, (ii) such proceedings shall have the effect of suspending the collection thereof from the Authority and the Trustee, and (iii) the Company shall indemnify and hold the Authority and the Trustee harmless from any losses, costs, charges, expenses (including reasonable attorneys' fees and disbursements), judgments and liabilities arising in respect of such tax, assessment or charge and the nonpayment thereof.

Section 4.13. Company to Pay Attorneys' Fees and Disbursements. If the Company shall default under any of the provisions of this Participation Agreement and the Authority or the Trustee or both shall employ attorneys or incur other expenses for the collection of payments due under this Participation Agreement or the Note or for the enforcement of performance or observance of any obligation or agreement on the part of the Company contained in this Participation Agreement, the Company will on demand therefor reimburse the reasonable fees of such attorneys and such other reasonable disbursements so incurred.

Section 4.14. No Abatement of Administration Fees and Other Charges. It is understood and agreed that so long as any Bonds are outstanding under the Indenture, the Administration Fees and other charges payable to the Authority pursuant to this Participation Agreement or the Note shall continue to be payable at the times and in the amount herein specified, whether or not the Project, or any portion thereof, shall have been destroyed by fire or other casualty, or title thereto or the use thereof shall have been taken by the exercise of the power of eminent domain, and that there shall be no abatement of any such Administration Fees and other charges by reason thereof.

ARTICLE V

SPECIAL COVENANTS

Section 5.01. No Warranty as to Suitability of Project. The Authority makes no warranty, either express or implied, with respect to actual or designed capacity of the Project, as to the suitability of the Project for the purposes specified in this Participation Agreement, as to the condition of the Project, or that the Project will be suitable for the Company's purposes or needs.

Section 5.02. Authority's Right to Inspect Project. The Authority shall have the right at all reasonable times to examine and inspect the Project.

Section 5.03. Company Consent to Amendment of Indenture. The Authority and the Trustee shall not enter into any indenture supplemental to or amendatory of the Indenture which affects the rights or obligations of the Company without the prior consent of the Company as evidenced by a certificate in writing signed by an Authorized Company Representative.

Section 5.04. Tax Covenant. Notwithstanding any other provision hereof, the Company covenants and agrees that it will not take or authorize any action or permit any action within its reasonable control to be taken, or fail to take any action within its reasonable control, with respect to the Project, or the proceeds of any series of the Bonds, including any amounts treated as proceeds of the Bonds for any purpose of Section 103 of the Code, which will result in the loss of the exclusion of interest on any series of Bonds from gross income for Federal income tax purposes under Section 103 of the Code (except for any Bond during any period while any such Bond is held by a person referred to in Section 147(a) of the Code). This provision shall control in case of conflict or ambiguity with any other provision of this Participation Agreement. In furtherance of such covenant and agreement as it relates to the Bonds, the Authority and the Company have entered into the Tax Regulatory Agreement and the Company hereby covenants and agrees to comply with the provisions thereof.

Section 5.05. Company Agrees to Perform Obligations Imposed by Indenture. The Company agrees to perform such obligations as may be required of it by the provisions of the Indenture.

Section 5.06. Authority Agrees to Take Certain Actions at Direction of Company. The Authority agrees to exercise any option to redeem the Bonds pursuant to Section 5.01 of the Indenture at the direction of the Company. The Authority agrees to exercise its rights under Article XV of the Indenture upon the request of the Company.

Section 5.07. Certificates as to Defaults. The Company shall file with the Trustee and the Bond Insurer, on or before August 15 of each year, commencing on August 15, 2004, a certificate signed by an Authorized Company Representative stating that, to the best of his or her knowledge, information and belief, the Company has kept, observed, performed and fulfilled each and every one of its covenants and obligations contained in this Participation Agreement, the Tax Regulatory Agreement and in the Note and, to the best of his knowledge, information and belief, there does not exist at the date of such certificate any Event of Default

hereunder or other event which, with notice or the lapse of time specified in Section 7.01 hereof, or both, would become an Event of Default or, if any such Event of Default or other event shall so exist, specifying the same and the nature and status thereof.

Section 5.08. Recording and Filing. The Company hereby covenants that it will cause all financing statements related to the Indenture and all supplements thereto and this Participation Agreement and all supplements thereto, as well as such other security agreements, financing statements and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may from time to time be required by law in order to preserve and protect fully the security of Holders of the Bonds and the rights of the Trustee hereunder, and to take or cause to be taken any and all other action necessary to perfect the security interest created by the Indenture and shall, within ten (10) days after such filing, cause there to be furnished to the Trustee and the Bond Insurer an opinion of counsel as to the adequacy and details of such filing and specifying any re-filing to be effected in the future.

Section 5.09. Limited Obligation of Authority; Indemnification of Authority, Registrar and Paying Agent, Auction Agent and Trustee. The Bonds shall not be general obligations of the Authority, and shall not constitute an indebtedness of or a charge against the general credit of the Authority or give rise to any pecuniary liability of the Authority. The liability of the Authority under the Bonds shall be enforceable only to the extent provided in the Indenture, and the Bonds shall be payable solely from the Note Payments and any other funds held by the Trustee under the Indenture and available for such payment. The Bonds shall not be a debt of the State of New York, and the State of New York shall not be liable thereon.

No member, officer, agent or employee of the Authority shall be personally liable for the payment of the Bonds or any money or damages hereunder or related hereto. Notwithstanding the fact that it is the intention of the parties hereto that the Authority and all officers and employees thereof shall not incur pecuniary liability by reason of the terms of this Participation Agreement, or the undertakings required of the Authority hereunder or any officer or employee thereof, by reason of the issuance of the Bonds, the execution and delivery of any document, including, but not limited to, the Indenture, the Tax Regulatory Agreement, this Participation Agreement, the Note, the Auction Agency Agreement, any Remarketing Agreement, the Bond Purchase Trust Agreement, any Broker-Dealer Agreement or any final official statement, or by reason of the performance or non-performance of any act required of it by this Participation Agreement or any such other agreement, or the performance or non-performance of any act requested of it by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing; nevertheless, if the Authority

(including any person at any time serving as an officer or employee of the Authority) should incur any such pecuniary liability, then in such event the Company shall indemnify and hold harmless the Authority (including any person at any time serving as an officer or employee of the Authority) against all claims by or on behalf of any person, firm or corporation or other legal entity, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon.

The Company releases the Authority (including any person at any time serving as an officer or employee of the Authority), the Registrar and Paying Agent, the Auction Agent and the Trustee (including any person at any time serving as an officer or employee of the Trustee, the Registrar and Paying Agent or the Auction Agent) from, agrees that the Authority (including any person at any time serving as an officer or employee of the Authority), the Registrar and Paying Agent, the Auction Agent and the Trustee (including any person at any time serving as an officer or employee of the Trustee, the Registrar and Paying Agent or the Auction Agent) shall not be liable for, and agrees to indemnify and hold the Authority (including any person at any time serving as an officer or employee of the Authority) and the Trustee, the Auction Agent, the Registrar and Paying Agent (including any person at any time serving as an officer or employee of the Trustee, Auction Agent or the Registrar and Paying Agent) harmless, to the fullest extent permitted by law from any losses, costs, charges, expenses (including reasonable attorneys' and agents' fees and expenses), by reason of (i) any liability for any loss or damage to property or any injury to, or death of, any person that may be occasioned by any cause whatsoever arising out of the construction or operation of the Project, or (ii) any action, suit or proceeding instituted or threatened in connection with the transactions contemplated by this Participation Agreement, the Indenture and the Note, provided, however, that the Company shall not be liable as the result of the negligence of the Authority, the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent or bad faith or wilful misconduct of the Authority, the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent (including any person at any time serving as an officer or employee of the Authority or the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent). If any such claim is asserted, the Authority, any individual indemnified herein, the Trustee, the Registrar and Paying Agent, any Remarketing Agent or the Auction Agent, as the case may be, shall give prompt notice to the Company and permit the Company to participate in the defense thereof at its own expense. The Company will reimburse the indemnified parties for any legal or other expenses reasonably incurred by the indemnified parties in investigating or defending against any such claim, provided that the Company shall not be required to reimburse any of the indemnified parties for fees and expenses of counsel other than one counsel selected by the Trustee in its sole discretion for all indemnified parties in which proceedings are brought or threatened to be brought unless and to the extent there are actual or potential conflicts of interest between or among indemnified parties or defenses available to some indemnified parties that are not available to other indemnified parties in which case, the Company will reimburse the indemnified parties for any legal or other expenses reasonably incurred by the indemnified parties in investigating or defending against any such claim by each counsel of each of the indemnified parties affected. The obligation of the parties hereto under this Section shall survive the termination of this Participation Agreement and the Indenture.

Section 5.10. Provision of Information. The Company shall provide the Trustee with the forms of any notices required to be sent to holders of Bonds in connection with any redemption of Bonds, a change in the Auction Period, the Interest Period or Change in the Interest Rate Mode pursuant to Articles III, IV and V of the Indenture or the establishment of a Fixed Rate on the Bonds pursuant to Section 4.02 of the Indenture.

Section 5.11. Ratings. During any Auction Rate Period, the Company shall take all reasonable action necessary to enable at least two nationally recognized, statistical rating

organizations (as that term is used in the rules and regulations of the Commission under the Exchange Act) to provide ratings for the Auction Rate Bonds.

Section 5.12. Notices. During any Auction Rate Period, the Company on behalf of the Authority shall provide the Trustee and, so long as no Event of Default has occurred and is continuing and the ownership of any Auction Rate Bonds is maintained in book-entry form by the Securities Depository, the Auction Agent, with notice of any change in (a) the Statutory Corporate Tax Rate under the Indenture, (b) the Applicable Percentage, or (c) the maximum rate permitted by law on the Bonds. There is currently no such maximum rate.

Section 5.13. Maintenance of Office or Agency. So long as the Note remains outstanding and unpaid, the Company will at all times keep, in New York, New York, or another location in the State of New York, an office or agency where notices and demands with respect to the Note may be served, and will, from time to time, give written notice to the Trustee of the location of such office or agency; and, in case the Company shall fail so to do, notices may be served and demands may be made at the principal office of the Trustee.

Section 5.14. Maintenance of Properties. So long as the Note remains outstanding and unpaid, the Company will at all times make or cause to be made such expenditures for repairs, maintenance and renewals, or otherwise, as shall be necessary to maintain its properties in good repair, working order and condition as an operating system or systems to the extent necessary to meet the Company's obligations under the Public Service Law of the State of New York and the Participation Agreement.

Section 5.15. Insurance. So long as the Note remains outstanding and unpaid, the Company will keep or cause to be kept its properties that are of an insurable nature, insured against loss or damage by fire or other risks, the risk of which in the opinion of an Authorized Company Representative (who shall be an officer or employee of the Company responsible for the management of such risks) is customarily insured against by companies similarly situated and operating like properties, to the extent that property of similar character is, in such Authorized Company Representative's opinion, customarily insured against by such companies, either (a) by reputable insurers or (b) in whole or in part in the form of reserves or of one or more insurance funds created by the Company, whether alone or with other Corporations.

Section 5.16. Proper Books of Record and Account. So long as the Note remains outstanding and unpaid, the Company will at all times keep or cause to be kept proper books of record and account, in which full, true and correct entry will be made of all dealings, business and affairs of the Company, including proper and complete entries to capital or property accounts covering property worn out, obsolete, abandoned or sold, all in accordance with the requirements of any system of accounting or keeping accounts or the rules, regulations or orders prescribed by a regulatory commission with jurisdiction over the rates of the Company giving rise to at least fifty-one percent (51%) of the Company's gross revenues, or if there are no such requirements or rules, regulations or orders, then in compliance with generally accepted accounting principles.

Section 5.17. Compliance with Laws. So long as the Note remains outstanding and unpaid, the Company agrees to use its best efforts to comply in all material respects with all

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applicable laws, rules and regulations and orders of any governmental authority, non-compliance with which would have a material adverse effect on its business, financial condition or results of operations (to the extent the Company deems it can reasonably comply while maintaining its public utility operations) or would materially adversely affect the Company's ability to perform its obligations hereunder or under the Participation Agreement, except laws, rules, regulations or orders being contested in good faith or laws, rules, regulations or orders which the Company has applied for variances from, or exceptions to.

Section 5.18. Consolidation, Merger or Sale of Assets. So long as the Note remains outstanding and unpaid, the Company will not consolidate with or permit itself to be merged into any other corporation or corporations, or sell, lease, transfer or otherwise dispose of all or substantially all of its properties and assets, except in the manner and upon the terms and conditions set forth in this Section 5.18.

Nothing contained herein or in the Note shall prevent (and the Note shall be construed as permitting and authorizing, without acceleration of the maturity of the Note) any lawful consolidation or merger of the Company with or into any other corporation or corporations lawfully authorized to acquire and operate the properties of the Company, or a series of consolidations or mergers, or successive consolidations or mergers, in which the Company or its successor or successors shall be a party, or any sale of all or substantially all the properties of the Company as an entirety to a corporation lawfully authorized to acquire and operate the same; provided that, upon any consolidation, merger or sale, the corporation formed by such consolidation, or into which such merger may be made if other than the Company, or making such purchase shall execute and deliver to the Trustee an instrument, in form reasonably satisfactory to the Trustee, whereby such corporation shall effectually assume the due and punctual payment of the principal of and premium, if any, and interest on the Note according to its tenor and the due and punctual performance and observance of all covenants and agreements to be performed by the Company pursuant to the Note and the Participation Agreement on the part of the Company to be performed and observed; and, thereupon, such corporation shall succeed to and be substituted for the Company hereunder, with the same effect as if such successor corporation had been named herein as obligor.

Every such successor corporation shall possess, and may exercise, from time to time, each and every right and power hereunder of the Company, in its name or otherwise; and any act, proceeding, resolution or certificate by any of the terms of the Note required or provided to be done, taken and performed or made, executed or verified by any board or officer of the Company shall and may be done, taken and performed or made, executed and verified with like force and effect by the corresponding board or officer of any such successor Company.

If consolidation, merger or sale or other transfer is made as permitted by this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or sale or other transfer shall be made except in compliance with the provisions of this Section.

Section 5.19. Financial Statements of Company. The Company agrees to have an annual audit made by independent accountants and to furnish the Trustee with a balance sheet and statements of income, retained earnings and cash flow showing the financial condition of the

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Company and its consolidated subsidiaries, if any, at the close of each fiscal year, and the results of operations of the Company and its consolidated subsidiaries, if any, for each fiscal year, as audited by said accountants, on or before the last day of the third month following the close of the fiscal year or as soon thereafter as they are reasonably available. The Company further agrees to furnish to the Trustee, the Authority and to any owner of Bonds if requested in writing by such owner all financial statements which it sends to its shareholders. The delivery of such financial statements to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein, including the Company's compliance with any of its covenants hereunder.

Section 5.20. Information to Bond Insurer. (a) To the extent that the Company has entered into a continuing disclosure agreement with respect to the Bonds, the Bond Insurer shall be included as party to be notified.

(b) The Company shall immediately notify the Bond Insurer if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any Event of Default hereunder.

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ARTICLE VI

REDEMPTION OF BONDS

Section 6.01. Redemption of Bonds. If the Company is not in default in making Note Payments, the Authority and the Trustee, at the request of the Company, at any time the aggregate monies in the Bond Fund are sufficient to effect a redemption of Bonds and if the same are then redeemable under the provisions of the Indenture and the Bonds, shall forthwith take all steps that may be necessary under the applicable redemption provisions of Article V of the Indenture to effect redemption of all or part of the then Outstanding Bonds as may be specified by the Company on such redemption date.

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ARTICLE VII

Section 7.01. Events of Default Defined. The following shall be an “Event of Default” under this Participation Agreement and the term “Event of Default” shall mean, whenever it is used in this Participation Agreement, any one or more of the following events:

- (a) Failure by the Company to pay or cause to be paid, when due and payable, any installment of Note Payments and, in the case of failure to pay any installment of interest on the Note, continuance of such failure for one (1) Business Day.
- (b) Failure by the Company to observe and perform any covenant, condition or agreement in this Participation Agreement or the Note on its part to be observed or performed, other than as referred to in subsection (a) of this Section 7.01 (and other than failure to pay the amounts due under Sections 4.02(f), 4.13 and 5.09 of this Participation Agreement), for a period of ninety (90) days after written notice, specifying such failure and requesting that it be remedied, has been given to the Company unless the Trustee (with any required consent of Bondholders under the provisions of the Indenture) shall agree in writing to an extension of such time prior to its expiration, provided that if any such failure shall be such that it cannot be cured or corrected within such ninety-day period, it shall not constitute an Event of Default hereunder if curative or corrective action is instituted within such period and diligently pursued until the failure of performance is cured or corrected.
- (c) The dissolution or liquidation of the Company or the filing by the Company of a voluntary petition in bankruptcy, or failure by the Company promptly to discharge or cause to be discharged any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations generally or the commission by the Company of any act of bankruptcy, or adjudication of the Company as a bankrupt, or assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Company in any proceeding for its reorganization instituted under the provisions of the federal bankruptcy laws or the Company becomes insolvent or is unable to pay its debts as they become due. The term “dissolution or liquidation of the Company”, as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Company resulting either from a merger or consolidation of the Company into or with another corporation or a dissolution or liquidation of the Company following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such action with respect to the Company contained in Section 5.18 hereof.
- (d) The occurrence of an Event of Default as defined in Section 12.01 of the Indenture.

Subsection (b) of this Section 7.01 is subject to the following limitations: Except for the obligations of the Company contained in Article IV hereof, if by reason of force majeure

the Company is unable in whole or in part to carry out the agreements on its part herein contained, the Company shall not be deemed in default during the continuance of such inability. The term “force majeure” as used herein shall include the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State of New York or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; typhoons; storms; floods; washouts; droughts; arrests; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company. The Company agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Company from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Company, and the Company shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Company unfavorable to the Company.

Section 7.02. Remedies on Default. In the event any of the Bonds shall at the time be Outstanding and unpaid and provision for the payment thereof shall not have been made in accordance with the provisions of the Indenture, whenever any Event of Default referred to in Section 7.01 hereof shall have happened and be subsisting, the Authority, with respect to those rights not assigned to the Trustee, or the Trustee, following acceleration of the Bonds in accordance with provisions of Section 12.03 of the Indenture where so provided, may take any one or more of the following remedial steps:

- (a) The Trustee as provided in the Indenture may, at its option, or shall, to the extent required by the Indenture, declare all payments payable under clauses (a) - (e) of Section 4.02 hereof and the Note for the remainder of the term of this Participation Agreement to be immediately due and payable, whereupon the same shall become immediately due and payable.
- (b) The Authority, with respect to those rights not assigned to the Trustee, or the Trustee may take whatever action at law or in equity that may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Participation Agreement or the Note whether for specific performance of any covenant or agreement contained herein or therein or in aid of the execution of any power herein granted.

Any amounts collected pursuant to action taken under this Section 7.02 shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture.

If any such declaration of acceleration of the Bonds shall have been annulled pursuant to the terms of the Indenture and if, at any time after such declaration, but before all the Bonds shall have matured by their terms, all arrears of interest upon the Note, and interest on overdue installments of interest (to the extent enforceable under applicable law) at the rate or rates per annum specified for the Note and the principal of and premium, if any, on the Note which shall have become due and payable otherwise than by acceleration, and all other sums

payable hereunder, except the principal of, and interest on, the Note which pursuant to such declaration shall have become due and payable, shall have been paid by or on behalf of the Company or provision satisfactory to the Trustee shall have been made for such payment, then such acceleration of the Note shall

ipso facto be deemed to be rescinded and any such Event of Default and its consequences shall ipso facto be deemed to be annulled, but no such annulment shall extend to or affect any subsequent Event of Default or impair or exhaust any right or remedy consequent thereon.

Section 7.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority or to the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Participation Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Authority hereunder shall also extend to the Trustee and, the Trustee, the Bond Insurer and the Holders of the Bonds issued under the Indenture shall be deemed third party beneficiaries of all covenants and agreements herein contained.

In case the Trustee (as assignee of the Authority under the Indenture) or the Authority shall have proceeded to enforce its rights under this Participation Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Authority, then and in every such case, the Company, the Authority and the Trustee shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Authority and the Trustee shall continue as though no such proceeding had been taken.

The Company covenants that, in case an Event of Default shall occur with respect to any Note Payments payable under Sections 4.02(a) - (e) hereof and the Note, then, upon demand of the Trustee (as assignee of the Authority under the Indenture) the Company will pay to the Trustee the whole amount that then shall have become due and payable under said Sections, with interest (to the extent permitted by law) on said amount at the rate of interest then borne by the Bonds pursuant to the Indenture, but not exceeding the maximum rate permitted by law, until paid, and in addition thereto, such further amounts as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee, its agents, attorneys, and counsel, and any other expenses or liabilities incurred by the Trustee other than those incurred through bad faith or negligence.

In case the Company shall fail forthwith to pay such amounts upon such demand, the Authority, with respect to those rights not assigned to the Trustee, or the Trustee (as assignee of the Authority under the Indenture) shall be entitled and empowered to institute any action or proceeding at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such

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judgment or final decree against the Company and collect, in the manner provided by law out of the property of the Company, the monies adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company under the Federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or in the case of any other similar judicial proceedings relative to the Company or to the creditors or property of the Company, the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and provide a claim or claims for the whole amount owing and unpaid pursuant to this Participation Agreement and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Holders and the Trustee allowed in such judicial proceedings relative to the Company, its creditors, or its property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee, and to pay to the Trustee any amount due it for compensation and expenses, including reasonable counsel fees and expenses incurred by it up to the date of such distribution.

Nothing herein contained shall be construed to prevent the Authority from enforcing directly any of its rights under Sections 4.02(f), 4.13 and 5.09 hereof; provided that, in case the Company shall have failed to pay amounts required to be paid under Sections 4.02(f), 4.13 and 5.09 hereof which event shall have continued for a period of thirty (30) days after the date on which written notice of such failure, requiring the Company to remedy the same, shall have been given to the Company by the Authority or the Trustee, the Authority or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to enforce performance or observance of any obligations or agreements of the Company under Sections 4.02(f), 4.13 and 5.09 hereof.

Section 7.04. No Additional Waiver Implied by One Waiver. In the event any agreement contained herein or in the Note should be breached by any party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

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ARTICLE VIII

MISCELLANEOUS

Section 8.01. Disposition of Amounts after Payment of Bonds. Any amounts remaining in the funds created under the Indenture after payment in full of principal of and premium, if any, and interest on all the Bonds, or provision for payment thereof having been made in accordance with the provisions of the Indenture, and payment of all the fees, charges and expenses of the Authority, the Trustee, the Auction Agent, any Remarketing Agent, and the Registrar and Paying Agent and any other paying agent in accordance with the Indenture and this Participation Agreement, shall belong to and be promptly paid to the Company by the Trustee in accordance with the provisions of the Indenture.

Section 8.02. Notices. All notices, certificates, requests or other communications between the Authority, the Company and the Trustee required to be given under this Participation Agreement or under the Indenture shall be sufficiently given and shall be deemed given when delivered by hand or first class mail, postage prepaid, addressed as follows: if to the Authority, at 17 Columbia Circle, Albany, New York 12203-6399, Attention: President; if to the Company, at 4 Irving Place, New York, New York 10003, Attention: Secretary; and if to the Trustee or the Registrar and Paying Agent, at The Bank of

New York, 101 Barclay Street - 21W, New York, New York 10286, Attention: Corporate Trust Trustee Administration. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Authority, the Company or the Trustee shall also be given to the others. The Company, the Authority and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 8.03. Successors and Assigns. This Participation Agreement shall inure to the benefit of and shall be binding upon the Authority, the Company, the Trustee and their respective successors and assigns.

Section 8.04. Amendment of Participation Agreement. This Participation Agreement may not be amended except by an instrument in writing signed by the parties and upon compliance with the provisions of Sections 14.06 and 14.07 of the Indenture.

Section 8.05. Participation Agreement Supersedes Any Prior Agreements. This Participation Agreement and the Bond Purchase Agreement supersede any other prior agreements or understandings, written or oral, between the parties with respect to the transactions contemplated hereby and thereby.

Section 8.06. Further Assurances and Corrective Instruments. The Authority and the Company agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project or for carrying out the expressed intention of this Participation Agreement in accordance with the provisions of the Indenture.

Section 8.07. Counterparts. This Participation Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same Participation Agreement.

Section 8.08. Severability. If any clause, provision or section of this Participation Agreement is held illegal, invalid or unenforceable by any court or administrative body, this Participation Agreement shall be construed and enforced as if such illegal or invalid or unenforceable clause, provision or section had not been contained in this Participation Agreement. In case any agreement or obligation in this Participation Agreement be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the Authority or the Company, as the case may be, to the full extent permitted by law.

Section 8.09. Delegation of Duties by Authority. It is agreed that under the terms of this Participation Agreement and also under the terms of the Indenture the Authority has delegated certain of its duties hereunder to the Company. The fact of such delegation shall be deemed a sufficient compliance by the Authority to satisfy the duties so delegated and the Authority shall not be liable in any way by reason of acts done or omitted by the Company or any Authorized Company Representative. The Authority shall have the right at all times to act in reliance upon the authorization, representation or certification of an Authorized Company Representative unless such reliance is in bad faith.

Section 8.10. Survival of Representations, Warranties and Covenants. The respective agreements, representations, warranties and covenants set forth herein will remain in full force and will survive the execution and delivery of this Participation Agreement.

Section 8.11. NEW YORK LAW TO GOVERN. THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION OF THIS PARTICIPATION AGREEMENT.

Section 8.12. Third Party Beneficiary. To the extent that this Participation Agreement confers upon or gives or grants to the Bond Insurer any right, remedy or claim under or by reason of this Participation Agreement, the Bond Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right remedy or claim conferred, given or granted hereunder.

[Signature Page of this Agreement Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Participation Agreement to be duly executed as of the day and year first written above.

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT
AUTHORITY

(SEAL)

By: _____
Acting President

Attest:

Assistant Secretary

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

(SEAL)

By: _____

issued by New York State Energy Research and Development Authority (the "Authority") in the aggregate principal amount of \$146,975,000 pursuant to a Trust Indenture (the "Indenture") dated as of January 1, 2004, between the Authority and the Trustee, and at such times as provided in the Indenture. This Note is being delivered pursuant to and in accordance with the Participation Agreement dated as of January 1, 2004, between the Company and the Authority (the "Participation Agreement"), the terms and provisions of which are incorporated herein by reference and made a part hereof. All terms used and not otherwise defined herein are used as defined in the Indenture.

In the event the Company should fail to make any payment required by this Note, the Company's obligation to make such payment shall continue as an obligation of the Company until the amount in default shall have been fully paid, and the Company agrees to pay the same with interest thereon at the rate of interest borne by the Bonds, to the extent, but not exceeding the maximum rate, permitted by law, until paid.

This Note, unless paid earlier as permitted by the Participation Agreement, shall mature on May 1, 2032 with respect to the Subseries 2004B-1-1, Subseries 2004B-1-2, Subseries B-1-3

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and Subseries B-1-4 Bonds, and on October 1, 2035 with respect to the Subseries B-2 Bonds.

This Note is subject to optional and mandatory prepayment and to acceleration as provided in the Participation Agreement.

All payments hereunder shall be payable at the principal corporate trust office of the Trustee in New York, New York.

The obligation of the Company to make payments under this Note shall be an absolute, direct, general obligation, and shall be unconditional and shall not be abated, rebated, set off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever (other than for prior payment).

The Company hereby waives presentment for payment, demand, demand and protest and notice of protest, demand and dishonor and nonpayment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

**CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.**

(SEAL)

By: _____

Executive Vice President and
Chief Financial Officer

ATTEST:

Assistant Secretary

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TRUST INDENTURE

BETWEEN

NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY

AND

THE BANK OF NEW YORK,
as Trustee

Dated as of January 1, 2004

-relating to-

\$98,325,000 Facilities Revenue Bonds, Series 2004A
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THIS TRUST INDENTURE, made and dated as of January 1, 2004, by and between New York State Energy Research and Development Authority (the "Authority"), a body corporate and politic, constituting a public benefit corporation, and The Bank of New York, as trustee (the "Trustee"), a banking corporation organized and existing under and by virtue of the laws of the State of New York with its principal corporate trust office located in The City of New York.

WITNESSETH THAT:

WHEREAS, pursuant to a special act of the Legislature of the State of New York (Title 9 of Article 8 of the Public Authorities Law of New York, as from time to time amended and supplemented, herein called the "Act"), the Authority has been established, as a body corporate and politic, constituting a public benefit corporation; and

WHEREAS, pursuant to the Act, the Authority is empowered to contract with any power company to participate in the construction of facilities for the furnishing of electric energy and the furnishing of gas to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics; and

WHEREAS, pursuant to the Act, the Authority is also authorized to extend credit and make loans from bond proceeds to any person for the construction, acquisition, installation, reconstruction, improvement, maintenance, equipping, furnishing or leasing of any special energy project (as defined in the Act) including, but not limited to, facilities for the distribution of steam or for the reimbursement to any person for costs incurred in connection with a special energy project completed or not completed at the time of such credit or loan, which credits or loans may, but need not, be secured by mortgages, contracts, leases or other instruments, upon such terms and conditions as the Authority shall determine reasonable in connection with such credits or loans; and

WHEREAS, the Authority is also authorized under the Act to borrow money and issue its negotiable bonds and notes to provide sufficient monies for achieving its corporate purposes, including the refunding of its outstanding obligations; and

WHEREAS, the Authority is also authorized under the Act to enter into any contracts and to execute all instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes; and

WHEREAS, the Consolidated Edison Company of New York, Inc. (the "Company") has requested that the Authority issue bonds for the purpose of refunding the Authority's 6% Facilities Revenue Bonds, Series 1993 A (Consolidated Edison Company of New York, Inc. Project), in the aggregate principal amount of \$101,000,000 (the "Prior Bonds") issued to finance the acquisition, construction and installation of certain facilities for the furnishing of gas within the Company's gas service area; and

WHEREAS, pursuant to Resolution No. 1024 adopted January 13, 2003, the Authority has determined to issue the Bonds, in an aggregate principal amount not to exceed

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\$101,000,000, for the purpose of refunding the Prior Bonds, all such Bonds to be issued under and secured by this Trust Indenture; and

WHEREAS, contemporaneously with the execution hereof, the Company and the Authority have entered into a Participation Agreement of even date herewith (herein referred to as the "Participation Agreement"); and

WHEREAS, the bonds to be issued will be in the aggregate principal amount of \$98,325,000 and will be designated as Facilities Revenue Bonds, Series 2004A (Consolidated Edison Company of New York, Inc. Project) (the "Bonds"), which will be used, together with Company funds, to refund the Prior Bonds, such Bonds to be issued under and secured by this Trust Indenture; and

WHEREAS, simultaneously with the issuance and delivery of such bonds, the Company will execute and deliver a promissory note dated the date of issuance of such bonds (the "Note") as evidence of its obligation to make payments required by the Participation Agreement; and

WHEREAS, all acts, conditions and things necessary or required by the Constitution and statutes of the State of New York, or otherwise, to exist, happen, and be performed as prerequisites to the passage of this Indenture, do exist, have happened, and have been performed; and

WHEREAS, the Trustee has accepted the trusts created by this Trust Indenture and in evidence thereof has joined in the execution hereof;

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Bonds are authenticated, issued and delivered, and in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Holders thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure payment of the principal of and premium, if any, and interest on the Bonds according to their tenor and effect and the performance and observance by the Authority of all covenants, agreements and conditions herein and in the Bonds contained, the Authority has acknowledged, executed, signed and delivered this Indenture and hereby assigns, confirms, pledges with and sets over and entrusts to the Trustee hereunder, its successors in trust and assigns, subject to the provisions of this Indenture (the following being called the "Trust Estate"): (1) the Revenues (as hereinafter defined); (2) the Participation Agreement and the Note and all rights, remedies and interest of the Authority under the Participation Agreement and the Note, and any other agreement relating to the Project (exclusive of the Authority's rights with respect to (a) administrative compensation, attorney's fees and indemnification, (b) the receipt of notices, opinions, reports, copies of instruments and other items of a similar nature required to be delivered to the Authority under the Participation Agreement, (c) granting approvals and consents and making determinations when required under the Participation Agreement, (d) making requests for information and inspections in accordance with the Participation Agreement,

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(e) Article III and Sections 4.02(f), 4.14 and 5.09 of the Participation Agreement and, insofar as the obligations of the Company under Section 4.12 relate to taxes and assessments imposed upon the Authority and not the Trustee, Section 4.12 thereof, and (f) the right to amend the Participation Agreement); (3) the Tax Regulatory Agreement (as hereinafter defined), and all rights, remedies and interest of the Authority thereunder, subject to the provisions of the Tax Regulatory Agreement relating to the amendment thereof and to a reservation by the Authority of the right to enforce the obligations of the Company thereunder independently of the Trustee; (4) all other monies, rights and properties held by the Trustee or other depository under this Indenture including, but only for the benefit of the persons specified herein, the proceeds of any draw, borrowing or payment under any Credit Facility (other than the Policies (as hereinafter defined)), and the securities (and the interest, income and profits therefrom) in which such monies may from time to time be invested (exclusive of the proceeds of a Liquidity Facility (as hereinafter defined) or the Project Fund (as hereinafter defined)); and (5) any and all other real or personal property of every nature from time to time hereafter by delivery or by writing of any kind specially mortgaged, pledged, or hypothecated, as and for additional security hereunder, by the Company in favor of the Trustee or the Authority which are hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular of said Trust Estate unto the Trustee, its successors in trust and assigns, forever, in trust, nevertheless, to inure to the use and benefit of the Holders of all the Bonds, for the securing of the observance or performance of all the terms, provisions and conditions therein and herein contained and for the equal and proportionate benefit and security of all and singular the present and future Holders of the Bonds, without preference, priority, prejudice or distinction as to lien or otherwise of any Bond over any other Bond, to the end that each Holder of a Bond shall have the same rights, privileges and lien under and by virtue of this Trust Indenture, except as hereinafter otherwise specifically provided;

AND UPON THE CONDITION THAT, if the Authority shall cause to be paid fully and promptly and indefeasibly when due all of its indebtedness, liabilities, obligations and sums at any time secured hereby, including interest, the Trustee's fees and reasonable expenses (including reasonable attorneys' fees and expenses), and shall promptly, faithfully and strictly keep, perform and observe, or cause to be kept, performed and observed, all of its covenants, obligations, warranties and agreements contained herein, then and in such event, this Trust Indenture shall be and become void and of no further force and effect, otherwise the same shall remain in full force and effect.

THIS TRUST INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said income and Revenues hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Authority has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Holders, from time to time, of the said Bonds, or any part thereof, as follows (provided that in the performance of the agreements of the Authority herein contained any obligation it may thereby incur for the payment of money shall never constitute a general or moral obligation of the State of New York

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or any political subdivision thereof within the meaning of any state constitutional provision or statutory limitation, and shall not be secured directly or indirectly by the full faith and credit, the general credit or any revenue or taxes of the State of New York or any political subdivision thereof, but shall be payable solely out of the income and Revenues derived under the Participation Agreement and the Note and from drawings under the Credit Facility (paid to the Insurance Trustee (as hereinafter defined) in the case of the Policies), if any, and other monies, rights and properties of the Trust Estate), that is to say:

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ARTICLE I

DEFINITIONS; COMPUTATIONS; CERTIFICATES AND OPINIONS; EVIDENCE OF ACTION BY AUTHORITY

SECTION 1.01. Definitions of Specific Terms. Unless the context shall clearly indicate some other meaning or may otherwise require, the terms defined in this Section shall, for all purposes of this Indenture and of any indenture, resolution or other instrument amendatory hereof or supplemental hereto and of any certificate, opinion, instrument or document herein or therein mentioned, have the meanings herein specified, with the following definitions to be equally applicable to both the singular and plural forms of any terms herein defined and vice versa.

“Act” shall mean the New York State Energy Research and Development Authority Act, Title 9 of Article 8 of the Public Authorities Law of the State of New York, as from time to time amended and supplemented.

“Additional Payments” shall mean the Additional Payments as defined in Section 4.02(f) of the Participation Agreement.

“Adjustable Rate” shall mean any of the following types of interest rates: a Commercial Paper Rate, an Auction Rate, a Daily Rate, a Weekly Rate, a Monthly Rate, a Semi-annual Rate and a Term Rate.

“Administration Fees” shall mean the amounts payable by the Company to the Authority pursuant to Section 4.02(f) of the Participation Agreement to defray a portion of the expenses incurred by the Authority in conducting and administering its special energy project programs and the amount payable as state bond issuance charge pursuant to Section 4.02(f) of the Participation Agreement.

“Affiliate” shall mean any person known to the Auction Agent to be controlled by, in control of or under common control with the Company; provided that no Broker-Dealer controlled by, in control of or under common control with the Company shall be an Affiliate nor shall any corporation or any person controlled by, in control of or in common control with such corporation be an Affiliate solely because a director or executive officer of such Broker-Dealer is also a director of the Company.

“After-Tax Equivalent Rate” on any date of determination shall mean with respect to Auction Rate Bonds, the interest rate per annum equal to the product of (x) Commercial Paper/Treasury Rate on such date and (y) (1.00 minus the Statutory Corporate Tax Rate on such date).

“Agent Member” shall mean a member of, or participant in, the Securities Depository.

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“All Hold Rate” shall mean for any subseries of Bonds on any date of determination with respect to Auction Rate Bonds the rate per annum equal to 85% (as such percentage may be adjusted pursuant to Section 3.10) of the lesser of (i) the BMA Index on such date and (ii) the After-Tax Equivalent Rate on such date; provided, however, that in no event shall such All Hold Rate exceed the Maximum Allowed Rate.

“Alternate Support Facility” shall mean any Support Facility obtained pursuant to the provisions of Section 6.02 in replacement of an existing Support Facility.

“Applicable Percentage” on any date of determination for any subseries of Bonds shall mean the percentage determined as set forth below (as such percentage may be adjusted for Auction Rate Bonds pursuant to Section 3.10) based on the prevailing long-term rating of the Auction Rate Bonds in effect at the close of business on the Business Day immediately preceding such date of determination:

| <u>Prevailing Rating</u> | <u>Applicable Percentage</u> |
|--------------------------|------------------------------|
| AAA/”Aaa” | 175 % |
| AA/”Aa” | 175 % |
| A/”A” | 175 % |
| BBB/”Baa” | 200 % |
| Below BBB/”Baa” | 265 % |

For purposes of this definition, the “prevailing rating” of the Auction Rate Bonds will be (a) AAA/”Aaa,” if the Auction Rate Bonds have a rating of AAA or better by S&P and a rating of “Aaa” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, (b) if not AAA/”Aaa,” then AA/”Aa” if the Auction Rate Bonds have a rating of AA- or better by S&P and a rating of “Aa3” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, (c) if not AAA/”Aaa” or AA/”Aa,” then A/”A” if the Auction Rate Bonds have a rating of A- or better by S&P and a rating of “A3” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, (d) if not AAA/”Aaa,” AA/”Aa” or A/”A,” then BBB/”Baa,” if the Auction Rate Bonds have a rating of BBB- or better by S&P and a rating of “Baa3” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, and (e) if not AAA/”Aaa,” AA/”Aa,” A/”A” or BBB/”Baa,” then below BBB/”Baa,” whether or not the Auction Rate Bonds are rated by any securities rating agency.

If (x) the Auction Rate Bonds, are rated by a rating agency or agencies other than Moody’s or S&P and (y) the Company has delivered on behalf of the Authority to the Trustee and the Auction Agent an instrument designating one or two of such rating agencies to replace Moody’s or S&P, or both, then for purposes of the definition of “prevailing rating” Moody’s or S&P, or both, will be deemed to have been replaced in accordance with such instrument; provided, however, that such instrument must be accompanied by the consent of the applicable Market Agent. For purposes of this definition, S&P’s rating categories of AAA, AA-, A- and BBB-, and Moody’s rating categories of “Aaa,” “Aa3,” “A3” and “Baa3,” refer to and include the respective rating categories correlative thereto in the event that either or both of such rating

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agencies have changed or modified their generic rating categories. If the prevailing ratings for the Bonds are split between the categories set forth above, the lower rating will determine the prevailing rating.

“Auction” shall mean each periodic implementation of the Auction Procedures for Auction Rate Bonds.

“Auction Agency Agreement” shall mean the Auction Agency Agreement to be entered into between the Company and the Auction Agent with respect to the Auction Rate Bonds, as from time to time amended and supplemented.

“Auction Agent” shall mean any entity appointed as such pursuant to Section 11.21 and its successors and assigns.

“Auction Date” shall mean with respect to each Auction Period, the last Wednesday of the immediately preceding Auction Period (or such other day that the applicable Market Agent shall establish as the Auction Date therefor pursuant to Section 3.05); provided, that if such day is not a Business Day, the Auction Date shall be the next succeeding Business Day.

“Auction Period” shall mean for any subseries of Bonds the period from and including the Closing Date to and including the initial Auction Date for such subseries and thereafter, or after a Change in the Interest Rate Mode to an Auction Rate, until the effective date of a Change in the Interest Rate Mode or the Stated Maturity, each period from and including the last Interest Payment Date for the immediately preceding Auction Period or Calculation Period, as the case may be, to and including the next succeeding Auction Date or, in the event of a Change in the Interest Rate Mode, to but excluding the effective date of such change, provided, if any day that would be the last day of any such period does not immediately precede a Business Day, such period shall end on the next day which immediately precedes a Business Day.

“Auction Procedures” shall mean with respect to the Auction Rate Bonds the procedures set forth in Sections 3.03 through 3.10.

“Auction Rate” shall mean with respect to Auction Rate Bonds and each Auction Period for such Auction Rate Bonds, the rate of interest per annum determined for the Bonds pursuant to Article III.

“Auction Rate Bonds” shall mean with respect to an Auction Rate Period, any Bonds or subseries of Bonds which bear interest at the Auction Rate.

“Auction Rate Bonds Period Record Date” shall mean, with respect to each Interest Payment Date during an Auction Rate Period, the Business Day immediately preceding such Interest Payment Date.

“Auction Rate Period” shall mean any period during which the Auction Rate Bonds bear interest at an Auction Rate determined pursuant to the implementation of Auction Procedures established under Article III, which period shall commence on the Closing Date or on

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the effective date of a Change in the Interest Rate Mode to an Auction Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of a Change in the Interest Rate Mode or (b) the Stated Maturity.

“Authority” shall mean New York State Energy Research and Development Authority, the public benefit corporation created by the Act, and its successors and assigns.

“Authorized Company Representative” shall mean any officer or other employee of the Company at the time designated to act on behalf of the Company by written certificate furnished to the Authority and the Trustee containing the specimen signature of such person and signed on behalf of the Company by its Chairman, President or a Vice President and its Secretary or an Assistant Secretary.

“Authorized Officer” shall mean the Chair, Vice-Chair, President, Vice President, Treasurer, Assistant Treasurer or Secretary of the Authority.

“Available Auction Rate Bonds” shall mean with respect to the Auction Rate Bonds, Available Auction Rate Bonds as defined in Section 3.08.

“Bid” shall mean with respect to the Auction Rate Bonds, Bid as defined in Section 3.06.

“Bidder” shall mean with respect to the Auction Rate Bonds, Bidder as defined in Section 3.06.

“BMA Index” shall mean, as of any date of determination, The Bond Market Association Municipal Swap Index that is most recently released by Municipal Market Data to its subscribers prior to such date of determination; provided, however, that if the BMA Index is unavailable for a period of over 21 days preceding such date of determination, references to the BMA Index shall be replaced by the After-Tax Equivalent Rate.

“Bond Counsel” shall mean an attorney or firm or firms of attorneys, satisfactory to the Authority and the Trustee, nationally recognized and experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

“Bond Fund” shall mean the special trust fund of the Authority designated as “Consolidated Edison Company of New York, Inc. Series 2004A Project Bond Fund” created and established under, and to be held and administered by the Trustee as provided in Section 9.01 and, unless the context shall clearly indicate otherwise, shall include the “Interest Account,” the “Principal Account,” and the “Redemption Account” created and established therein.

“Bond Insurer” shall mean XL Capital Assurance Inc., or any successor thereto.

“Bond Insurer Default” shall mean the occurrence and continuance of one or more of the following events: (a) the failure of the Bond Insurer to pay principal of or interest on the Bonds when and to the extent required by a Policy; (b) the issuance of an order of liquidation or

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dissolution of a Bond Insurer; (c) the commencement by a Bond Insurer of a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for itself or any substantial part of its property; (d) the consent of a Bond Insurer to any relief referred to in the preceding clause (c) in an involuntary case or other proceeding commenced against it; (e) the making by a Bond Insurer of an assignment for the benefit of creditors; (f) the failure of a Bond Insurer to generally pay its debts as they become due; (g) a default by the Bond Insurer under a Policy; or (h) the initiation by a Bond Insurer of any actions to authorize any of the foregoing; provided that the events described in clauses (b) - (e) above shall constitute a Bond Insurer Default only if such event has the effect of lowering the rating assigned to the bonds insured by the Bond Insurer to less than “AA” by S&P or “Aa2” by Moody’s or “A” by Fitch.

“Bond Purchase Agreement” shall mean the Bond Purchase Agreement, dated as of January 28, 2004, among the Authority, the Company and the underwriters named therein.

“Bond Purchase Fund” shall mean the Bond Purchase Fund established pursuant to the Bond Purchase Trust Agreement.

“Bond Purchase Trust Agreement” shall mean the Bond Purchase Trust Agreement dated as of the date hereof between the Authority and the Registrar and Paying Agent, as from time to time amended or supplemented.

“Bond Year” shall have the meaning set forth in the Tax Regulatory Agreement.

“Bondholder”, “Holder of a Bond” or “Holder” shall mean any registered owner of a Bond.

“Bonds” shall mean \$98,325,000 aggregate principal amount of the “Facilities Revenue Bonds, Series 2004A (Consolidated Edison Company of New York, Inc. Project)” issued as authorized in Section 2.02 at any time Outstanding.

“Broker-Dealer” shall mean any broker-dealer (as defined in the Securities Exchange Act), commercial bank or other entity permitted by law to perform the functions required of a Broker-Dealer set forth in the Auction Procedures (i) that is an Agent Member (or an affiliate of an Agent Member), (ii) that has been selected by the Auction Agent and the Company with the consent of the Authority, and (iii) that has entered into a Broker-Dealer Agreement with the Auction Agent and the Company that remains effective.

“Broker-Dealer Agreement” shall mean each agreement applicable to the Auction Rate Bonds, between a Broker-Dealer, the Company and the Auction Agent pursuant to which the Broker-Dealer, among other things, agrees to participate in Auctions as set forth in the Auction Procedures, as from time to time amended and supplemented.

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“Business Day” shall mean any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York, or any city in which is located the principal corporate trust office of the Trustee or the Auction Agent, or the fiscal agent appointed by the Bond Insurer are authorized or required by law or executive order to remain closed.

“Calculation Period” shall mean (a) during any Commercial Paper Rate Period following a Change in the Interest Rate Mode to a Commercial Paper Rate Period, the period from and including the effective date of the Change in the Interest Rate Mode to a Commercial Paper Rate Period to but not including any day not more than 270 days thereafter which is a day immediately preceding a Business Day established by a Remarketing Agent pursuant to Section 3.02 and, thereafter, any Calculation Period established by such Remarketing Agent pursuant to Section 3.02 which shall end on a day not later than 270 days from the commencement thereof; (b) during any Daily Rate Period, the period from and including a Business Day to but not including the next succeeding Business Day; (c) during any Weekly Rate Period following a Change in the Interest Rate Mode to a Weekly Rate, the period from and including the effective date of the Change in the Interest Rate Mode to and including the following Tuesday, and, thereafter, the period from and including Wednesday of each week to and including the following Tuesday; (d) during any Monthly Rate Period following a Change in the Interest Rate Mode to a Monthly Rate, the period from and including the effective date of the Change in the Interest Rate Mode to but excluding the first Business Day of the following month, and, thereafter each period from and including the first Business Day of the month to but excluding the first Business Day of the following month; (e) during any Semi-annual Rate Period following a Change in the Interest Rate Mode to a Semi-annual Rate, the period from and including the effective date of the Change in the Interest Rate Mode to but excluding the next succeeding Interest Payment Date and, thereafter, each period from and including the day following the end of the last Calculation Period to but excluding the next succeeding Interest Payment Date; (f) during any Term Rate Period, any period of not less than 365 days from and including a Business Day to and including any day (established by the Authority, at the request of the Company, pursuant to Section 4.01.1) not later than the day prior to the Stated Maturity; and (g) during any Fixed Rate Period following a Change in the Interest Rate Mode to a Fixed Rate, the period from and including the effective date of the Change in the Interest Rate Mode through the day immediately preceding the Stated Maturity.

“Change in the Interest Rate Mode” shall mean any change in the type of interest rate borne by the Bonds pursuant to Section 4.01 or Section 4.02.

“Change of Preference Law” shall mean any amendment to the Code or other statute enacted by the Congress of the United States or any temporary, proposed or final regulation promulgated by the United States Treasury, after the date hereof which (a) changes or would change any deduction, credit or other allowance allowable in computing liability for any Federal tax with respect to, or (b) imposes, or would impose, or increases or would increase any Federal tax (including, but not limited to, preference or excise taxes) upon, any interest earned by any holder of bonds the interest on which is excluded from Federal gross income under Section 103 of the Code.

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“Closing Date” shall mean the date on which the Note becomes legally effective, the same being the date on which the Bonds are paid for by and delivered to the original purchasers thereof.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder and applied to the Bonds or the use of proceeds thereof, and also includes all amendments and successor provisions unless the context clearly requires otherwise.

“Commercial Paper Dealers” shall mean Lehman Commercial Paper Inc. and CS First Boston Corporation or any other commercial paper dealers specified by the Authority at the request of the Company, or in lieu of any thereof, their respective affiliates or successors, provided that any such entity is a commercial paper dealer and, if not, as replaced by the Substitute Commercial Paper Dealer.

“Commercial Paper Period Record Date” shall mean, with respect to each Interest Payment Date during a Commercial Paper Rate Period, the Business Day next preceding such Interest Payment Date.

“Commercial Paper Rate” shall mean with respect to each Calculation Period during a Commercial Paper Rate Period, a rate or rates of interest equal to the rate or rates of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate or rates of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate or rates of interest shall not exceed the lesser of 110% of the Commercial Paper Rate Index on and as of such date and the Maximum Allowed Rate.

“Commercial Paper Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Commercial Paper Rate Period, the average of yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued) all of which shall have a term as near as practicable to such Calculation Period or which are subject to optional or mandatory tender by the owner thereof at the end of a term as near as practicable to such Calculation Period, the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its

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highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent’s judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency and not have any outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Commercial Paper Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Commercial Paper Rate Period” shall mean any period during which the Bonds bear interest at a Commercial Paper Rate or Rates, which period shall commence on the effective date of a Change in the Interest Rate Mode to a Commercial Paper Rate or Rates, as the case may be, and extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode or (b) the Stated Maturity.

“Commercial Paper/Treasury Rate” on any date of determination shall mean with respect to Auction Rate Bonds (i) in the case of any Auction Period of less than 49 days, the interest equivalent of the 30-day rate, (ii) in the case of any Auction Period of 49 days or more and but less than 70 days, the interest equivalent of the 60-day rate, (iii) in the case of any Auction Period of 70 days or more but less than 85 days, the arithmetic average of the interest equivalent of the 60-day and 90-day rates, (iv) in the case of any Auction Period of 85 days or more but less than 99 days, the interest equivalent of the 90-day rate; (v) in the case of any Auction Period of 99 days or more but less than 120 days, the arithmetic average of the interest equivalent of the 90-day and 120-day rates, (vi) in the case of any Auction Period of 120 days or more but less than 141 days, the interest equivalent of the 120-day rate, (vii) in the case of any Auction Period of 141 days or more but less than 162 days, the arithmetic average of the interest equivalent of the 120-day and 180-day rates, (viii) in the case of any Auction Period of 162 days or more but less than 183 days, the interest equivalent of the 180-day rate, and (ix) in the case of any Auction Period of 183 days or more, the Treasury Rate for such Auction Period. The foregoing rates shall in all cases, except with respect to the Treasury Rate, be rates on commercial paper placed on behalf of issuers whose corporate bonds are rated “AA” by S&P, or the equivalent of such rating by Moody’s, as made available on a discount basis or otherwise by the Federal Reserve Bank of New York for the Business Day immediately preceding such date of determination, or in the event that the Federal Reserve Bank of New York does not make available any such rate, then the arithmetic average of such rates, as quoted on a discount basis or otherwise, by the Commercial Paper Dealers, to the Auction Agent for the close of business on the Business Day immediately preceding such date of determination.

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If any Commercial Paper Dealer does not quote a commercial paper rate required to determine the Commercial Paper/Treasury Rate, the Commercial Paper/Treasury Rate shall be determined on the basis of a commercial paper quotation or quotations furnished by the remaining Commercial Paper Dealer or Commercial Paper Dealers and any Substitute Commercial Paper Dealer or Substitute Commercial Paper Dealers selected by the Authority at the request of the Company to provide such quotation or quotations not being supplied by any Commercial Paper Dealer or Commercial Paper Dealers, as the case may be, or if the Authority does not select any such Substitute Commercial Paper Dealer or Substitute Commercial Paper Dealers, by the remaining Commercial Paper Dealer or Commercial Paper Dealers. For purposes of this definition, the “interest equivalent” of a rate stated on a discount basis (a “discount rate”) for commercial paper of a given day’s maturity shall be equal to the product of (A) 100 times (B) the quotient (rounded upwards to the next higher one-thousandth (.001) of 1%) of (x) the discount rate (expressed in decimals) divided by (y) the difference between (1) 1.00 and (2) a fraction the numerator of which shall be the product of the discount rate (expressed in decimals) times the number of days in which such commercial paper matures and the denominator of which shall be 360. In no event shall the Commercial Paper/Treasury Rate be greater than the lesser of 15% or the maximum rate permitted by applicable law.

“Commission” shall mean the Securities and Exchange Commission.

“Company” shall mean Consolidated Edison Company of New York, Inc., and any surviving, resulting or transferee corporation as provided in Section 5.18 of the Participation Agreement.

“Company Account” shall mean the account created pursuant to Section 2.01(a) of the Bond Purchase Trust Agreement.

“Component Issuers” shall mean issuers of securities, the interest on which is excluded from gross income for Federal income tax purposes, selected by the Indexing Agent.

“Computation Date” shall mean each date which is one (1) Business Day prior to any Determination Date.

“Computation Period” shall have the meaning set forth in the Tax Regulatory Agreement.

“Credit Facility” shall mean any Support Facility which provides for the payments referred to in clause (ii) of the definition thereof. The initial Credit Facilities are the Policies.

“Credit Facility Issuer” shall mean any bank or banks or other financial institution or institutions, having issued any Credit Facility. The initial Credit Facility Issuer is the Bond Insurer.

“Current Adjustable Rate” shall mean the interest rate borne by Bonds immediately prior to a Change in the Interest Rate Mode or the establishment of a Fixed Rate.

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“Daily Period Record Date” shall mean, with respect to each Interest Payment Date during a Daily Rate Period, the Business Day next preceding such Interest Payment Date.

“Daily Rate” shall mean with respect to each Calculation Period during a Daily Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof plus accrued interest thereon; provided that such rate of interest shall not exceed the lesser of 110% of the Daily Rate Index on and as of such day and the Maximum Allowed Rate.

“Daily Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Daily Rate Period, the average of one-day yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent and which have redemption or tender provisions comparable to the then applicable provisions of the Bonds, computed by the Indexing Agent on and as of the Determination Date. If the Bonds are

rated by a Rating Agency, each Component Issuer must have outstanding securities rated by a Rating Agency in a short-term debt rating category which is the same as the short-term debt rating category in which the Bonds are rated. The specific issuers included in the Component Issuers may be changed from time to time by the Indexing Agent in its discretion and shall be issuers whose securities, in the judgment of the Indexing Agent, have characteristics similar to the Bonds. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Daily Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Daily Rate Period” shall mean any period during which Bonds bear interest at a Daily Rate which period shall commence on the effective date of the Change in the Interest Rate Mode to a Daily Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of a Change in the Interest Rate Mode or (b) the Stated Maturity.

“Determination Date” shall mean, for any Calculation Period, the first Business Day occurring during such Calculation Period; provided, however, with respect to Bonds which bear interest at the Weekly Rate, each Wednesday or, if such Wednesday is not a Business Day, the Business Day next preceding such Wednesday.

“Direct-Pay Credit Facility” shall mean any Credit Facility which by its terms permits the Trustee to draw moneys thereunder for deposit in the Bond Fund.

“Event of Default” shall mean Event of Default as defined in Section 12.01.

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“Existing Holder” shall mean with respect to Auction Rate Bonds a person that is listed as the beneficial owner of Auction Rate Bonds in the records of the Auction Agent.

“Fiscal Year” shall mean the fiscal year of the Company as established from time to time by the Company which as of the Closing Date is the twelve-month period commencing on January 1 of each calendar year and ending on December 31 of the next calendar year.

“Fitch” shall mean Fitch Ratings and its successor or successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency or shall be replaced by some other nationally recognized rating agency by the Authority at the request of the Company, “Fitch” shall be deemed to refer to such other nationally recognized rating agency designated by the Authority at the request of the Company.

“Fixed Rate” shall mean, with respect to a Fixed Rate Period, the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of such date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such date to remarket the Bonds in a secondary market transaction at a price equal to 100% of the Outstanding principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Fixed Rate Index on and as of such date and 18% per annum;

“Fixed Rate Conversion Date” shall have the meaning set forth in Section 4.02.

“Fixed Rate Index” shall mean with respect to a Fixed Rate Conversion Date, the average of the yield evaluations (on the basis of full coupon securities trading at par with a term approximately equal to the Fixed Rate Period) of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent and which have a long-term rating by a Rating Agency in the same rating category as the Bonds are rated at the time by such Rating Agency or, if no such bonds are so rated, shall be debt which, in the judgment of the Indexing Agent, is of credit quality comparable to that of the Bonds, computed by the Indexing Agent on and as of the Fixed Rate Conversion Date. In the event that the Indexing Agent fails to compute the Fixed Rate Index and no other qualified municipal securities evaluation service can be appointed Indexing Agent by the Authority, the Fixed Rate Index shall be determined by the applicable Remarketing Agent and shall be 90% of the average yield shown for the most recent calendar month for United States Treasury notes or bonds having the same number of years to maturity as the number of 12-month periods (or months if the Fixed Rate Period is less than one year) in the Fixed Rate Period, as published in the Federal Reserve Bulletin in the last issue before the Fixed Rate Conversion Date. If that issue does not contain such a yield, the Fixed Rate Index will be determined by linear interpolation between the yields shown in that issue for United States Treasury notes and bonds having the next shorter and next longer number of years (or months) to maturity. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the

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Fixed Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Fixed Rate Period” shall mean any period during which Bonds bear interest at a Fixed Rate, which period shall commence on the effective date of a Change in the Interest Rate Mode to a Fixed Rate, and shall extend through the day immediately preceding the Stated Maturity.

“Fixed Rate Record Date” shall mean, with respect to each Interest Payment Date during a Fixed Rate Period, the fifteenth day of the month next preceding such Interest Payment Date, or, if such day shall not be a Business Day, the next preceding Business Day.

“Governmental Obligations” shall mean any of the following which are non-callable:

(a) direct obligations of, or obligations the payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America; and

(b) bonds, debentures or notes issued by the Federal Financing Bank, Farmers Home Administration, or any other comparable Federal agency hereafter created to the extent that said obligations are unconditionally guaranteed by the United States of America.

“Hold Order” shall mean with respect to the Auction Rate Bonds, Hold Order as defined in Section 3.06.

“Indenture” shall mean this Trust Indenture dated as of January 1, 2004 between the Authority and the Trustee, as the same may be amended or supplemented.

“Indexing Agent” shall mean the Indexing Agent appointed in accordance with Section 11.24.

“Interest Payment Date” shall mean:

- (a) during each Commercial Paper Rate Period, the Business Day immediately succeeding the last day of any Calculation Period;
- (b) during an Auction Rate Period (i) for an Auction Period of 91 days or less, the Business Day immediately succeeding such Auction Period and (ii) for an Auction Period of more than 91 days, each 13th Thursday after the first day of such Auction Period or the next Business Day if such Thursday is not a Business Day, and the Business Day immediately succeeding the last day of each such Auction Period;
- (c) during each Daily Rate Period, the first Business Day of each month thereof;

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- (d) during each Weekly Rate Period, the first Business Day of each month thereof;
- (e) during each Monthly Rate Period, the first Business Day of each month thereof;
- (f) during each Semi-annual Rate Period, (i) the first Business Day of the sixth calendar month following the month in which the first day of such Semi-annual Rate Period occurred, (ii) each anniversary of the date so determined, and (iii) each anniversary of the first day of the first month of such Semi-annual Rate Period;
- (g) during each Term Rate Period, the April 1 or October 1 next succeeding the first day of a Calculation Period and each April 1 or October 1 thereafter; provided, however, that if the April 1 or October 1 next succeeding the first day of a Calculation Period occurs less than twenty-one (21) days after the first day of such Calculation Period, the first Interest Payment Date shall be the second such date following the first day of such Calculation Period;
- (h) the April 1 or October 1 next succeeding a Fixed Rate Conversion Date and each April 1 or October 1 thereafter; provided, however, that if the April 1 or October 1 next succeeding a Fixed Rate Conversion Date occurs less than twenty-one (21) days after such Fixed Rate Conversion Date, the first Interest Payment Date shall be the second such date following the first day of the Fixed Rate Period;
- (i) a Fixed Rate Conversion Date;
- (j) any day on which Bonds are subject to mandatory tender for purchase pursuant to Section 5.04, 5.08 or 5.09 or redemption in whole pursuant to Section 5.01, 5.05, 5.06 or 5.07; and
- (k) the Stated Maturity;

provided, however, that if any such date determined in any of the foregoing clauses is not a Business Day, the Interest Payment Date shall be the next succeeding day which is a Business Day.

“Investment Securities” shall mean any of the following which at the time are legal investments under the laws of the State of New York for the monies held hereunder:

- (a) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest of which are unconditionally guaranteed by the United States of America (“Direct U.S. governments”).
- (b) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are

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backed by the full faith and credit of the United States of America, including (stripped securities are only permitted if they have been stripped by the agency itself):

- (i) U.S. Export-Import Bank (Eximbank). Direct obligations or fully guaranteed certificates of beneficial ownership;
- (ii) Farmers Home Administration (FmHA). Certificates of Beneficial Ownership;
- (iii) U.S. Maritime Administration. Guaranteed Title XI financing;
- (iv) General Service Administration. Participation Certificates;

(v) U.S. Department of Housing & Urban Development (HUD). Project Notes; Local Authority Bonds; New Communities Debentures - - U.S. government guaranteed debentures; and U.S. Public Housing Notes and Bonds - U.S. government guaranteed, public housing notes and bonds;

(vi) Federal Housing Administration (FHA Debentures);

(vii) Federal Financing Bank; and

(viii) Government National Mortgage Association (GNMA or "Ginnie Mae"). GNMA - guaranteed mortgage-backed bonds; GNMA - guaranteed pass-through obligations

(c) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies which are not backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

(i) Federal Home Loan Bank System. Senior debt obligations;

(ii) Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac"). Participation Certificate; Senior debt obligations;

(iii) Resolution Funding Corporation (REFCORP) obligations;

(iv) Federal National Mortgage Association (FNMA or "Fannie Mae"). Mortgage-backed securities and senior debt obligations;

(v) Student Loan Marketing Association (SLMA or "Sallie Mae"). Senior debt obligations; and

(vi) Farm Credit System. Consolidated system-wide bonds and notes.

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(d) Federal funds and bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P;

(e) commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1" or better by S&P;

(f) bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies;

(g) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G; AAA-m; or AA-m and if rated by Moody's rated Aaa, Aa1 or Aa2;

(h) certificates of deposit secured at all times by collateral described in (a) and/or (b) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral;

(i) certificate of deposit, savings account, deposit accounts or market deposits which are fully insured by FDIC, including BIF and SAIF;

(j) investment agreements, including GIC's, Forward Purchase Agreements and Reserve Fund Put Agreements acceptable to the Bond Insurer;

(k) repurchase agreements ("Repos") for 30 days or less must follow the following criteria. Repos which exceed 30 days must be acceptable to the Bond Insurer. Repos provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date:

(i) Repos must be between the municipal entity and a dealer bank or securities firm:

(A) Primary dealers on the Federal Reserve reporting dealer list which are rated A or better by Standard & Poor's Corporation and Moody's Investor Services, or

(B) Banks rated "A" or above by Standard & Poor's Corporation and Moody's Investor Services;

(ii) The written Repo contract must include the following:

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(A) Securities which are acceptable for transfer are: (1) Direct U.S. governments, or (2) obligations of federal agencies referred to in (b) above, and (3) obligations of FNMA and FHLMC;

(B) The term of the Repo may be up to 30 days;

(C) The collateral must be delivered to the municipal entity, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee supplying the collateral) before/simultaneous with payment (perfection by possession of certified securities);

(D) Valuation of Collateral (1) the securities must be valued weekly, marked-to-market at current market price plus accrued interest, (2) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

(iii) A legal opinion which must be delivered to the municipal entity that states that the Repo meets guidelines under state law for legal investment of public funds.

Any such Investment Securities may be held by the Trustee in book entry form, whereby certificated securities are held by an independent custodian and the Trustee is the beneficial owner of all or a portion of such certificated securities.

“Liquidity Facility” shall mean a Support Facility which provides for the payments referred to in clause (i) of the definition thereof.

“Liquidity Facility Issuer” shall mean any bank or banks or other financial institution or institutions, having issued any Liquidity Facility.

“Market Agent” shall mean the Remarketing Agent or Remarketing Agents appointed pursuant to Section 11.14 to perform certain duties and obligations hereunder with respect to the Bonds of a subseries while Bonds of such subseries are in an Auction Rate Period.

“Market Agent Agreement” shall mean an agreement among the Company and a Market Agent dated the Closing Date and any similar agreement or agreements entered into between the Company and one or more successor Market Agents, as from time to time amended, pursuant to which the applicable Market Agent undertakes to perform its duties and obligations hereunder while Bonds of a subseries are in an Auction Rate Period.

“Maximum Allowed Rate” shall mean as of any date 15% per annum, or if lower, the rate specified as such in any Support Facility then in effect, provided, however, that such Maximum Allowed Rate shall not exceed the maximum rate, if any, permitted by applicable law.

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“Maximum Auction Rate” shall mean on any date of determination with respect to Auction Rate Bonds, the lesser of the Maximum Allowed Rate and the following: (i) in all cases other than as provided in (ii) or (iii) below, the interest rate per annum equal to the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period and the BMA Index, (ii) with respect to any change in an Auction Period and/or the Standard Auction Period pursuant to Section 3.04, including any automatic reversion to a Standard Auction Period pursuant to Section 3.03, the interest rate per annum equal to the highest of (a) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period, and the BMA Index, (b) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to the Auction Period which is proposed to be established and the BMA Index, and (c) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to the Auction Period in effect immediately prior to such proposed change in the Auction Period and the BMA Index, or (iii) with respect to any Change in the Interest Rate Mode from an Auction Rate pursuant to Section 4.01 or any change from an Auction Rate to a Fixed Rate pursuant to Section 4.02, the interest rate per annum equal to the higher of (a) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period and the BMA Index, and (b) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to the Auction Period in effect immediately prior to such proposed change and the BMA Index.

“Monthly Period Record Date” shall mean, with respect to each Interest Payment Date during a Monthly Period, the Business Day next preceding such Interest Payment Date.

“Monthly Rate” shall mean with respect to each Calculation Period during a Monthly Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent, and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Monthly Rate Index on and as of such date and the Maximum Allowed Rate.

“Monthly Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Monthly Rate Period, the average of 30-day yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its

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two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent’s judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency and not have any

outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Monthly Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Monthly Rate Period” shall mean any period during which Bonds bear interest at a Monthly Rate which period shall commence with the effective date of the Change in the Interest Rate Mode to a Monthly Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode or (b) the Stated Maturity.

“Moody’s” shall mean Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware and its successor or successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency or if Moody’s shall be replaced, subject to the definition of “prevailing rating” in the definition of Applicable Percentage, by some other nationally recognized rating agency by the Authority at the request of the Company, “Moody’s” shall be deemed to refer to such other nationally recognized rating agency designated by the Authority at the request of the Company.

“Note” shall mean the promissory note of the Company executed by the Company and delivered to the Trustee, to evidence the obligations of the Company to repay the loan to be made by the Authority pursuant to the Participation Agreement.

“Note Payments” shall mean the portion of the Payments required to be made pursuant to Section 4.02 of the Participation Agreement and the Note to be applied to the payment of principal of, premium, if any, and interest on the Bonds.

“Notice of Election to Tender” shall mean the notice given by a Holder of Bonds pursuant to Section 5.03.

“Opinion of Bond Counsel” shall mean a written opinion of Bond Counsel.

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“Option to Convert” shall mean the Authority’s right and option to convert the rate of interest payable on the Bonds from an Adjustable Rate to a Fixed Rate as provided in Section 4.02.

“Order” shall mean with respect to Auction Rate Bonds, an Order as defined in Section 3.06.

“Outstanding”, whether appearing in upper or lower case, when used with respect to any Bond shall mean, as of any date, any Bond theretofore or thereupon being authenticated and delivered pursuant to this Indenture, except:

1. a Bond cancelled by the Trustee or delivered to the Trustee for cancellation at or prior to such date;
 2. a Bond in lieu of or in substitution for which another Bond shall have been issued under Sections 5.10, 5.11, 7.03, 7.04 or 7.05;
- and
3. a Bond or portion thereof deemed to have been paid in accordance with Section 15.01;

provided, however, that with respect to Auction Rate Bonds for the purposes of the Auction Procedures on any Auction Date, Auction Rate Bonds as to which the Company or any person known to the Auction Agent to be an Affiliate of the Company is the Existing Holder thereof shall be disregarded and deemed not to be Outstanding; and provided further, however, that to the extent the principal of or interest due on the Bonds is paid by the Bond Insurer pursuant to the applicable Policy, such Bonds shall remain Outstanding for all purposes until the Bond Insurer receives full payment therefor.

“Overdue Rate” shall mean on any date of determination 265% of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period and the BMA Index on such date of determination; provided that in no event shall the Overdue Rate exceed the Maximum Allowed Rate.

“Participation Agreement” shall mean the Participation Agreement dated as of the date hereof, between the Authority and the Company, as amended and supplemented by Supplemental Participation Agreements from time to time.

“Payments” shall mean collectively the Note Payments and the Additional Payments.

“Payment Default” shall mean the receipt by the Auction Agent of a notice from the Trustee of (i) failure to make payments of principal of and premium, if any, or interest on any subseries of the Bonds when the same shall become due and payable and (ii) the occurrence of a default by the Bond Insurer under the Policy applicable to such subseries of the Bonds.

“Policy” shall mean each Credit Facility issued by the Bond Insurer on the Closing Date in the form of a financial guaranty insurance policy insuring the regularly

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scheduled payments of principal of and interest on a subseries of the Bonds (collectively, the “Policies”).

“Potential Holder” shall mean a person, including any Existing Holder, who may be interested in acquiring a beneficial interest in Auction Rate Bonds in addition to Auction Rate Bonds currently owned by such person, if any.

“Principal Corporate Trust Office” shall mean the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date hereof is located at 101 Barclay Street - - 21W, New York, New York 10286.

“Project” shall mean any acquisition, purchase, construction, reconstruction, improvement, betterment, extension and equipping, as described in **Exhibit A** and **Exhibit B** to the Participation Agreement as the same may be revised from time to time to reflect any changes or substitutions therein, additions thereto, or deletions therefrom permitted by the Participation Agreement.

“Project Fund” shall mean the special trust fund designated as “Consolidated Edison Company of New York, Inc. Series 2004A Project Fund” created and established under, and to be held and administered by the Trustee as provided in, Section 8.01.

“Purchase Price” shall mean the purchase price of Bonds tendered or deemed tendered for purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09, consisting of the principal amount of such Bonds together with any accrued and unpaid interest plus, in the event Bonds bearing interest at a Term Rate or a Fixed Rate are subject to tender for purchase pursuant to Section 5.04, any premium which would have been required to be paid as part of redemption price on any date on which such Bonds are subject to tender for purchase if such Bonds were subject to optional redemption pursuant to Section 5.01 on such date. With respect to Bonds tendered for purchase on an Interest Payment Date, Purchase Price shall include any accrued interest on such Bonds which is not otherwise being paid pursuant to Section 9.03(a).

“Rate Index” means the Daily Rate Index, the Fixed Rate Index, the Commercial Paper Rate Index, the Monthly Rate Index, the Semi-annual Rate Index, the Term Rate Index, or the Weekly Rate Index.

“Rating Agency” means Moody’s, if the Bonds are then rated by Moody’s, S&P, if the Bonds are then rated by S&P, and Fitch, if the Bonds are then rated by Fitch.

“rating category” shall mean one of the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such rating category by a numerical modifier, plus or minus sign, or otherwise.

“Record Date”, at any time, shall mean each Commercial Paper Period Record Date during a Commercial Paper Rate Period, each Auction Rate Bonds Period Record Date during an Auction Rate Period, each Daily Period Record Date during a Daily Rate Period, each Weekly Period Record Date during a Weekly Rate Period, each Monthly Period Record Date

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during a Monthly Rate Period, each Semi-annual Period Record Date during a Semi-annual Rate Period, each Term Period Record Date during a Term Rate Period and each Fixed Rate Record Date during a Fixed Rate Period.

“Registrar and Paying Agent” shall mean The Bank of New York in its separate capacity as Registrar and Paying Agent for the Bonds, or its successors or assigns.

“Remarketing Agent” shall mean the Remarketing Agent or Remarketing Agents appointed pursuant to Section 11.14, its or their successors or assigns, including without limitation any Market Agent appointed in connection with Auction Rate Bonds of a subseries.

“Remarketing Agreement” shall mean any Market Agent Agreement between the Company and a Market Agent dated the Closing Date and any agreement or agreements entered into between the Company and one or more successor Remarketing Agents, as from time to time amended, including without limitation any Market Agent Agreement, pursuant to which the applicable Remarketing Agent undertakes to perform its duties and obligations hereunder during a period of time specified in such agreement.

“Responsible Officer” shall mean, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Revenues” shall mean and include all income, revenues and monies derived by the Authority under the Participation Agreement and the Note (except administrative compensation and indemnification payable under the Participation Agreement), and, without limiting the generality of the foregoing, shall include to the extent provided in this Indenture, earnings on the investment of monies held under this Indenture and the proceeds of the sale of any such investments. The term “Revenues” shall not include monies received as proceeds from the sale of the Bonds or any other bonds, notes or evidences of indebtedness or as grants or gifts.

“S&P” shall mean Standard & Poor’s, a division of The McGraw-Hill Companies and its successor or successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency or if S&P shall be replaced, subject to the definition of “prevailing rating” in the definition of Applicable Percentage, by some other nationally recognized rating agency by the Authority at the request of the Company, “S&P” shall be deemed to refer to such other nationally recognized rating agency designated by the Authority at the request of the Company.

“Securities Depository” shall mean The Depository Trust Company and its successors and assigns or if (i) the then Securities Depository resigns from its functions as depository of the Bonds or (ii) the Authority discontinues use of the then Securities Depository pursuant to Section 2.03, any other securities depository which agrees to follow the procedures

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required to be followed by a Securities Depository in connection with the Bonds and which is selected by the Authority, with the consent of the Company, the Trustee, the Auction Agent and the applicable Remarketing Agent pursuant to Section 2.03.

“Securities Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Sell Order” shall mean with respect to Auction Rate Bonds, Sell Order as defined in Section 3.06.

“Semi-annual Period Record Date” shall mean, with respect to each Interest Payment Date during a Semi-annual Rate Period, the fifteenth day of the calendar month next preceding such Interest Payment Date.

“Semi-annual Rate” shall mean with respect to each Calculation Period during a Semi-annual Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Semi-annual Rate Index on and as of such date and the Maximum Allowed Rate.

“Semi-annual Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Semi-annual Rate Period, the average of six-month yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent’s judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or the other debt obligations supported by support facilities issued by the issuer of a Support Facility or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency and not have any outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from

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time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Semi-annual Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Semi-annual Rate Period” shall mean any period during which Bonds bear interest at a Semi-annual Rate, which period shall commence on the effective date of a Change in the Interest Rate Mode to a Semi-annual Rate, and shall extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode, or (b) the Stated Maturity.

“Standard Auction Period” initially shall mean an Auction Period of 35 days, and after the establishment of a different Standard Auction Period pursuant to Section 3.04, shall mean such different Standard Auction Period.

“State” shall mean any state of the United States of America.

“Stated Maturity” with respect to the Bonds shall mean January 1, 2039, provided that, subject to the next sentence, in any case where the date of maturity of, or payment of premium on, interest on, or principal of, the Bonds or the date fixed for redemption of any Bonds shall be on a day other than a Business Day, then payment of interest, principal and premium, if any, need not be made on such date but may be made (without additional interest) on the next succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption. Notwithstanding anything in this Indenture to the contrary, in no event shall the final maturity date of the Bonds extend beyond 35 years from the Closing Date, and the length of any Auction Period shall be reduced at the discretion of the Authority to the extent necessary to ensure compliance with the provisions of this sentence.

“Statutory Corporate Tax Rate” shall mean as of any date of determination the highest tax rate bracket (expressed in decimals) now or hereafter applicable in each taxable year on the taxable income of every corporation as set forth in Section 11 of the Code or any successor section without regard to any minimum additional tax provision or provisions regarding changes in rates during a taxable year, which on the date hereof is .35. Any change in the Statutory Corporate Tax Rate shall be evidenced by a certificate of the Company.

“Submission Deadline” shall mean 1:00 p.m., New York City time, on any Auction Date or such other time on any such Auction Date by which Broker-Dealers are required to submit Orders to the Auction Agent as specified by the Auction Agent from time to time.

“Submitted Bid” shall mean with respect to Auction Rate Bonds, Submitted Bid as defined in Section 3.08.

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“Submitted Hold Order” shall mean with respect to Auction Rate Bonds, Submitted Hold Order as defined in Section 3.08.

“Submitted Order” shall mean with respect to Auction Rate Bonds, Submitted Order as defined in Section 3.08.

“Submitted Sell Order” shall mean with respect to Auction Rate Bonds, Submitted Sell Order as defined in Section 3.08.

“Substitute Commercial Paper Dealers” shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated or any other commercial paper dealers specified by the Authority at the request of the Company or their respective affiliates or successors, if any such person is a commercial paper dealer,

provided that none of such persons nor any of their affiliates or successors shall be a Commercial Paper Dealer.

“Substitute U.S. Government Securities Dealer” shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated or any other dealer or dealers in U.S. government securities that may be specified by the Authority at the request of the Company at the time of a Change in the Interest Rate Mode to an Auction Rate, or their respective affiliates or successors, if any such person is a dealer in U.S. government securities, provided that none of such persons nor any of their affiliates or successors shall be a U.S. Government Securities Dealer.

“Sufficient Clearing Bids” shall mean with respect to Auction Rate Bonds, Sufficient Clearing Bids as defined in Section 3.08.

“Supplemental Indenture” shall mean any indenture between the Trustee and the Authority entered into pursuant to and in compliance with the provisions of Article XIV hereof amending or supplementing the provisions of this Indenture as originally executed or as theretofore amended or supplemented.

“Supplemental Participation Agreement” shall mean an agreement supplementing or amending the Participation Agreement entered into pursuant to and in compliance with the provisions of Article XIV.

“Support Facility” shall mean any instrument satisfactory to the Authority entered into or obtained in connection with the Bonds, such as a letter of credit, committed line of credit, insurance policy, surety bond or standby bond purchase agreement, or any combination of the foregoing, and issued by a bank or banks, insurance company, other financial institution or institutions, or any combination of the foregoing which provides for the payment of (i) the Purchase Price on Bonds tendered for purchase pursuant to the provisions hereof and the Bond Purchase Trust Agreement and/or (ii) principal of and interest on all Bonds coming due and payable during the term thereof.

“Support Facility Issuer” shall mean any bank or banks, or other financial institution or institutions which is the issuer of any Support Facility.

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“Tax Regulatory Agreement” shall mean the Tax Regulatory Agreement, dated the Closing Date, between the Authority and the Company, and any and all modifications, alterations, amendments and supplements thereto.

“Term Period Record Date” shall mean, with respect to each Interest Payment Date during a Term Rate Period, the fifteenth day of the month next preceding such Interest Payment Date.

“Term Rate” shall mean with respect to each Calculation Period during a Term Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket such Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Term Rate Index on and as of such date and the Maximum Allowed Rate.

“Term Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Term Rate Period, the average of the yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), having a term approximately equal to the Term Rate Period or which are subject to optional or mandatory tender by the owner thereof at the end of a term approximately equal to the Term Rate Period, the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in one of its two highest long-term debt rating categories, each Component Issuer must have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its two highest long-term debt rating categories (and the Bonds are not rated in one of the two highest such categories by the other Rating Agency), each Component Issuer must have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Term Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Term Rate Period” shall mean any period during which Bonds bear interest at a Term Rate which period shall commence with the effective date of the Change in the Interest Rate Mode to a Term Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode or (b) the Stated Maturity.

“Terminating Event” shall mean:

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(a) Any event or events under the terms of a Support Facility or any agreement providing for the issuance of such Support Facility which would cause the termination of such Support Facility but would specifically allow for the mandatory tender of Bonds pursuant to Section 5.09 with a draw on or borrowing or payment under such Support Facility prior to such termination; or

(b) Receipt by the Trustee of written notice from the financial institution providing any Direct-Pay Credit Facility following a draw on or borrowing or payment under such Direct-Pay Credit Facility for payment of interest on the Bonds that the amount so drawn, borrowed or paid has not been reinstated in the amount of such drawing.

“Treasury Rate” on any date, shall mean (i) the yield, calculated in accordance with prevailing industry convention, of the rate on the most recently auctioned direct obligations of the U.S. Government having a maturity at the time of issuance of 364 days or less with a remaining maturity closest to

the length of such Auction Period, as quoted in The Wall Street Journal on such date for the Business Day next preceding such date; or (ii) in the event that any such rate is not published in The Wall Street Journal, then the bond equivalent yield, calculated in accordance with prevailing industry convention, as calculated by reference to the arithmetic average of the bid price quotations of the most recently auctioned direct obligation of the U.S. Government having a maturity at the time of issuance of 364 days or less with a remaining maturity closest to the length of such Auction Period, based on bid price quotations on such date obtained by the Auction Agent from a U.S. Government Securities Dealer. If any U.S. Government Securities Dealer does not quote a rate required to determine the Treasury Rate, the Treasury Rate shall be determined on the basis of the quotation or quotations furnished by the remaining U.S. Government Securities Dealer or Dealers and any Substitute U.S. Government Securities Dealer or Dealers selected by the Authority at the request of the Company to provide such rate or rates not being supplied by any U.S. Government Securities Dealer or U.S. Government Securities Dealers, as the case may be, or, if the Authority does not select any such Substitute U.S. Government Securities Dealer or Substitute U.S. Government Securities Dealers, by the remaining U.S. Government Securities Dealer or U.S. Government Securities Dealers.

“Trust Estate” shall mean the meaning assigned to such term in the first paragraph following the recitals herein.

“Trustee” shall mean the corporation having trust powers appointed by the Authority as Trustee hereunder and serving as such hereunder, and any surviving, resulting or transferee corporation as provided in Section 11.13. References to principal office of the Trustee shall mean the Principal Corporate Trust Office of the Trustee.

“U.S. Government” shall mean the Federal government of the United States of America.

“U.S. Government Securities Dealers” shall mean the Market Agents for any Auction Rate Bonds, or, in lieu of any thereof, their respective affiliates or successors, provided that any such entity is a U.S. Government securities dealer.

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“Weekly Period Record Date” shall mean, with respect to each Interest Payment Date during a Weekly Rate Period, the Business Day next preceding such Interest Payment Date.

“Weekly Rate” shall mean with respect to each Calculation Period during a Weekly Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof plus accrued interest thereon; provided that such rate of interest shall not exceed the lesser of 110% of the Weekly Rate Index on and as of such date and the Maximum Allowed Rate.

“Weekly Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Weekly Rate Period, the average of 30-day yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent’s judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency and not have any outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Weekly Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Weekly Rate Period” shall mean any period during which the Bonds bear interest at a Weekly Rate; the first such period shall commence on the effective date of a Change in the Interest Rate Mode to a Weekly Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of a successive Change in the Interest Rate Mode or (b) the Stated Maturity.

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“Winning Bid Rate” shall mean with respect to Auction Rate Bonds, Winning Bid Rate as defined in Section 3.08.

SECTION 1.02. Definitions of General Terms. Whenever in this Indenture any governmental unit including the Authority or any official, officer, director or department of a governmental unit, is defined or referred to, such definition or reference shall be deemed to include the governmental unit or official, officer, board, agency, commission, body or department succeeding to or in whom or in which is vested, the functions, rights, powers, duties and obligations of such governmental unit, official, officer, director or department, as the case may be, encompassed by this Indenture.

Unless the context shall clearly indicate otherwise or may otherwise require, in this Indenture words importing persons include firms, partnerships, associations, corporations (public and private), public bodies and natural persons, and also include executors, administrators, trustees, receivers or other representatives.

Unless the context shall clearly indicate otherwise or may otherwise require computation on other than an annual basis, in this Indenture whenever any interest rate or rate of interest is defined or referred to, such rate shall be a rate per annum.

Unless the context shall clearly indicate otherwise or may otherwise require, in this Indenture: (i) references to articles, sections and other subdivisions, whether by number or letter or otherwise, are to the respective or corresponding articles, sections and subdivisions of this Indenture, as such articles, sections or subdivisions may be amended from time to time; (ii) the terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms, refer to this Indenture and to this Indenture as a whole and not to any particular article, section or subdivision hereof; and (iii) the word “heretofore” means before the time of effectiveness of this Indenture; and the word “hereafter” means after the time of effectiveness of this Indenture.

ARTICLE II

AUTHORIZATION OF BONDS

SECTION 2.01. Limitation on Issuance of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with the provisions of this Article.

SECTION 2.02. Authorization of Bonds. 1. There is hereby created and established under this Indenture one issue of revenue bonds of the Authority, limited to \$98,325,000 in aggregate principal amount, of “Facilities Revenue Bonds, Series 2004A (Consolidated Edison Company of New York, Inc. Project)”. In order to distinguish between Bonds which are subject to different interest rate determination methods and other features and to distinguish the portion of the Bonds to be offered or remarketed by any particular underwriter or Remarketing Agent, the Bonds may be designated and redesignated from time to time by the Authority in such a way as to identify one or more subseries of the Bonds. Such series may be designated as subseries A-1, subseries A-2, or subseries A-3, as the case may be, or may be further redesignated as subseries A-1-1, subseries A-1-2, or subseries A-1-3, as the case may be, and so forth. Each Bond shall bear upon the face thereof such designation or redesignation, if any. In the event any Bonds are designated as one or more subseries, all references to a series of the Bonds in this Indenture shall refer to each such subseries unless the context otherwise requires. The Bonds, upon original issuance, shall be issued in four separate subseries designated as “2004A-1” in the principal amount of \$24,600,000 (the “Series 2004A-1 Bonds”), “2004A-2” in the principal amount of \$24,575,000 (the “Series 2004A-2 Bonds”), “2004A-3” in the principal amount of \$24,575,000 (the “Series 2004A-3 Bonds”) and “2004A-4” in the principal amount of \$24,575,000 (the “Series 2004A-4 Bonds”).

2. The Bonds shall be secured by the Trust Estate. The lien, pledge, charge and assignment of the Trust Estate created hereby shall be valid and binding from the time of the effectiveness of this Indenture, as set forth in Section 17.11, and the Note Payments made under the Note and the Participation Agreement shall be immediately subject thereto upon receipt by the Trustee.

3. The Bonds are limited obligations of the Authority payable solely from payments to be made by the Company pursuant to the Note and the Participation Agreement and the other monies, rights and properties pledged hereunder, hereafter obtained with respect thereto and secured by a pledge from the Authority to the Trustee of the Participation Agreement and the Note. The Bonds shall not be a debt of the State of New York, and the State of New York shall not be liable thereon.

4. The covenants and agreements herein set forth to be performed by the Authority shall be for the benefit, security and protection of any Holder of the Bonds and the Bond Insurer.

5. The Bonds shall be issued under this Indenture for the purpose of paying a portion of the redemption price of the Prior Bonds.

6. The Bonds bearing a Commercial Paper Rate, a Daily Rate, a Weekly Rate or a Monthly Rate shall be fully registered Bonds in the denomination of \$100,000 or any integral multiple thereof. The Bonds bearing an Auction Rate shall be fully registered Bonds in the denomination of \$25,000 or any integral multiple thereof. The Bonds bearing a Semi-annual Rate, a Term Rate or a Fixed Rate shall be fully registered Bonds in the denomination of \$5,000 or any integral multiple thereof.

7. The Bonds shall be numbered consecutively from “2004A- [insert “1, 2, 3 or 4”, as appropriate]-1” upwards as issued, or as otherwise provided by the Registrar and Paying Agent. If the Bonds are redesignated to identify one or more additional subseries, the Bonds shall be numbered in accordance with their subseries designation. The Bonds shall mature on the Stated Maturity.

8. The Bonds shall be initially issued in fully registered form, without coupons, and dated their date of first authentication and delivery.

9. Upon any partial Change in the Interest Rate Mode for a subseries of Bonds from an Auction Rate for an Auction Rate Period, there shall be Outstanding an aggregate principal amount of not less than \$10,000,000 of Auction Rate Bonds for such subseries and in the applicable denominations set forth in Section 2.02.7.

10. Neither the Trustee nor any Holder of the Bonds shall be required to see that monies derived from such Bonds are applied to the purpose or purposes for which such Bonds are issued.

SECTION 2.03. Global Form; Securities Depository. 1. Except as otherwise provided in this Section 2.03, the Bonds in the form of one separate global bond for each subseries shall be registered in the name of the Securities Depository or its nominee and ownership thereof shall be maintained in book entry form by the Securities Depository for the account of the Agent Members thereof.

Except as provided in Subsections (3) and (4) of this Section 2.03, the Bonds of any subseries may be transferred, in whole but not in part, only to the Securities Depository or a nominee of the Securities Depository, or to a successor Securities Depository selected or approved by the Authority, with the consent of the Company, the Trustee, the Auction Agent (if any) and the Remarketing Agent for such subseries, or to a nominee of such successor Securities Depository. Each global certificate for the Bonds shall bear a legend substantially to the following effect: “Except as otherwise provided in Section 2.03 of the Indenture, this global bond may be transferred, in whole but not in part, only to the Securities Depository as defined in the Indenture or a nominee of the Securities Depository or to a successor Securities Depository or to a nominee of a successor Securities Depository.”

2. The Authority, the Company, the Trustee, the Registrar and Paying Agent, the Auction Agent (if any) and the applicable Remarketing Agent shall have no responsibility or obligation with respect to:

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- (a) the accuracy of the records of the Securities Depository or any Agent Member with respect to any beneficial ownership interest in the Bonds;
- (b) the delivery to any Agent Member, beneficial owner of the Bonds or other person, other than the Securities Depository or its nominee as registered owner, of any notice with respect to the Bonds;
- (c) the payment to any Agent Member, beneficial owner of the Bonds or other person, other than the Securities Depository or its nominee as registered owner, of any amount with respect to the principal or premium, if any, or interest on the Bonds;
- (d) its acceptance of any consent given by the Securities Depository or other action taken by the Securities Depository as registered owner; or
- (e) the selection by the Securities Depository or any Agent Members of any beneficial owners to receive payment in the event of a partial redemption of Bonds, except for the Trustee's obligations under Section 5.12.

So long as the certificates for the Bonds of any subseries issued under the Indenture are not issued pursuant to Subsection (4) of this Section 2.03, the Authority, the Company, the Trustee, the Auction Agent (if any), the applicable Remarketing Agent and the Registrar and Paying Agent may treat the Securities Depository as, and deem the Securities Depository to be, the absolute owner of such series or subseries of Bonds for all purposes whatsoever, including without limitation:

- (a) the payment of principal and premium, if any, and interest on such series or subseries of the Bonds;
- (b) giving notices of redemption and other matters with respect to such series or subseries of the Bonds; and
- (c) registering transfers with respect to such series or subseries of the Bonds.

Payment by the Trustee of principal or redemption price, if any, of and premium, if any, and interest on such Bonds to or upon the order of the Securities Depository or its nominee during any period when it is the registered owner of such Bonds shall be valid and effective to satisfy and discharge fully the Authority's obligation with respect to the amounts so paid.

3. (a) The Authority may discontinue the use of a Securities Depository for the Bonds at the time of a Change in the Interest Rate Mode.

(b) Registered ownership of the Bonds may be transferred on the registration books of the Authority maintained by the Registrar and Paying Agent and the Bonds may be delivered in physical form to the following: (i) any successor Securities Depository or its nominee; or (ii) any person, upon (A) the resignation of the Securities Depository or (B) the termination by the Authority of the use of the Securities Depository from its

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functions as depository as set forth in this section, or (C) upon any Change in the Interest Rate Mode to any Adjustable Rate other than an Auction Rate.

(c) Upon any Change in the Interest Rate Mode to an Auction Rate, the Registrar and Paying Agent shall register the Auction Rate Bonds in the name of the Securities Depository or its nominee and on the effective date of such change provide the Company with a list of the Existing Holders of the Auction Rate Bonds.

4. If at any time the Securities Depository notifies the Authority and the Company that it is unwilling or unable to continue as Securities Depository with respect to the Bonds or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act or other applicable statute or regulation and a successor Securities Depository is not appointed by the Authority with the consent of the Company, the Trustee, the Auction Agent (if any) and the applicable Remarketing Agent, within 90 days after the Authority and the Company receive notice or become aware of such condition, as the case may be, this Section shall no longer be applicable and the Authority shall execute and the Trustee shall authenticate and deliver certificates representing the Bonds of such series or subseries as provided below. In addition, the Authority may determine at any time, at the request of the applicable Remarketing Agent, that the Bonds shall no longer be represented by global bonds and that the provisions of Subsections (1) and (2) above shall no longer apply to such series or subseries of Bonds. In any such event the Authority shall execute and the Trustee shall authenticate and deliver certificates representing the Bonds of such series or subseries as provided below. Certificates for the Bonds of any series or subseries issued in exchange for a global bond pursuant to this Subsection shall be registered in such names in authorized denominations as the Securities Depository, pursuant to instructions from the Agent Members or otherwise, shall instruct the Authority and the Trustee. The Trustee shall deliver such certificates representing the Bonds of such series or subseries to the persons in whose names such Bonds are so registered on the Business Day immediately preceding the first day of an Auction Period (with respect to Auction Rate Bonds during any Auction Rate Period), or the effective date of a Change in the Interest Rate Mode (with respect to any other Change in the Interest Rate Mode), as the case may be.

5. The Authority and the Trustee are hereby authorized to enter into any arrangements determined necessary or desirable with any Securities Depository in order to effectuate this Section and both of them shall act in accordance with this Indenture and any such agreement. Without limiting the generality of the foregoing, any such arrangements may alter the manner of effecting delivery of Bonds and the transfer of funds for the payment of Bonds to the Securities Depository.

SECTION 2.04. Limitations on Transfer. So long as the ownership of the Auction Rate Bonds is maintained in book-entry form by the Securities Depository, a beneficial owner or an Existing Holder may sell, transfer or otherwise dispose of Auction Rate Bonds only pursuant to a Bid or Sell Order placed in an Auction or to a Broker-Dealer, provided, however, that (a) sale, transfer or other disposition of Auction Rate Bonds from a customer of a Broker-Dealer who is listed on the records of that Broker-Dealer as the holder of such Auction Rate Bonds to that Broker-Dealer or another customer of that Broker-Dealer shall not be deemed to

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be a sale, transfer or other disposition for purposes of this Section 2.04 if such Broker-Dealer remains the Existing Holder of the Auction Rate Bonds so sold, transferred or disposed of immediately after such sale, transfer or disposition and (b) in the case of all transfers other than pursuant to Auctions such Broker-Dealer to whom such transfer is made shall advise the Auction Agent of such transfer.

SECTION 2.05. Application of Bond Proceeds. The proceeds of sale of the Bonds shall be deposited with the Trustee for deposit in the Project Fund to be paid out in accordance with Section 8.01.

SECTION 2.06. Delivery of the Bonds. The Bonds shall be executed by the Authority substantially in the form prescribed by Section 16.01 and in the manner herein set forth and shall be deposited with the Trustee for authentication, but before the Bonds shall initially be delivered by the Trustee, there shall be filed with the Trustee the following:

- (a) an order executed by an Authorized Officer directing the authentication and delivery of the Bonds to or upon the order of the Securities Depository or its nominee, upon payment to the Trustee of the purchase price therein set forth;
- (b) a fully executed counterpart of this Indenture;
- (c) a fully executed counterpart of the Participation Agreement;
- (d) a fully executed counterpart of each Market Agent Agreement;
- (e) the fully executed Policies;
- (f) the fully executed Note;
- (g) a fully executed counterpart of the Bond Purchase Trust Agreement;
- (h) a fully executed counterpart of the Tax Regulatory Agreement;
- (i) an opinion of counsel to the Company, addressed to the Underwriters (as defined in the Bond Purchase Agreement), with reliance letter addressed to the Authority, the Trustee and the Bond Insurer, substantially to the effect, and dated as, required by Section 7(d)(9)(ii) of the Bond Purchase Agreement;
- (j) opinion of counsel to the Bond Insurer, addressed to the Authority, the Company, and the Trustee, substantially to the effect required by Section 7(d)(9)(iv) of the Bond Purchase Agreement;
- (k) Opinion of Bond Counsel to the Authority and the Trustee (i) as to the validity of the Bonds and (ii) that all conditions precedent to the issuance of the Bonds have been met.

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When the documents mentioned in clauses (a) to (k), inclusive, of this Section shall have been filed with the Trustee, and when the Bonds shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver the Bonds to the Securities Depository, but only upon payment to the Trustee of the purchase price of the Bonds specified in said order.

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ARTICLE III

INTEREST ON BONDS

SECTION 3.01. Interest on Bonds-General.

1. Interest accruing on Bonds bearing interest at a Commercial Paper Rate, a Daily Rate, a Weekly Rate, a Monthly Rate or a Semi-annual Rate, shall be computed on the basis of a 365 or 366-day year, as applicable, for the number of days actually elapsed. Interest accruing on Bonds bearing interest at a Term Rate or a Fixed Rate shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. Interest accruing on Bonds bearing interest at an Auction Rate during an Auction Period of 180 days or less shall be computed on the basis of a 360-day year for the number of days actually elapsed. Interest accruing on Bonds bearing interest at an Auction Rate during an Auction Period of over 180 days shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. Bonds shall bear interest from the date of issuance thereof payable in arrears on each Interest Payment Date. The Bonds issued upon registration of transfers or exchanges of Bonds shall bear interest from the Interest Payment Date next preceding their date of authentication, unless the date of authentication is an Interest Payment Date in which case such Bonds shall bear interest from such date, or unless the date of authentication is after the Record Date next preceding the next succeeding Interest Payment Date, in which case such Bonds shall bear interest from such next succeeding Interest Payment Date.

2. The Bonds shall initially bear interest at an Auction Rate as specified in Section 3.03.1. From and after any Change in the Interest Rate Mode pursuant to Section 4.01 or 4.02, the Bonds with respect to which such change is effective shall bear interest determined in accordance with the provisions of this Indenture pertaining to the new Adjustable Rate or the Fixed Rate, as the case may be. Bonds shall bear interest for each Calculation Period, Auction Period or Fixed Rate Period, as the case may be, at the rate of interest per annum for such Calculation Period, Auction Period or Fixed Rate Period established in accordance with this Indenture. Interest shall be payable on each Interest Payment Date by check mailed to the registered owner at his or her address as it appears on the registration books kept by the Registrar and Paying Agent pursuant to the Indenture at the close of business on the applicable Record Date; provided, that (i) while the Securities Depository is the registered owner of the Bonds, all payments of principal of, premium, if any, and interest on the Bonds shall be paid to the Securities Depository or its nominee by wire transfer, (ii) prior to and including a Fixed Rate Conversion Date, interest on the Bonds shall be payable to any registered owner of at least one million dollars (\$1,000,000) in aggregate principal amount of Bonds by wire transfer, upon written notice received by the Registrar and Paying Agent at least five days prior to the applicable Record Date, from such registered owner containing the wire transfer address (which shall be in the continental United States) to which such registered owner wishes to have such wire directed and (iii) during a Commercial Paper Rate Period, interest shall be payable on the Bonds only upon presentation and surrender thereof to the Registrar and Paying Agent upon purchase thereof pursuant to Section 5.03 and if such presentation and surrender is made by 2:00 p.m. (New York City time) such payment shall be by wire transfer. If and to the extent that there shall be a default in the payment of the interest due on any Interest Payment Date,

such interest shall cease to be payable to the person in whose name each Bond of such series was registered on such applicable Record Date and shall be payable, when and if paid to the person in whose name each Bond of such series is registered at the close of business on the record date fixed therefor by the Trustee, which shall be the fifth Business Day next preceding the date of the proposed payment. Except as provided above, payment of the principal of and premium, if any, on all Bonds shall be made upon the presentation and surrender of such Bonds at the principal office of the Registrar and Paying Agent as the same shall become due and payable. The principal of and premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

3. Not less than one Business Day prior to each Computation Date and two Business Days prior to a Fixed Rate Conversion Date, the Indexing Agent shall establish and provide to the applicable Remarketing Agent the related rate index as set forth in the definition of such rate index in Section 1.01; provided that, for each Calculation Period during a Daily Rate Period, the Indexing Agent shall establish and provide the related rate index to the applicable Remarketing Agent on each Determination Date; and provided further that, for each Calculation Period during a Monthly Rate Period, the Indexing Agent shall establish and provide the related rate index to the applicable Remarketing Agent not later than each Computation Date. Notwithstanding the foregoing, in the event that the applicable Remarketing Agent, in its sole judgment, shall determine on a Determination Date that any Daily Rate Index, Weekly Rate Index or any Commercial Paper Rate Index so established is sufficiently non-representative of current market conditions that the Bonds may not be remarketed at par if such rate is set at a rate not greater than 110% of the applicable rate index, the applicable Remarketing Agent may establish a new rate index on a Determination Date in accordance with the procedures and standards described in the definition of such rate index and for purposes of such rate index so established, all references to Indexing Agent in this Indenture shall be deemed to refer to the applicable Remarketing Agent. On any date when any Weekly Rate Index or any Commercial Paper Rate Index is established by a Remarketing Agent pursuant to this paragraph, such rate index shall have the respective meaning set forth in Section 1.01 (except as otherwise provided in the preceding sentence); provided that for any Commercial Paper Rate Index, the applicable Remarketing Agent shall select securities (whether or not actually issued) having a term approximately equal to the applicable Commercial Paper Rate Period or which are subject to optional or mandatory tender by the owner thereof at the end of a term approximately equal to (or as close thereto as is practicably available) the applicable Commercial Paper Rate Period.

4. By 12:00 noon (New York City time) on each Determination Date or by 3:00 p.m. (New York City time) on each Auction Date, as the case may be, the applicable Remarketing Agent or the Auction Agent, as the case may be, shall make available to the Authority, the Trustee, the Registrar and Paying Agent, any issuer of a Support Facility, the Company, any Broker-Dealer or any registered owner of a Bond the interest rate or rates determined on such Determination Date or Auction Date.

5. If for any reason on any Determination Date (A) any rate of interest for a Calculation Period is not determined by the applicable Remarketing Agent, (B) no Remarketing Agent is serving as such hereunder or (C) the rate so determined is held to be invalid or

unenforceable by a final judgment of a court of competent jurisdiction, (i) during any Daily Rate Period, the interest rate for the next succeeding Calculation Period shall be the last interest rate in effect, or, if a Daily Rate is not determined by the applicable Remarketing Agent hereunder for five or more consecutive Business Days on the next and each succeeding Determination Date, the Daily Rate shall be a rate per annum equal to 80% of the latest 30-day dealer taxable commercial paper rate published by the Federal Reserve Bank of New York on or immediately before such Determination Date, (ii) during any Weekly Rate Period, the interest rate for the next succeeding Calculation Period shall be the last interest rate in effect, or, if a Weekly Rate is not determined by the applicable Remarketing Agent for two or more consecutive Calculation Periods, the Weekly Rate shall be equal to 85% of the latest 30-day dealer taxable commercial paper rate published by the Federal Reserve Bank of New York on or before the day next preceding such Determination Date, (iii) during any Monthly Rate, Semi-annual Rate or Term Rate Period, the interest rate per annum for the next succeeding Calculation Period shall be equal to 85% of the rate listed in the table most recently circulated by the United States Treasury Department known as "Table [applicable dates shown on the most recent Table], Maximum Interest Rate Payable on United States Treasury Certificates of Indebtedness, Notes and Bonds-State and Local Government Series Subscribed for During Period [applicable dates shown on the most recent Table]" or any substantially equivalent table circulated by the United States Treasury Department for the maturity most closely approximating the Calculation Period, and (iv) during any Commercial Paper Rate Period, the next succeeding Calculation Period shall be a Calculation Period which shall consist of the period from and including the prior Interest Payment Date to but excluding the first Business Day of the following calendar month and the Commercial Paper Rate shall be equal to 85% of the interest rate applicable to 90-day United States Treasury Bills determined on the basis of the average per annum discount rate at which such 90-day Treasury Bills shall have been sold at the most recent Treasury auction within the 30 days next preceding such Calculation Period, or if there shall have been no such auction within the 30 days next preceding such Calculation Period, the Commercial Paper Rate shall be equal to the rate of interest borne by such Bond during the next preceding Calculation Period for such Bond. The rate of interest or Calculation Period and related Commercial Paper Rate shall be established pursuant to this Subsection 5 until the applicable Remarketing Agent again determines the rates of interest or Calculation Periods and related Commercial Paper Rates in

accordance with this Indenture. The Trustee shall, upon the direction of the Company, select any person otherwise meeting the qualifications of Section 11.14 to obtain, calculate and prepare any of the information required by this Subsection 5.

6. The determination of any rate of interest for a subseries of Bonds by a Remarketing Agent in accordance with this Indenture or by the Auction Agent in accordance with the Auction Procedures applicable to Auction Rate Bonds, or the establishment of Calculation Periods or Auction Periods by a Remarketing Agent as provided in this Indenture shall be conclusive and binding upon the Authority, the Company, the Trustee, the Registrar and Paying Agent, such Remarketing Agent, the Auction Agent, any issuer of a Support Facility, the Broker-Dealers for such subseries of Bonds and the registered or beneficial owners of such subseries of Bonds. Failure of such Remarketing Agent, the Trustee, the Registrar and Paying Agent, the Auction Agent or the Securities Depository or any Securities Depository

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participant to give any of the notices described in this Indenture, or any defect therein, shall not affect the interest rate to be borne by any of the Bonds nor the applicable Calculation Period or Auction Period nor in any way change the rights of the registered owners of the Bonds to tender their Bonds for purchase or to have them redeemed in accordance with this Indenture.

7. No transfer or exchange of Bonds shall be required to be made by the Registrar and Paying Agent after a Record Date until the next succeeding Interest Payment Date.

8. Except as otherwise provided in this Subsection 8, the Trustee shall calculate and notify the Registrar and Paying Agent of the amount of interest due and payable on each Interest Payment Date or date on which a Bond is subject to purchase by 10:00 a.m. on the Business Day next preceding such Interest Payment Date or date set for purchase, as the case may be, unless such date is a date on which the interest rate is determined, in which case the amount of interest due and payable shall be calculated by 12:15 p.m. on such date. In preparing such calculation the Trustee may conclusively rely on calculations or other services provided by the Auction Agent, the applicable Remarketing Agent, the Company or any person or persons selected by the Trustee in its discretion. During a Commercial Paper Rate Period, the applicable Remarketing Agent shall notify the Trustee, the Registrar and Paying Agent and the Company of the amount of interest due and payable on each Interest Payment Date by 10:00 a.m. on the Business Day next preceding such Interest Payment Date.

9. Anything herein to the contrary notwithstanding, in no event shall the interest rate borne by any Bond exceed the Maximum Allowed Rate.

10. Notwithstanding anything in this Indenture to the contrary, if Bonds have been in a Term Rate Period and there has been a failure to pay the Purchase Price of such Bonds on the Business Day immediately following a Calculation Period, such Bonds shall continue, to the extent permitted by applicable law, to bear interest at the then-existing Term Rate until such Purchase Price has been paid.

SECTION 3.02. Commercial Paper Rate.

1. During any Commercial Paper Rate Period, at or prior to 12:00 noon (New York City time) on each Determination Date, each Remarketing Agent shall establish Calculation Periods and related Commercial Paper Rates. In determining Calculation Periods, each Remarketing Agent shall take the following factors into account: (i) existing short-term taxable and tax-exempt market rates and indices of such short-term rates, (ii) the existing market supply and demand for short-term tax-exempt securities, (iii) existing yield curves for short-term and long-term tax-exempt securities or obligations having a credit rating that is comparable to the Bonds, (iv) general economic conditions, (v) economic and financial factors present in the securities industry that may affect or that may be relevant to the Bonds and (vi) any information available to such Remarketing Agent pertaining to the Company regarding any events or anticipated events which could have a direct impact on the marketability of or interest rates on the Bonds. Each Remarketing Agent shall select the Calculation Periods and the applicable Commercial Paper Rates that, together with all other Calculation Periods and related

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Commercial Paper Rates, in the sole judgment of the applicable Remarketing Agent, will result in the lowest overall borrowing cost on the Bonds or are otherwise in the best financial interests of the Company, as determined in consultation with the Company. Any Calculation Period established hereunder may not extend beyond the second Business Day next preceding the expiration date of the Support Facility or the day prior to the Stated Maturity.

2. The Authority, at the request of the Company, may place such limitations upon the establishment of Calculation Periods pursuant to Subsection 1 hereof as may be set forth in a written direction from the Authority, which direction must be received by the Trustee and the applicable Remarketing Agent prior to 10:00 a.m. (New York City time) on the day prior to any Determination Date to be effective on such date, but only if the Trustee receives an Opinion of Bond Counsel to the effect that such action is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Bonds from gross income for Federal income tax purposes.

SECTION 3.03. Auction Rate Period - Auction Rate: Auction Period - General.

1. During any Auction Rate Period, the Auction Rate Bonds shall bear interest at the Auction Rate determined as set forth in this Section 3.03 and Sections 3.04 through 3.10. The initial Auction Period for each subseries of the Bonds immediately after the Closing Date shall be a period from and including the Closing Date to and including the initial Auction Date for each such subseries. The initial Auction Date immediately after the Closing Date shall be March 3, 2004 for all subseries of the Bonds. The Auction Rate for the initial Auction Period immediately after the Closing Date shall be 0.90% in the case of the Series 2004A-1 Bonds, 0.90% in the case of the Series 2004A-2 Bonds, 0.80% in the case of the Series 2004A-3 Bonds and 0.90% in the case of the Series 2004A-4 Bonds. The initial Auction Period for each subseries of the Bonds immediately after any Change in the Interest Rate Mode to an Auction Rate, shall be a period from and including the effective date of such Change in the Interest Rate Mode to and including the initial Auction Date which shall be determined by the Authority, with notice to the Trustee, on or prior to the effective date of the Change in the Interest Rate Mode. The Auction Rate for any initial Auction Period immediately after any Change in the Interest Rate Mode to an Auction Rate for an Auction Rate Period, shall be the rate of interest per annum determined by the applicable Remarketing Agent, with notice to the Trustee, the Authority, the Registrar and Paying Agent and the Company, on a date not later than the effective date of such Change in the Interest Rate Mode as the minimum rate of interest which, in the opinion of such Remarketing Agent, would be necessary as of such date to market Auction Rate Bonds in a secondary market transaction at a price

equal to the principal amount thereof; provided that such interest rate shall not exceed the Maximum Allowed Rate. For any other Auction Period, the Auction Rate shall be the rate of interest per annum that results from implementation of the Auction Procedures. If on any Auction Date the Auction Agent shall fail to determine, or for any reason fail to timely provide, a rate of interest pursuant to the Auction Procedures, the Auction Rate for the next succeeding Auction Period shall be extended at the same rate and such Auction Period and each succeeding Auction Period shall be a seven-day Auction Period until an Auction Period for which the Auction Agent shall determine and timely provide the rate of interest pursuant to the Auction Procedures; provided, that, after three such

periods during which such failure occurs, the Auction Rate shall become the Maximum Auction Rate until an Auction Period for which the Auction Agent shall determine and timely provide the rate of interest pursuant to the Auction Procedures. Determination of an Auction Rate pursuant to the Auction Procedures shall be suspended upon a Change in the Interest Rate Mode or the occurrence of a Payment Default. The Auction Rate for any Auction Period or remaining portion thereof following the occurrence of a Payment Default shall be equal to the Overdue Rate as determined on and as of the immediately preceding Auction Date. Upon the occurrence of a Payment Default that has not been waived or cured on or prior to any Auction Date, no Auction will be held, all Submitted Bids and Submitted Sell Orders shall be rejected, the existence of Sufficient Clearing Bids shall be of no effect and the Auction Rate for the next succeeding Auction Period shall equal the Overdue Rate on and as of such Auction Date. In the event of the suspension of the Auction Procedures due to a Payment Default, the Auction Procedures shall resume two Business Days after the date on which the Auction Agent receives notice from the Trustee that the Payment Default has been cured, with the next Auction to occur on the next regularly scheduled Auction Date occurring thereafter. The Overdue Rate shall be determined by the Trustee on each succeeding Auction Date.

2. Auction Periods may be established pursuant to Section 3.04 at any time unless a Payment Default has occurred and has not been cured. Each Auction Period shall be a Standard Auction Period unless a different Auction Period is established pursuant to Section 3.04 and each Auction Period which immediately succeeds a non-Standard Auction Period shall be a Standard Auction Period unless a different Auction Period is established pursuant to Section 3.04.

SECTION 3.04. Auction Rate Period - Auction Rate Bonds: Change of Auction Period by Authority.

1. During an Auction Rate Period, the Authority, at the request of the Company, may change the length of a single Auction Period or the Standard Auction Period by means of a written notice delivered at least 10 days prior to the Auction Date for such Auction Period to the Trustee, the applicable Market Agents, the Auction Agent, the Bond Insurer and the Company in substantially the form furnished to the Trustee and the Auction Agent at the time of a Change in the Interest Rate Mode to an Auction Rate. Any Auction Period or Standard Auction Period established by the Authority pursuant to this Section 3.04 may not exceed 365 days in duration. If such Auction Period will be of less than 28 days, such notice shall be effective only if it is accompanied by a written statement of the Registrar and Paying Agent, the Trustee, the applicable Market Agents and the Auction Agent to the effect that they are capable of performing their duties hereunder and under the related Market Agent Agreements and the Auction Agency Agreement with respect to such Auction Period. If such notice specifies a change in the length of the Standard Auction Period, such notice shall be effective only if it is accompanied by the written consent of such Market Agents to such change. The length of an Auction Period or the Standard Auction Period may not be changed pursuant to this Section 3.04 unless Sufficient Clearing Bids existed at both the Auction immediately preceding the date the notice of such change was given and the Auction immediately preceding such changed Auction Period or Standard Auction Period or if a Payment Default has occurred and has not been cured.

2. The change in length of an Auction Period or the Standard Auction Period by the Authority at the request of the Company shall take effect only if (A) the Trustee, the Credit Facility Issuer and the Auction Agent receive, by 11:00 a.m. (New York City time) on the Business Day immediately preceding the Auction Date for such Auction Period, a certificate from the Authority, on behalf of the Company, by telecopy or similar means in substantially the form furnished to the Trustee and the Auction Agent at the time of a Change in the Interest Rate Mode to an Auction Rate authorizing establishment of and specifying the length of the new Auction Period or the Standard Auction Period, which shall be specified in such certificate, and confirming that Bond Counsel expects to be able to give an Opinion of Bond Counsel on the first day of the Auction Period for which such change is being required, (B) the Trustee shall not have delivered to the Auction Agent by 12:00 noon (New York City time) on the Auction Date for such Auction Period notice that a Payment Default has occurred, (C) Sufficient Clearing Bids exist at the Auction on the Auction Date for such Auction Period, and (D) the Trustee, the Credit Facility Issuer and the Auction Agent receive by 9:30 a.m. (New York City time) on the first day of such Auction Period, an Opinion of Bond Counsel to the effect that the change in the Auction Period or the Standard Auction Period is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes. If the condition referred to in (A) above is not met, the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures and the next succeeding Auction Period shall be a Standard Auction Period. If any of the conditions referred to in (B), (C) or (D) above is not met, the Auction Rate for the next succeeding Auction Period shall equal the Maximum Auction Rate as determined as of such Auction Date and the next succeeding Auction Period shall be a seven-day Auction Period.

3. On the Auction Date immediately preceding the effective date of any change in the length of an Auction Period or the Standard Auction Period, any Bonds which are not the subject of a specific Order shall be deemed to be subject to a Sell Order.

4. In the event of a Change in the Interest Rate Mode to an Auction Rate, the Authority, at the request of the Company, shall determine the length of the initial Auction Period and may change the length of a single or the Standard Auction Period by means of a written notice delivered on or prior to the effective date of such Change in the Interest Rate Mode to an Auction Rate to the Trustee, the applicable Market Agents, the Auction Agent and the Credit Facility Issuer. Notwithstanding anything to the contrary in paragraphs 1 and 2 of this Section 3.04, the determination of the initial Auction Period shall take effect on the effective date of such Change in the Interest Rate Mode to an Auction Rate. Notwithstanding anything to the contrary in paragraphs 1 and 2 of this Section 3.04, the change in the length of a single Auction Period or the Standard Auction Period shall take effect only if the Trustee, the Credit Facility Issuer and the Auction Agent receive on the effective date of such Change in the Interest Rate Mode to an Auction Rate, an Opinion of Bond Counsel to the effect that the change in the Auction Period or the Standard Auction Period is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes.

SECTION 3.05. Auction Rate Period - Auction Rate Bonds: Change of Auction Date by Market Agents. During an Auction Rate Period the Market Agent for a subseries of Bonds, with the written consent of the Company, may change, in order to conform with then-current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date, the Auction Date for all future Auction Periods relating to the applicable subseries of Bonds to a different day, so long as the first such Auction Date will be a Business Day in the calendar week in which the next succeeding Auction Date is then scheduled to occur. If a change in an Auction Date is undertaken in conjunction with a change in an Auction Period and the conditions for the establishment of such change in Auction Period are not met, the Auction Date may be, and the next succeeding Auction Period may be adjusted to end on, a Business Day in the calendar week in which such Auction Date was scheduled to occur and such Auction Period was scheduled to end to accommodate the change in the Auction Date. Such Market Agent shall communicate its determination to change an Auction Date by means of a written notice delivered at least 10 days prior to the Auction Date immediately preceding such Auction Date, or with respect to a Change in the Interest Rate Mode to an Auction Rate on or prior to the effective date of such Change in the Interest Rate Mode, to the Authority, the Trustee, the Bond Insurer, the Auction Agent and the Company which shall state (i) the determination of such Market Agent to change the Auction Date, (ii) the new Auction Date and (iii) the date on which such Auction Date shall be changed. If as a result of any proposed change in the Auction Date any Auction Period would be less than 28 days in duration, such notice shall be effective only if it is accompanied by a written statement of the Auction Agent, the Registrar and Paying Agent and the Trustee to the effect that they are capable of performing their duties hereunder and under the Auction Agency Agreement with respect to any such Auction Period.

SECTION 3.06. Auction Rate Period - Auction Rate Bonds: Orders by Existing Holders and Potential Holders. (a) Prior to the Submission Deadline on each Auction Date during the Auction Rate Period, the following orders may be submitted:

- (i) each Existing Holder may submit to the Broker-Dealer by telephone or otherwise information as to:
 - (A) the principal amount of Auction Rate Bonds, if any, held by such Existing Holder which such Existing Holder desires to continue to hold without regard to the Auction Rate for the next succeeding Auction Period;
 - (B) the principal amount of Auction Rate Bonds, if any, held by such Existing Holder which such Existing Holder offers to sell if the Auction Rate for the next succeeding Auction Period shall be less than the rate per annum specified by such Existing Holder; and/or
 - (C) the principal amount of Auction Rate Bonds, if any, held by such Existing Holder which such Existing Holder offers to sell without regard to the Auction Rate for the next succeeding Auction Period;

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- (ii) one or more Broker-Dealers may contact Potential Holders by telephone or otherwise to determine the principal amount of Auction Rate Bonds which each such Potential Holder offers to purchase if the Auction Rate for the next succeeding Auction Period shall not be less than the interest rate per annum specified by such Potential Holder.

For the purposes hereof, the communication to a Broker-Dealer of information referred to in clause (i)(A), (i)(B) or (i)(C) or clause (ii) above is hereinafter referred to as an "Order" and collectively as "Orders" and each Existing Holder and each Potential Holder placing an Order is hereinafter referred to as a "Bidder" and collectively as "Bidders"; an Order containing the information referred to in clause (i)(A) above is hereinafter referred to as a "Hold Order" and collectively as "Hold Orders"; an Order containing the information referred to in clause (i)(B) or clause (ii) above is hereinafter referred to as a "Bid" and collectively as "Bids"; and an Order containing the information referred to in clause (i)(C) above is hereinafter referred to as a "Sell Order" and collectively as "Sell Orders". The submission by a Broker-Dealer of an Order to the Auction Agent shall likewise be referred to herein as an "Order" and collectively as "Orders".

Orders may be submitted only in principal amounts of \$25,000 or any integral multiple thereof.

- (b)(i) Subject to the provisions of Section 3.07, a Bid by an Existing Holder shall constitute an irrevocable offer to sell:
 - (A) the principal amount of Auction Rate Bonds specified in such Bid if the Auction Rate determined on such Auction Date shall be less than the interest rate per annum specified therein; or
 - (B) such principal amount or a lesser principal amount of Auction Rate Bonds to be determined as set forth in Subsection (a)(iv) of Section 3.09 if the Auction Rate determined on such Auction Date shall be equal to the interest rate per annum specified therein; or
 - (C) such principal amount or a lesser principal amount of Auction Rate Bonds to be determined as set forth in Subsection (b)(iii) of Section 3.09 if such specified rate shall be higher than the Maximum Auction Rate and Sufficient Clearing Bids do not exist.
- (ii) Subject to the provisions of Section 3.07, a Sell Order by an Existing Holder shall constitute an irrevocable offer to sell:
 - (A) the principal amount of Auction Rate Bonds specified in such Sell Order; or
 - (B) such principal amount or a lesser principal amount of Auction Rate Bonds as set forth in Subsection (b)(iii) of Section 3.09 if Sufficient Clearing Bids do not exist.

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- (iii) Subject to the provisions of Section 3.07, a Bid by a Potential Holder shall constitute an irrevocable offer to purchase:

(A) the principal amount of Auction Rate Bonds specified in such Bid if the Auction Rate determined on such Auction Date shall be higher than the rate specified therein; or

(B) such principal amount or a lesser principal amount of Auction Rate Bonds as set forth in Subsection (a)(v) of Section 3.09 if the Auction Rate determined on such Auction Date shall be equal to such specified rate.

SECTION 3.07. Auction Rate Period - Auction Rate Bonds: Submission of Orders by Broker-Dealers to Auction Agent. (a) During an Auction Rate Period each Broker-Dealer shall submit in writing to the Auction Agent prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer, and shall specify with respect to each such Order:

(i) the name of the Bidder placing such Order;

(ii) the aggregate principal amount of Auction Rate Bonds that are subject to such Order;

(iii) to the extent that such Bidder is an Existing Holder:

(A) the principal amount of Auction Rate Bonds, if any, subject to any Hold Order placed by such Existing Holder;

(B) the principal amount of Auction Rate Bonds, if any, subject to any Bid placed by such Existing Holder and the rate specified in such Bid; and

(C) the principal amount of Auction Rate Bonds, if any, subject to any Sell Order placed by such Existing Holder; and

(iv) to the extent such Bidder is a Potential Holder, the principal amount of Auction Rate Bonds subject to any Bid placed by such Potential Holder and the rate specified in such Bid.

(b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth (.001) of 1%.

(c) If an Order or Orders covering all Auction Rate Bonds held by an Existing Holder is not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Holder covering the principal amount of Auction Rate Bonds held by such Existing Holder and not subject to Orders submitted to the Auction Agent; provided,

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however, that if there is a change in the length of the Auction Period or the Standard Auction Period in accordance with Section 3.04 hereof or an amendment or modification to the Indenture or the Participation Agreement in accordance with Section 14.02 or 14.07 hereof, as the case may be, and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of Auction Rate Bonds that are subject to such change in the length of the Auction Period or the Standard Auction Period or amendment or modification, as the case may be, the Auction Agent shall deem a Sell Order to have been submitted on behalf of such Existing Holder covering the principal amount of Auction Rate Bonds subject to such change or modification or amendment and not subject to Orders submitted to the Auction Agent.

(d) Neither the Authority, the Company, the Trustee nor the Auction Agent shall be responsible for any failure of a Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Holder or Potential Holder.

(e) If any Existing Holder submits through a Broker-Dealer to the Auction Agent one or more Orders covering in the aggregate more than the principal amount of Auction Rate Bonds held by such Existing Holder, such Orders shall be considered valid as follows and in the following order of priority:

(i) all Hold Orders shall be considered valid, but only up to and including the principal amount of Auction Rate Bonds held by such Existing Holder, and, if the aggregate principal amount of Auction Rate Bonds subject to such Hold Orders exceeds the aggregate principal amount of Auction Rate Bonds held by such Existing Holder, the aggregate principal amount of Auction Rate Bonds subject to each such Hold Order shall be reduced pro rata to cover the aggregate principal amount of Auction Rate Bonds held by such Existing Holder;

(ii) (A) any Bid shall be considered valid up to and including the excess of the principal amount of Auction Rate Bonds held by such Existing Holder over the aggregate principal amount of Auction Rate Bonds subject to any Hold Orders referred to in paragraph (i) above;

(B) subject to clause (A) above, if more than one Bid with the same rate is submitted on behalf of such Existing Holder and the aggregate principal amount of Auction Rate Bonds subject to such Bids is greater than such excess, such Bids shall be considered valid up to and including the amount of such excess, and, the principal amount of Auction Rate Bonds subject to each Bid with the same rate shall be reduced pro rata to cover the principal amount of Auction Rate Bonds equal to such excess;

(C) subject to clauses (A) and (B) above, if more than one Bid with different rates is submitted on behalf of such Existing Holder, such Bids shall be considered valid in the ascending order of their respective rates until the highest rate is reached at which such excess exists and then at such rate up to and including the amount of such excess; and

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(D) in any such event, the aggregate principal amount of Auction Rate Bonds, if any, subject to any portion of Bids not valid under this paragraph (ii) shall be treated as the subject of a Bid by a Potential Holder at the rate therein specified; and

(iii) all Sell Orders shall be considered valid up to and including the excess of the principal amount of Auction Rate Bonds held by such Existing Holder over the aggregate principal amount of Auction Rate Bonds subject to valid Hold Orders referred to in paragraph (i) of this Subsection (e) and valid Bids referred to in paragraph (ii) of this Subsection (e).

(f) If more than one Bid for Auction Rate Bonds is submitted on behalf of any Potential Holder, each Bid submitted shall be a separate Bid for Auction Rate Bonds with the rate and principal amount therein specified.

(g) Any Bid or Sell Order submitted by an Existing Holder covering an aggregate principal amount of Auction Rate Bonds not equal to \$25,000 or an integral multiple thereof shall be rejected and shall be deemed a Hold Order. Any Bid submitted by a Potential Holder covering an aggregate principal amount of Auction Rate Bonds not equal to \$25,000 or an integral multiple thereof shall be rejected.

SECTION 3.08. Auction Rate Period - Auction Rate Bonds: Determination of Sufficient Clearing Bids, Winning Bid Rate and Auction Rate. (a) During an Auction Rate Period not earlier than the Submission Deadline on each Auction Date, the Auction Agent shall assemble all valid Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a "Submitted Hold Order," a "Submitted Bid" or a "Submitted Sell Order," as the case may be, or as a "Submitted Order") and shall determine:

(i) the excess of the total principal amount of Auction Rate Bonds over the aggregate principal amount of Auction Rate Bonds subject to Submitted Hold Orders (such excess being hereinafter referred to as the "Available Auction Rate Bonds"); and

(ii) from the Submitted Orders whether the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids by Potential Holders specifying one or more rates equal to or lower than the Maximum Auction Rate exceeds or is equal to the sum of:

(A) the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids by Existing Holders specifying one or more rates higher than the Maximum Auction Rate; and

(B) the aggregate principal amount of Auction Rate Bonds subject to Submitted Sell Orders

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(in the event of such excess or such equality (other than because the sum of the principal amounts of Auction Rate Bonds in clauses (A) and (B) above is zero because all of the Auction Rate Bonds are subject to Submitted Hold Orders), such Submitted Bids by Potential Holders are hereinafter referred to collectively as "Sufficient Clearing Bids"); and

(iii) if Sufficient Clearing Bids exist, the lowest rate specified in the Submitted Bids (the "Winning Bid Rate") which if:

(A)(I) each Submitted Bid from Existing Holders specifying such lowest rate and (II) all other Submitted Bids from Existing Holders specifying lower rates were rejected, thus requiring such Existing Holders to continue to hold the principal amount of Auction Rate Bonds that are the subject of such Submitted Bids; and

(B)(I) each Submitted Bid from Potential Holders specifying such lowest rate and (II) all other Submitted Bids from Potential Holders specifying lower rates were accepted,

would result in such Existing Holders described in clause (A) above continuing to hold an aggregate principal amount of Auction Rate Bonds which, when added to the aggregate principal amount of Auction Rate Bonds to be purchased by such Potential Holders described in clause (B) above, would equal not less than the Available Auction Rate Bonds.

(b) Promptly after the Auction Agent has made the determinations pursuant to Subsection (a) of this Section 3.08, the Auction Agent, by telecopy confirmed in writing, shall advise the Company, the Trustee and the Broker-Dealers of the Maximum Auction Rate and the components thereof on the Auction Date and, based on such determinations, the Auction Rate for the next succeeding Auction Period as follows:

(i) if Sufficient Clearing Bids exist, the Auction Rate for the next succeeding Auction Period therefor shall be equal to the Winning Bid Rate so determined;

(ii) if Sufficient Clearing Bids do not exist (other than because all of the Auction Rate Bonds are the subject of Submitted Hold Orders), the Auction Rate for the next succeeding Auction Period therefor shall be equal to the Maximum Auction Rate; and

(iii) if all of the Auction Rate Bonds are subject to Submitted Hold Orders, the Auction Rate for the next succeeding Auction Period therefor shall be equal to the All Hold Rate.

SECTION 3.09. Auction Rate Period - Auction Rate Bonds: Acceptance and Rejection of Submitted Bids and Submitted Sell Orders and Allocation of Auction Rate Bonds.

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During an Auction Rate Period Existing Holders shall continue to hold the principal amounts of Auction Rate Bonds that are subject to Submitted Hold Orders, and, based on the determinations made pursuant to Subsection (a) of this Section 3.09, the Submitted Bids and Submitted Sell Orders shall be accepted or rejected, and the Auction Agent shall take such other actions as are set forth below:

(a) If Sufficient Clearing Bids exist, all Submitted Sell Orders shall be accepted and, subject to the provisions of paragraphs (e) and (f) of this Section 3.09, Submitted Bids shall be accepted or rejected as follows in the following order of priority:

(i) Existing Holders' Submitted Bids specifying any rate that is higher than the Winning Bid Rate shall be accepted, thus requiring each such Existing Holder to sell the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(ii) Existing Holders' Submitted Bids specifying any rate that is lower than the Winning Bid Rate shall be rejected, thus requiring each such Existing Holder to continue to hold the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(iii) Potential Holders' Submitted Bids specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Holder to purchase the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(iv) each Existing Holder's Submitted Bid specifying a rate that is equal to the Winning Bid Rate shall be rejected, thus requiring such Existing Holder to continue to hold the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bid, unless the aggregate principal amount of Auction Rate Bonds subject to all such Submitted Bids shall be greater than the principal amount of Auction Rate Bonds (the "remaining principal amount") equal to the excess of Available Auction Rate Bonds over the aggregate principal amount of the Auction Rate Bonds subject to Submitted Bids described in paragraphs (ii) and (iii) of this Subsection (a), in which event such Submitted Bid of such Existing Holder shall be rejected in part, and such Existing Holder shall be entitled to continue to hold the principal amount of Auction Rate Bonds subject to such Submitted Bid, but only in an amount equal to the principal amount of Auction Rate Bonds obtained by multiplying the remaining principal amount by a fraction, the numerator of which shall be the principal amount of Auction Rate Bonds held by such Existing Holder subject to such Submitted Bid and the denominator of which shall be the sum of the principal amounts of Auction Rate Bonds subject to such Submitted Bids made by all such Existing Holders that specified a rate equal to the Winning Bid Rate; and

(v) each Potential Holder's Submitted Bid specifying a rate that is equal to the Winning Bid Rate shall be accepted but only in an amount equal to

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the principal amount of Auction Rate Bonds obtained by multiplying the excess of the Available Auction Rate Bonds over the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids described in paragraphs (ii), (iii) and (iv) of this Subsection (a) by a fraction the numerator of which shall be the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bid of such Potential Holder and the denominator of which shall be the sum of the principal amount of Auction Rate Bonds subject to Submitted Bids made by all such Potential Holders that specified a rate equal to the Winning Bid Rate.

(b) If Sufficient Clearing Bids do not exist (other than because all of the Auction Rate Bonds are subject to Submitted Hold Orders), subject to the provisions of Subsection (e) of this Section 3.09, Submitted Orders shall be accepted or rejected as follows in the following order of priority:

(i) Existing Holders' Submitted Bids specifying any rate that is equal to or lower than the Maximum Auction Rate shall be rejected, thus requiring each such Existing Holder to continue to hold the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(ii) Potential Holders' Submitted Bids specifying any rate that is equal to or lower than the Maximum Auction Rate shall be accepted, thus requiring each such Potential Holder to purchase the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids; and

(iii) each Existing Holder's Submitted Bid specifying any rate that is higher than the Maximum Auction Rate and the Submitted Sell Order of each Existing Holder shall be accepted, thus requiring each Existing Holder that submitted any such Submitted Bid or Submitted Sell Order to sell the Auction Rate Bonds subject to such Submitted Bid or Submitted Sell Order, but in both cases only in an amount equal to the aggregate principal amount of Auction Rate Bonds obtained by multiplying the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids described in paragraph (ii) of this Subsection (b) by a fraction, the numerator of which shall be the aggregate principal amount of Auction Rate Bonds held by such Existing Holder subject to such Submitted Bid or Submitted Sell Order and the denominator of which shall be the aggregate principal amount of Auction Rate Bonds subject to all such Submitted Bids and Submitted Sell Orders.

(c) If all Auction Rate Bonds are subject to Submitted Hold Orders, all Submitted Bids shall be rejected.

(d) If (i) the Auction Agent shall fail to determine, or for any reason fail to timely provide, an interest rate pursuant to the Auction Procedures or (ii) the conditions set forth in Subsection 2 of Section 3.04 to effect a change in the Auction Period are not met, all Submitted Bids and Submitted Sell Orders shall be rejected and the existence of Sufficient Clearing Bids shall be of no effect.

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(e) If, as a result of the procedures described in Subsection (a) or (b) of this Section 3.09, any Existing Holder would be required to sell, or any Potential Holder would be required to purchase, a principal amount of Auction Rate Bonds that is not equal to \$25,000 or an integral multiple thereof, the Auction Agent shall, in such manner as, in its sole discretion, it shall determine, round up or down the principal amount of such Auction Rate Bonds to be purchased or sold by any Existing Holder or Potential Holder so that the principal amount purchased or sold by each Existing Holder or Potential Holder shall be equal to \$25,000 or an integral multiple thereof.

(f) If, as a result of the procedures described in Subsection (a) of this Section 3.09, any Potential Holder would be entitled or required to purchase less than \$25,000 in aggregate principal amount of Auction Rate Bonds, the Auction Agent shall, in such manner as, in its sole discretion, it shall determine, allocate Auction Rate Bonds for purchase among Potential Holders so that only Auction Rate Bonds in principal amounts of \$25,000 or an integral multiple thereof are purchased by any Potential Holder, even if such allocation results in one or more of such Potential Holders not purchasing any Auction Rate Bonds.

(g) Based on the results of each Auction, the Auction Agent shall determine the aggregate principal amounts of Auction Rate Bonds to be purchased and the aggregate principal amounts of Auction Rate Bonds to be sold by Potential Holders and Existing Holders on whose behalf each Broker-Dealer submitted Bids or Sell Orders and, with respect to each Broker-Dealer, to the extent that such aggregate principal amount of Auction Rate Bonds to be sold differs from such aggregate principal amount of Auction Rate Bonds to be purchased, determine to which other Broker-Dealer or Broker-Dealers acting for one or more purchasers or Auction Rate Bonds such Broker-Dealer shall deliver, or from which other Broker-Dealer or Broker-Dealers acting for one or more sellers of Auction Rate Bonds such Broker-Dealer shall receive, as the case may be, Auction Rate Bonds.

(h) None of the Authority, the Company or any Affiliate thereof may submit an Order in any Auction except as set forth in the next sentence. Any Broker-Dealer that is an Affiliate of the Company may submit Orders in an Auction but only if such Orders are not for its own account, except that if such affiliated Broker-Dealer holds Auction Rate Bonds for its own account, it must submit a Sell Order on the next Auction Date with respect to such Auction Rate Bonds.

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SECTION 3.10. Auction Rate Period - Auction Rate Bonds: Adjustment in Percentage.

1. During an Auction Rate Period, the Market Agent for a subseries of Bonds may adjust the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate for such subseries of Bonds if any such adjustment is necessary, in the judgment of such Market Agent, to reflect any Change of Preference Law such that the All Hold Rate and Maximum Auction Rate shall have substantially equal market values before and after such Change of Preference Law. In making any such adjustment, such Market Agent shall take the following factors, as in existence both before and after such Change of Preference Law, into account: (i) short-term taxable and tax-exempt market rates and indices of such short-term rates, (ii) the market supply and demand for short-term tax-exempt securities, (iii) yield curves for short-term and long-term tax-exempt securities or obligations having a credit rating that is comparable to the Bonds, (iv) general economic conditions and (v) economic and financial factors present in the securities industry that may affect or that may be relevant to the Bonds.

2. A Market Agent shall communicate its determination to adjust the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate pursuant to Subsection 1 hereof by means of a written notice delivered at least ten days prior to the Auction Date on which such Market Agent desires to effect the change to the Authority, the Bond Insurer, the Trustee, the Auction Agent and the Company. Such notice is required to state the determination of such Market Agent to change such percentage and the date such adjustment is proposed to take effect (which date shall be an Auction Date). Such notice shall be effective only if it is accompanied by the form of opinion that Bond Counsel expects to be able to give on such Auction Date to the effect that such adjustment is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Auction Rate Bonds from gross income for Federal income tax purposes. The Auction Agent is required to mail notice thereof to the Existing Holders within two Business Days of receipt thereof.

3. An adjustment in the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate shall take effect on an Auction Date only if (A) the Trustee, the Credit Facility Issuer and the Auction Agent receive, by 11:00 a.m. (New York City time) on the Business Day immediately preceding such Auction Date, a certificate from the applicable Market Agent by telecopy or similar means, (i) authorizing the adjustment of the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate which shall be specified in such authorization, and (ii) confirming that Bond Counsel expects to be able to give an opinion on such Auction Date to the effect that the adjustment in the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Auction Rate Bonds from gross income for Federal income tax purposes, and (B) the Trustee, the Credit Facility Issuer and the Auction Agent receive by 9:30 a.m. (New York City time) on such Auction Date, an Opinion of Bond Counsel to the effect that the adjustment in the percentage used in

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determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Auction Rate Bonds from gross income for Federal income tax purposes. If the condition referred to in (A) above is not met, the existing percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate shall remain in effect and the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures. If the condition referred to in (B) above is not met, the existing percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate shall remain in effect and the Auction Rate for the next succeeding Auction Period shall equal the Maximum Auction Rate as determined on such Auction Date and the Auction Period shall be a seven-day Auction Period.

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ARTICLE IV

CHANGES IN THE INTEREST RATE MODE

SECTION 4.01. Optional Conversion to an Adjustable Rate by Authority.

1. (A) At the times specified below, the Bonds, in whole or in part, shall cease to bear interest at the Adjustable Rate or the Fixed Rate then borne by the Bonds and shall bear interest at an Adjustable Rate to be specified as hereinafter provided by the Authority, at the written request of the Company, in a written notice delivered at least 30 days prior to the proposed effective date of the Change in the Interest Rate Mode to the Trustee, the applicable Remarketing Agent, the Bond Insurer, the Registrar and Paying Agent and the Company (and to the Auction Agent and the Securities Depository if such Change in the Interest Rate Mode is to or from an Auction Rate), in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit A** hereto. The written notice of the Authority must further state that the Indenture provides that the conversion is conditioned on the Bonds being rated no less than "A" by S&P, "A2" by Moody's or "A" by Fitch as of the effective date of the Change in the Interest Rate Mode. A Change in the Interest Rate Mode may only be effected on a day on which the affected Bonds may be redeemed at the option of the Authority.

(B) [Intentionally Omitted]

(C) In the case of any Change in the Interest Rate Mode to a Term Rate, at least 15 days prior to the proposed effective date of the Change in Interest Rate Mode, the Authority, at the written request of the Company, shall notify the Trustee of the length of the Calculation Period and, unless otherwise specified, such Calculation Period shall thereafter apply to the Bonds until a Change in the Interest Rate Mode effected pursuant to this Section 4.01 or Section 4.02. Notwithstanding the foregoing, no Calculation Period shall be established during a Term Rate Period unless the Trustee shall receive by 2:00 p.m., New York City time, on the first day of such Calculation Period, evidence satisfactory to it that the Bonds shall be rated at least "A" by S&P or "A2" by Moody's or "A" by Fitch or an equivalent rating by any nationally recognized rating agency on such date. Any change in the Calculation Period during a Term Rate Period shall be deemed an optional conversion pursuant to this Section 4.01 and may not be made unless all the requirements of a conversion pursuant to this Section 4.01 are met.

2. The Trustee shall mail, or cause the Registrar and Paying Agent to mail, the notice received pursuant to clause (A) of this Section 4.01.1 the Holders at least 15 days prior to the proposed effective date of the Change in the Interest Rate Mode.

3. A Change in the Interest Rate Mode to an Adjustable Rate shall be effective pursuant to Subsection 1 of this Section 4.01 only if

(A) with respect to any Change in the Interest Rate Mode from an Auction Rate or from a Fixed Rate to an Adjustable Rate, the Trustee and the Auction Agent (if any) shall receive:

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(i) a certificate of an Authorized Company Representative by no later than the tenth day prior to the effective date of such Change in the Interest Rate Mode stating that a written agreement between the Company and the applicable Remarketing Agent to remarket the Bonds on such effective date at a price of 100% of the principal amount thereof has been entered into, which agreement (i) may be subject to such reasonable terms and conditions imposed by such Remarketing Agent which in the judgment of that Remarketing Agent reflect the current market standards regarding investment banking risk and (ii) must include a provision requiring payment by such Remarketing Agent in same-day funds for any Bond tendered or deemed tendered; and, if a Liquidity Facility is required by Section 4.01.3(D), a Liquidity Facility, meeting the requirements of this Indenture, including Section 6.02.3, and the Participation Agreement, has or will be obtained by the Company and, by its terms, be in effect on or prior to the effective date of such Change in the Interest Rate Mode;

(ii) by 11:00 a.m. (New York City time) on the second Business Day prior to the effective date of such Change in the Interest Rate Mode, by teletype or other similar means, a certificate in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit B** hereto, from the Authority on behalf of the Company (y) authorizing the establishment of the new Adjustable Rate and (z) confirming that Bond Counsel has advised the Authority that it expects to be able to give an opinion on the effective date of such Change in the Interest Rate Mode to the effect that such Change in the Interest Rate Mode is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the affected Bonds from gross income for Federal income tax purposes; and

(iii) by 4:00 p.m. (New York City time) on the effective date of such Change in the Interest Rate Mode, a certificate from an Authorized Company Representative to the effect that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement and that premium, if any, and any accrued and unpaid interest on such Bonds has been paid from funds deposited with the Trustee or the Registrar and Paying Agent; and

(B) with respect to any Change in the Interest Rate Mode, the Trustee (and the Auction Agent in the case of any Change in the Interest Rate Mode to an Auction Rate), shall receive by 4:00 p.m., New York City time, on the effective date of such Change in the Interest Rate Mode, a certificate in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit C** hereto, from an Authorized Company Representative that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof plus premium, if any, plus any accrued and unpaid interest with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement, from the proceeds of a Support Facility, or from funds deposited with the Trustee or the Registrar and Paying Agent; provided that in case of a Change in the Interest Rate Mode from an

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Auction Rate, receipt of such certificate shall not override the requirements of Section 4.01(3)(A)(iii) herein;

(C) with respect to any Change in the Interest Rate Mode, the Trustee (and the Auction Agent in the case of any Change in the Interest Rate Mode to or from an Auction Rate) shall receive, by 9:30 a.m. (New York City time) on the effective date of such Change in the Interest Rate Mode, an Opinion of Bond Counsel to the effect that such Change in the Interest Rate Mode is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes;

(D) with respect to any Change in the Interest Rate Mode to an Adjustable Rate (other than to an Auction Rate or a Term Rate for a Calculation Period of five years or more), the Trustee shall receive a Liquidity Facility meeting the requirements of this Indenture, including Section 6.02.3,

and the Participation Agreement on or prior to the effective date of such Change in the Interest Rate Mode which is, by its terms, in effect on or prior to such effective date; and

(E) with respect to any Change in the Interest Rate Mode to an Adjustable Rate, the Trustee shall receive by 2:00 p.m., New York City time, on the effective date of such Change in the Interest Rate Mode, evidence satisfactory to it that the Bonds shall be rated at least “A” by S&P or “A2” by Moody’s or “A” by Fitch or an equivalent rating by any nationally recognized rating agency on the effective date of such Change in the Interest Rate Mode.

If any of the conditions referred to in (A)(i) or (ii) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate, the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures applicable to the Auction Rate Bonds. If any of the conditions referred to in (A)(iii), (B), (C), (D) or (E) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate, the Auction Rate for the next succeeding Auction Period shall equal the Maximum Auction Rate as determined on such Auction Date and the Auction Period shall be a seven-day Auction Period. If any of the conditions referred to in (A)(iii), (B), (C), (D) or (E) above is not met with respect to any Change in the Interest Rate Mode from a Term Rate or a Fixed Rate, the Bonds shall continue to bear interest at the current Term Rate or Fixed Rate, as the case may be, and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such current Term Rate or Fixed Rate, as the case may be. If any of the conditions referred to in (A)(iii), (B), (C) or (D) above is not met with respect to any Change in the Interest Rate Mode from an Adjustable Rate (other than an Auction Rate or a Term Rate), the Bonds shall continue to bear interest at the Current Adjustable Rate and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such Current Adjustable Rate; provided, however, that notwithstanding the failure to meet such conditions, the Bonds shall remain subject to mandatory tender for purchase on the date that would have been the effective date of the new interest rate mode if all of such conditions were met on such date. If any of the foregoing conditions for a Change in the Interest Rate Mode from a Term Rate or a Fixed Rate is not met, the Trustee shall mail, or cause the Registrar and Paying Agent to mail to the Authority, the Company and the Holders notice thereof in substantially the form attached hereto as, or

containing substantially the information contained in, **Exhibit D** hereto within 3 Business Days after the failure to meet any of such conditions.

4. Notwithstanding anything herein to the contrary, any Change in the Interest Rate Mode to an Adjustable Rate (other than to an Auction Rate or a Term Rate for a Calculation Period of five years or more) shall be effective only if the Trustee shall receive a Liquidity Facility meeting the requirements of this Indenture, including Section 6.02.3, and the Participation Agreement on or prior to the effective date of such Change in the Interest Rate Mode which is, by its terms, in effect on or prior to such effective date.

SECTION 4.02. Optional Conversion to a Fixed Rate.

1. The Authority reserves the right, at the request of the Company, to fix the rate of interest per annum which Bonds will bear, in whole or in part, for the balance of the term thereof or until the effective date of a Change in the Interest Rate Mode; provided however, that the Authority shall not exercise such right and the Company shall not request the Authority to exercise such right except on a day on which the affected Bonds may be redeemed at the option of the Authority. In the event the Authority, at the request of the Company, as herein provided, exercises its Option to Convert, the Bonds so converted shall cease to bear interest at the Adjustable Rate then borne by the Bonds and shall bear interest at a Fixed Rate until maturity or until the effective date of a Change in the Interest Rate Mode, subject to the terms and conditions hereof (the date on which a Fixed Rate shall take effect being herein called a “Fixed Rate Conversion Date”). The Option to Convert may be exercised at any time through a written notice given by the Authority, at the written direction of the Company. Such written notice of the Authority must be delivered not less than 30 nor more than 45 days prior to the proposed Fixed Rate Conversion Date to the Trustee, the Bond Insurer, the Registrar and Paying Agent and the applicable Remarketing Agent (and the Auction Agent and the Securities Depository in the case of any change to a Fixed Rate from an Auction Rate), in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit A** hereto. A notice of conversion to a Fixed Rate shall note that the Indenture provides that a proposed conversion to a Fixed Rate is conditioned on the Bonds being rated no less than “A” by S&P, “A2” by Moody’s or “A” by Fitch as of the effective date of such Change in the Interest Rate Mode.

2. The Trustee shall mail, or cause the Registrar and Paying Agent to mail, the notice received pursuant to Subsection 1 of this Section 4.02 to the Holders at least 15 days prior to the proposed effective date of the Change in the Interest Rate Mode.

3. A Fixed Rate shall take effect only if

(A) with respect to a change to a Fixed Rate from an Auction Rate, the Trustee and the Auction Agent shall receive:

(i) a certificate of an Authorized Company Representative by no later than the tenth day prior to a Fixed Rate Conversion Date stating that a written

agreement has been entered into by the Company and the applicable Remarketing Agent to remarket the Bonds affected on a Fixed Rate Conversion Date at a price of 100% of the principal amount thereof, which written agreement (i) may be subject to reasonable terms and conditions imposed by such Remarketing Agent which in the judgment of that Remarketing Agent reflect current market standards regarding investment banking risk; and (ii) must include a provision requiring payment by such Remarketing Agent in same-day funds for any Auction Rate Bonds tendered or deemed tendered; and

(ii) by 11:00 a.m. (New York City time) on the second Business Day prior to a Fixed Rate Conversion Date, by telecopy or other similar means, a certificate on behalf of the Company in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit B** hereto, from the Authority (y) authorizing the establishment of a Fixed Rate and (z) confirming that Bond Counsel has advised the Authority that it expects to be able to give an opinion on a Fixed Rate Conversion Date to the effect that the change to a Fixed Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Bonds from gross income for Federal income tax purposes; and

(iii) by 4:00 p.m. (New York City time) on the effective date of such Change in the Interest Rate Mode, a certificate from an Authorized Company Representative to the effect that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement and that any accrued and unpaid interest on such Bonds has been paid from funds deposited with the Trustee or the Registrar and Paying Agent;

(B) with respect to any change to a Fixed Rate the Trustee (and the Auction Agent in the case of any change to a Fixed Rate from an Auction Rate) receives on a Fixed Rate Conversion Date:

(i) by 9:30 a.m. (New York City time) an Opinion of Bond Counsel to the effect that the conversion to a Fixed Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes;

(ii) by 4:00 p.m. (New York City time) a certificate in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit C** hereto, from an Authorized Company Representative that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof plus premium, if any, plus any accrued and unpaid interest with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement, from the proceeds of a Support Facility, or from funds deposited with the Trustee or the Registrar and Paying Agent;

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provided that receipt of such certificate shall not override the requirements of Section 4.02(3)(A)(iii) herein; and

(iii) by 2:00 p.m. (New York City time) evidence satisfactory to it that the Bonds shall be rated at least “A” by S&P or “A2” by Moody’s or “A” by Fitch or an equivalent rating by any nationally recognized rating agency on the Fixed Rate Conversion Date.

If any of the conditions referred to in (A)(i) or (A)(ii) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate to a Fixed Rate, the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures applicable to the Auction Rate Bonds. If any of the conditions referred to in (A)(iii) or (B) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate to a Fixed Rate, the Auction Rate for the next succeeding Auction Period shall be equal to the Maximum Auction Rate as determined as of such Auction Date and the Auction Period shall be a seven-day Auction Period. If any of the conditions referred to in (B) above is not met with respect to any Change in the Interest Rate Mode from a Term Rate to a Fixed Rate, the Bonds shall continue to bear interest at the current Term Rate and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such current Term Rate. If any of the conditions referred to in (B) above is not met with respect to any other Change in the Interest Rate Mode from an Adjustable Rate (other than an Auction Rate or a Term Rate) to a Fixed Rate, the Bonds shall continue to bear interest at the Current Adjustable Rate and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such Current Adjustable Rate; provided, however, that notwithstanding the failure to meet such conditions, the Bonds shall remain subject to mandatory tender for purchase on the date that would have been the effective date of the Fixed Rate if all of such conditions were met on such date. If any of the foregoing conditions for a Change in the Interest Rate Mode from a Term Rate to a Fixed Rate is not met, the Trustee shall mail, or cause the Registrar and Paying Agent to mail to the Authority, the Company and the Holders notice thereof in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit D** hereto within 3 Business Days after the failure to meet any of such conditions.

SECTION 4.03. Conversion Generally. 1. In the event of a Change in the Interest Rate Mode on less than all the Bonds of a series or subseries to or from an Auction Rate, the minimum aggregate principal amount of Bonds of a subseries that continue to bear, or are adjusted to bear interest at an Auction Rate for an Auction Rate Period, shall not be less than \$10,000,000 for such Auction Rate Bonds.

2. Upon any Change in the Interest Rate Mode to an Auction Rate, the Authority and the Trustee, shall take all steps necessary to comply with any agreement entered into with a Securities Depository or its nominee pursuant to Section 2.03(5) with respect to such Change in the Interest Rate Mode, including, without limitation, the purchase and designation of sufficient CUSIP numbers to comply with the requirements of such Securities Depository following any such Change in the Interest Rate Mode.

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3. If the interest rate on less than all Bonds of a subseries is to be converted to a new Adjustable Rate pursuant to Section 4.01 or to a Fixed Rate pursuant to Section 4.02, the particular Bonds to be converted shall be chosen by the Trustee by lot, or the Trustee shall direct the Registrar and Paying Agent to so choose, by lot; provided, however, that the portion of any Bond to be converted shall be in the principal amount of \$100,000 or any integral multiple of such amount during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 or any integral multiple thereof during an Auction Rate Period, or \$5,000 or any integral multiple thereof at any other time and that, in selecting Bonds for conversion, the Trustee or Registrar and Paying Agent shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such registered Bond in excess of \$100,000 by \$100,000 during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 during an Auction Rate Period, and \$5,000 at any other time (such amounts being hereinafter referred to as the “applicable units of principal amount”). If it is determined that one or more, but not all of the \$100,000, \$25,000 or \$5,000 units of principal amount represented by any such Bond is to be converted, then upon notice of intention to convert such \$100,000, \$25,000 or \$5,000 unit or units pursuant to Sections 4.01 or 4.02, as the case may be, the Holders of such Bonds shall forthwith surrender such Bonds to the Registrar and Paying Agent for (1) payment of the purchase price (including the premium, if any, and accrued and unpaid interest to the date fixed for conversion) of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount called for conversion and (2) exchange for a new Bond or Bonds in the aggregate principal amount of the balance of the principal of such Bonds not subject to conversion. If the Holders of any such Bond of a denomination greater than \$100,000, \$25,000 or \$5,000 shall fail to present such Bond to the Registrar and Paying Agent, for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for conversion to the extent of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount subject to such conversion (and to that extent only).

4. Notwithstanding anything in this Article IV to the contrary, the Authority may not effect a Change in the Interest Rate Mode pursuant to Section 4.01 and the Authority may not exercise its option to convert to a Fixed Rate pursuant to Section 4.02 if such action would require the

ARTICLE V

REDEMPTION AND PURCHASE OF BONDS

SECTION 5.01. Optional Redemption. The Bonds shall be subject to redemption, in whole or in part, at the option of the Authority upon the request of the Company, from related payments made by the Company pursuant to Section 6.02 of the Participation Agreement and any other monies held by the Trustee and available to be applied to the redemption of Bonds as provided in this Section 5.01 and Section 9.03 hereof:

- (a) During any Commercial Paper Rate Period, such Bonds shall be subject to redemption on each Interest Payment Date, as a whole or in part, at the principal amount thereof, at a redemption price equal to 100% of the principal amount.
- (b) During any Auction Rate Period, Auction Rate Bonds shall be subject to redemption on the Business Day immediately succeeding each Auction Date, as a whole or in part, at a redemption price equal to 100% of the principal amount thereof plus accrued and unpaid interest to the date fixed for redemption.
- (c) During any Daily Rate Period, such Bonds shall be subject to redemption on any Business Day, as a whole or in part, at the principal amount thereof, plus accrued and unpaid interest to the date fixed for redemption, if any.
- (d) During any Weekly Rate Period, such Bonds shall be subject to redemption on any Business Day, as a whole or in part, at the principal amount thereof, plus accrued and unpaid interest to the date fixed for redemption, if any.
- (e) During any Monthly Rate Period, such Bonds shall be subject to redemption on each Interest Payment Date, as a whole or in part, at the principal amount thereof.
- (f) During any Semi-annual Rate Period, such Bonds shall be subject to redemption on each Interest Payment Date, as a whole or in part, at the principal amount thereof.
- (g) During any Term Rate or Fixed Rate Period, such Bonds shall be subject to redemption in whole or in part at any time as follows: after the No-Call Period shown below, which shall begin on the first day of the Calculation Period applicable to such Bonds or on a Fixed Rate Conversion Date, as the case may be, and end on the enumerated anniversary thereof, at a redemption price equal, initially, to the principal amount thereof, plus a premium equal to the percentage of the principal amount to be redeemed shown in the Initial Premium column, plus accrued and unpaid interest if paid on a Business Day other than an Interest Payment Date. The premium percentage, if any, shall decline by the percentage shown in the Reduction in Premium column on each anniversary of the date on which such Bonds are first redeemable until the Bonds shall be redeemable without premium.

Calculation Period or Period to Maturity
Applicable to Subject Bonds

| <u>Equal to or Greater Than</u> | <u>But Less Than</u> | <u>No Call Period</u> | <u>Initial Premium</u> | <u>Reduction in Premium</u> |
|---------------------------------|----------------------|-----------------------|------------------------|-----------------------------|
| 18 years | N/A | 8 Years | 1½% | ½% |
| 12 years | 18 Years | 6 Years | 1 | ½ |
| 7 Years | 12 Years | 3 Years | 0 | 0 |
| 5 Years | 7 Years | 2 Years | 0 | 0 |
| 4 Years | 5 Years | 2 Years | 0 | 0 |
| 3 Years | 4 Years | 2 Years | 0 | 0 |
| 0 Years | 3 Years | Not callable | | |

If upon establishment of a Term Rate Period or a Fixed Rate Period, as the case may be, the applicable Remarketing Agent certifies to the Trustee, Bond Counsel and the Authority in writing that the foregoing schedule is not consistent with then-prevailing market conditions, the Authority at the request of the Company may revise the foregoing Initial Premium, Reductions in Premium and No-Call Periods with respect to Bonds for which a Term Rate Period or Fixed Rate Period is then being established without the approval of the Holders to reflect then-prevailing market conditions, upon receipt of an Opinion of Bond Counsel to the effect that any revisions pursuant to this paragraph, either by itself or in conjunction with the establishment of a Calculation Period or a Fixed Rate, as the case may be, are made in accordance with this Indenture, is permitted under the Act and will not adversely affect the exclusion of interest on the Bonds from gross income for Federal income tax purposes.

SECTION 5.02. [Reserved]

SECTION 5.03. Tender for and Purchase upon Election of Holder.

1. During any Daily Rate Period or Weekly Rate Period, any Bond or portion thereof in a principal amount equal to an authorized denomination (so long as the principal amount not purchased is an authorized denomination) shall be purchased on the demand of the Holder thereof on any Business Day at a price equal to the principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase, upon delivery to the Registrar and Paying Agent and the applicable Remarketing Agent at their respective principal offices, by the close of business on any Business Day of a Notice of Election to Tender in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit E** hereto; provided,

however, that the substance of such Notice of Election to Tender must also be given telephonically to the applicable Remarketing Agent prior to or simultaneously with delivery of such written Notice of Election to Tender to such Remarketing Agent. The date on which such Bond shall be purchased shall, at the request of the Holder thereof (i) if the Bond then bears interest at a Daily Rate, be the date of delivery of such Notice of Election to Tender if such Notice of Election to Tender is delivered to the Registrar and Paying Agent and the applicable Remarketing Agent by 10:00 a.m. (New York City time) on such date or may be any Business Day thereafter, and (ii) if the Bond then bears interest at a Weekly Rate, shall be a Business Day not prior to the 7th day next succeeding the date on which, by 10:00 a.m., such

Notice of Election to Tender is delivered to the Registrar and Paying Agent and the Remarketing Agent.

2. During any Monthly Rate Period or Semi-annual Rate Period, any Bond or portion thereof in a principal amount equal to an authorized denomination (so long as the principal amount not purchased is an authorized denomination) shall be purchased on the demand of the Holder thereof on the first Business Day following each Calculation Period at a price equal to the principal amount thereof, upon delivery to the Registrar and Paying Agent and the applicable Remarketing Agent, at their respective principal offices of a Notice of Election to Tender in substantially the form attached hereto as or containing substantially the information contained in **Exhibit E** on or prior to a Business Day which is not less than 10 days, in the case of Bonds bearing interest at a Semi-annual Rate, or 7 days, in the case of Bonds bearing interest at a Monthly Rate, prior to the proposed date of purchase; provided, however, that the substance of such Notice of Election to Tender must also be given telephonically to the applicable Remarketing Agent prior to or simultaneously with delivery of such written Notice of Election to Tender to such Remarketing Agent.

3. Immediately upon receipt of a Notice of Election to Tender delivered pursuant to the provisions of this Section 5.03, the Registrar and Paying Agent shall notify, or cause to be notified, the Trustee, the Company, the Authority and the applicable Remarketing Agent, by telephone, promptly confirmed in writing, of such receipt, specifying the contents thereof.

4. Any Notice of Election to Tender shall be irrevocable. If a Holder fails to deliver the Bonds referred to in such notice to the Registrar and Paying Agent, such Bonds shall nevertheless be deemed to have been purchased on the date established for the purchase thereof, no interest shall accrue on such Bonds from and after the date of purchase and such Holder shall have no rights hereunder thereafter as the owner of such Bonds except the right to receive the purchase price of such Bonds.

5. A Holder may not tender a Bond to the Registrar and Paying Agent pursuant to this Section while such Bond bears interest at an Auction Rate, Commercial Paper Rate, Term Rate or Fixed Rate.

SECTION 5.04. Mandatory Tender for Purchase upon Change in the Interest Rate Mode or on Business Day Following Certain Calculation Periods.

1. Upon a Change in the Interest Rate Mode, the Bonds shall be subject to mandatory tender for purchase in accordance with the terms hereof, on the effective date of such Change in the Interest Rate Mode at the Purchase Price.

2. During any Term Rate Period or Commercial Paper Rate Period, the Bonds shall be subject to mandatory tender for purchase in accordance with the terms hereof on the Business Day immediately following each Calculation Period, each at a price equal to the Purchase Price.

3. Notice of mandatory tender for purchase upon a Change in the Interest Rate Mode shall be in substantially the form attached hereto as, or contain substantially the information contained in, **Exhibit A** hereto.

4. Any such notice of mandatory tender for purchase required by this Section 5.04 shall be given by the Trustee, in the name of the Authority, or the Trustee shall cause the Registrar and Paying Agent to give such notice (with copies thereof to be given to the Remarketing Agent, the Registrar and Paying Agent, the Company, and in the case of Auction Rate Bonds, the Auction Agent and the Authority) by first-class mail to the Holders of the Bonds subject to purchase at their addresses shown on the books of registry.

5. Bonds held by or for the account of the Company or the issuer of a Support Facility are not subject to mandatory tender for purchase pursuant to this Section 5.04.

SECTION 5.05. Extraordinary Optional Redemption. During any Term Rate Period or Fixed Rate Period, the Bonds are also subject to redemption prior to maturity in whole at any time at the option of the Authority, exercised at the direction of the Company, upon notice given as provided in the Indenture, at a redemption price equal to the principal amount thereof, together with unpaid interest accrued thereon to the date fixed for redemption, in any of the following events:

(i) All or substantially all of the Project shall have been damaged or destroyed or title to, or the temporary use of, all or a substantial portion of the Project shall have been taken under the exercise of the power of eminent domain by any governmental authority, or person, firm or corporation acting under governmental authority, as in each case renders the Project unsatisfactory to the Company for its intended use;

(ii) Unreasonable burdens or excessive liabilities shall have been imposed upon the Authority or the Company with respect to all or substantially all of the Project, including without limitation the imposition of Federal, State or other ad valorem property, income or other taxes other than ad valorem taxes in effect on the date of original issuance of the Bonds levied upon privately owned property used for the same general purpose as the Project; or

(iii) Any court or regulatory or administrative body shall enter or adopt, or fail to enter or adopt, a judgment, order, approval, decree, rule or regulation, as a result of which the Company elects to cease operation of all or substantially all of the Project.

1. During any Semi-annual Rate Period, Term Rate Period or Fixed Rate Period, the Bonds shall be subject to mandatory redemption as a whole (provided, however, that the Bonds shall be redeemed in part if the Company obtains an Opinion of Bond Counsel to the effect that, by redeeming such portion of the Bonds, the interest on the remaining Bonds will

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not be included for Federal income tax purposes in the gross income of any owner of the Bonds (other than an owner who is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a)(1) of the Code)) at any time at a redemption price equal to 100% of the principal amount thereof, together with unpaid interest accrued thereon to the redemption date, if, in a published or private ruling of the Internal Revenue Service or in a final, nonappealable judicial decision by a court of competent jurisdiction (provided that the Company has been afforded the opportunity to participate at its own expense in the proceeding resulting in such ruling or in the litigation resulting in such decision, as the case may be), it is determined that, as a result of a failure by the Company to observe any covenant, agreement or representation in the Participation Agreement or the Tax Regulatory Agreement, interest on the Bonds is included for Federal income tax purposes in the gross income (as defined in Section 61 of the Code) of any owner of a Bond (other than a "substantial user" of the Project or a "related person" within the meaning of Section 147(a)(1) of the Code), and, in such event, the Bonds shall be subject to such mandatory redemption not more than one hundred eighty (180) days after receipt by the Trustee of notice of such published or private ruling or judicial decision and a demand for redemption of the Bonds. The occurrence of an event requiring the redemption of the Bonds under this paragraph does not constitute an event of default under any Note or under the Indenture and the sole obligation in such event shall be for the Company to prepay the Note in an amount sufficient to redeem the Bonds to the extent required by this paragraph.

2. During any Semi-annual Rate Period, Term Rate Period or Fixed Rate Period, the Bonds may be redeemed in whole or in part at any time at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest thereon to the redemption date, if the Company has determined, on the basis of the advice of Bond Counsel that, as a result of any action taken or expected to be taken, or failure to take action, a reasonable risk exists that interest on the bonds will not be excludable from gross income for Federal tax purposes. Such conclusion and certification shall be evidenced by delivery to the Trustee of a written certificate of an Authorized Company Representative to the effect that the Company has reached such conclusion, together with a copy of such advice of Bond Counsel. The occurrence of an event permitting the redemption of the Bonds under this paragraph does not constitute an event of default under any Note or under the Indenture and the sole obligation in such event shall be for the Company to prepay the Note in an amount sufficient to redeem the Bonds to the extent required by this paragraph.

3. During any Semi-annual Rate Period, Term Rate Period or Fixed Rate Period, the Bonds will also be subject to mandatory redemption at a redemption price equal to one hundred three percent (103%) of the principal amount thereof plus unpaid interest accrued thereon to the redemption date if the Company reasonably concludes and certifies to the Trustee that the business, properties, condition (financial or otherwise), operations or business prospects of the Company will be materially and adversely affected unless the Company takes or omits to take a specified action and that the Company has been advised in writing by Bond Counsel that the specified action or omission would cause the use of the Project to be such that, pursuant to Section 150 of the Code, the Company would not be entitled to deduct the interest on the Bonds for purposes of determining the Company's Federal taxable income, for a period of not less than ninety (90) consecutive or nonconsecutive days during a twelve-month period. Such

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conclusion and certification shall be evidenced by delivery to the Trustee of a written certificate of an Authorized Company Representative to the effect that the Company has reached such conclusion, together with a certified copy of a resolution of the Board of Trustees of the Company authorizing such certificate and a copy of such advice of Bond Counsel. In the event that the Bonds become subject to redemption as provided in this paragraph, the Bonds will be redeemed in whole unless redemption of a portion of the Bonds outstanding would, in the Opinion of Bond Counsel, have the result that interest payable on the Bonds remaining outstanding after such redemption would be deductible for purposes of determining the Federal taxable income of the Company, and, in such event, the Bonds to be redeemed shall be selected (in the principal amount of \$5,000 or any integral multiple thereof) by lot, in such amount as is necessary to accomplish that result. The occurrence of an event requiring the redemption of the Bonds under this paragraph does not constitute an event of default under any Note or under the Indenture and the sole obligation in such event shall be for the Company to prepay the Note in an amount sufficient to redeem the Bonds to the extent required by this paragraph.

SECTION 5.07. Redemption at Demand of the State of New York. In accordance with the provisions of Section 1864 of the Act, the State of New York may, upon furnishing sufficient funds therefor, require the Authority to redeem prior to maturity, as a whole, the Bonds on any Interest Payment Date not less than twenty years after the Closing Date. Any such redemption shall be at a redemption price equal to the optional redemption price, if any, applicable on such date set forth in Section 5.01 or if no such optional redemption price is applicable at a redemption price equal to the principal amount thereof, in either case, together with accrued and unpaid interest, if any, to the date fixed for redemption, all in the manner provided in this Article V. The Authority shall deposit any such funds received by it with the Trustee. During any period during which no Direct-Pay Credit Facility is in effect, the Trustee shall deposit any such funds in the Bond Fund and, upon notice published in the manner provided in Section 1864 of the Act, shall apply such funds to the redemption of the Bonds. During any period in which a Direct-Pay Credit Facility is in effect, the Trustee shall deposit any such funds received by it in a segregated sub-account in the Bond Fund, and upon notice published in the manner provided in Section 1864 of the Act, shall draw monies under the related Credit Facility pursuant to Article IX and apply such payment to the redemption of the Bonds at the price and in the manner specified in the preceding sentence. Upon the application of such Credit Facility payments, the Trustee shall pay the funds furnished by the State of New York to the issuer of the Credit Facility with instructions to apply such funds to the reimbursement of the issuer of the Credit Facility for such Credit Facility payment. Upon such redemption and notwithstanding anything to the contrary in this Indenture, the Trustee shall assign the Note relating to the Bonds to or as directed by the Authority.

SECTION 5.08. Mandatory Tender for Purchase Upon Expiration of any Support Facility or Upon Delivery of an Alternate Support Facility.

1. Except as otherwise set forth in the last sentence of this Subsection 1, on the second Business Day next preceding the date of expiration of any Support Facility, the Bonds shall be subject to mandatory purchase at the Purchase Price, unless on or prior to the 35th day prior to such date of expiration the Company on behalf of the Authority has furnished to the Trustee an extension of such Support Facility. The Bonds shall also be subject to

mandatory purchase at the Purchase Price, on the date there is delivered an Alternate Support Facility meeting the requirements of Section 6.02. No tender for purchase of any Bonds shall be required pursuant to this Section 5.08 during an Auction Rate Period or a Fixed Rate Period.

2. Notice of the mandatory tender for purchase pursuant to this Section 5.08 shall be given on or prior to the 30th day before the expiration date of the expiring Support Facility or on or prior to the 30th day before the delivery of any Alternate Support Facility, as the case may be, by the Trustee in the name of the Authority (with copies thereof given to the Authority, the Remarketing Agent, the issuer of a Support Facility, the Company and the Registrar and Paying Agent) by first-class mail to the Holders of the Bonds subject to mandatory tender for purchase at their addresses shown on the books of registry. Such notice shall be in substantially the form attached hereto as, or contain substantially the information contained in, **Exhibit F** hereto.

3. Bonds held by or for the account of the Company or the issuer of a Liquidity Facility are not subject to mandatory tender for purchase pursuant to this Section 5.08.

SECTION 5.09. Mandatory Tender Upon Occurrence of any Terminating Event.

1. Except as otherwise set forth in the last sentence of this Subsection 1, upon the occurrence of any Terminating Event, the Bonds shall be subject to mandatory tender for purchase at the Purchase Price on a Business Day selected by the Trustee; provided, however, that (i) such mandatory tender shall not occur later than the 5th day after receipt of notice of the Terminating Event by the Trustee and (ii) such mandatory tender date shall be a Business Day. The Bonds will not be subject to mandatory tender for purchase pursuant to this Section 5.09 during any Auction Rate Period or any Fixed Rate Period.

2. Notice of the mandatory tender for purchase required by this Section 5.09 shall be in substantially the form attached hereto as, or contain substantially the information contained in, **Exhibit F** hereto and shall be given to the Holders of the Bonds subject to mandatory tender for purchase at their addresses shown on the books of registry on or before the first Business Day after receipt of notice of a Terminating Event from the issuer of the Support Facility by the Trustee, in the name of the Authority, or the Trustee shall cause the Registrar and Paying Agent to give such notice, by first-class mail to the Holders of the Bonds subject to purchase at their address shown on the books of registry (with copies thereof given to the Authority, the Remarketing Agent, the Company and the Registrar and Paying Agent).

3. Bonds held by or for the account of the Company or the issuer of a Liquidity Facility are not subject to mandatory tender for purchase pursuant to this Section 5.09.

SECTION 5.10. General Provisions Applicable to Mandatory and Optional Tenders for Purchase of Bonds.

1. If interest has been paid on the Bonds, or an amount sufficient to pay interest thereon has been deposited in the Bond Fund, or an amount sufficient to pay accrued interest thereon, if any, has been set aside in the Bond Purchase Fund held under the Bond Purchase Trust Agreement, and the Purchase Price shall be available in the Bond Purchase Fund for payment of Bonds subject to tender for purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09, and if any Holder fails to deliver or does not properly deliver the Bonds to the Registrar and Paying Agent for which a Notice of Election to Tender has been properly filed or which are subject to mandatory tender for purchase on the purchase date therefor, such Bonds shall nevertheless be deemed tendered and purchased on the date established for the purchase thereof, no interest shall accrue on such Bonds from and after the date of purchase and such former Holders shall have no rights hereunder as the registered owners of such Bonds, except the right to receive the Purchase Price of and interest to the purchase date, if any, on such Bonds upon delivery thereof to the Registrar and Paying Agent in accordance with the provisions hereof. The purchaser of any such Bonds remarketed by the Remarketing Agent, or the issuer of any Support Facility, to the extent Bonds are purchased with the proceeds of a draw on, or borrowing or payment under, the Support Facility available therefor, shall be treated as the registered owner thereof for all purposes of the Indenture. The payment of Bonds pursuant to Section 5.03 shall be subject to delivery of such Bonds duly endorsed in blank for transfer or accompanied by an instrument of transfer thereof in form satisfactory to the Registrar and Paying Agent executed in blank for transfer at the principal office of the Registrar and Paying Agent at or prior to 10:00 a.m. (11:30 a.m. for Bonds bearing interest at the Weekly Rate and 12:00 noon, for Bonds bearing interest at the Daily Rate) (New York City time), on a specified purchase date. The Registrar and Paying Agent may refuse to make payment with respect to any Bonds tendered for purchase pursuant to Sections 5.03, 5.04, 5.08 or 5.09 not endorsed in blank or for which an instrument of transfer satisfactory to the Registrar and Paying Agent has not been provided.

2. The Purchase Price of Bonds subject to tender for purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09 in an aggregate principal amount of at least one million dollars (\$1,000,000) shall be payable in immediately available funds or by wire transfer upon written notice from the Holder thereof containing the wire transfer address (which shall be in the continental United States) to which such Holder wishes to have such wire directed, if such written notice is received by the Registrar and Paying Agent not less than five days prior to the related purchase date.

3. Bonds subject to mandatory tender for purchase pursuant to Sections 5.08 or 5.09 shall not be remarketed unless and until an Alternate Support Facility meeting the requirements of Section 6.02 of the Indenture is in full force and effect; provided, however, that Bonds may be remarketed and no such Alternate Support Facility is required to be in effect if, at the time the Bonds are sought to be remarketed, the Bonds bear interest at an Auction Rate or a Fixed Rate.

4. In the event Bonds tendered for purchase pursuant to Section 5.03 or 5.04 shall be paid from a drawing under a Liquidity Facility, such Bonds shall not be remarketed unless and until the Trustee or the Registrar and Paying Agent has been notified by the Liquidity Facility Issuer and, upon receipt of such notice, the Trustee or the Registrar and Paying Agent has notified the applicable Remarketing Agent that the amount available for a drawing under such Liquidity Facility has been restored.

SECTION 5.11.

Selection of Bonds to be Redeemed. A redemption of Bonds shall be a redemption of the whole or of any part of the Bonds from any funds available for that purpose in a principal amount equal to an authorized denomination (so long as the principal amount not redeemed is an authorized denomination). If less than all Bonds shall be redeemed, the particular Bonds to be redeemed shall be chosen by the Trustee, or the Trustee shall direct the Registrar and Paying Agent to so choose, as hereinafter provided. If less than all the Bonds shall be called for redemption under any provision of this Indenture permitting such partial redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected (a) first, from Bonds held or owned by or for the issuer of a Support Facility pursuant to any Support Facility, (b) second, from Bonds for which the Registrar and Paying Agent has received, prior to such selection, a Notice of Election to Tender requiring the Registrar and Paying Agent to purchase such Bonds on the date on which the Bonds being selected are to be redeemed and (c) third, from all other Bonds then Outstanding, by lot or on a pro rata basis by the Trustee or, upon direction of the Trustee, by lot by the Registrar and Paying Agent; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$100,000 or any integral multiple thereof during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 or any integral multiple thereof during an Auction Rate Period, or \$5,000 or any integral multiple thereof at any other time and that, in selecting Bonds for redemption, the Trustee or Registrar and Paying Agent shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such registered Bond in excess of \$100,000 by \$100,000 during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 during an Auction Rate Period, and \$5,000 at any other time (such amounts being hereinafter referred to as the “applicable units of principal amount”). If it is determined that one or more, but not all of the \$100,000, \$25,000 or \$5,000 units of principal amount represented by any such Bond is to be called for redemption, then upon notice of intention to redeem such \$100,000, \$25,000 or \$5,000 unit or units, the Holders of such Bonds shall forthwith surrender such Bonds to the Registrar and Paying Agent for (1) payment of the redemption price (including the redemption premium, if any, and accrued interest to the date fixed for redemption) of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount called for redemption and (2) exchange for a new Bond or Bonds of the aggregate principal amount of the unredeemed balance of the principal of such Bonds. If the Holders of any such Bond of a denomination greater than \$100,000, \$25,000 or \$5,000 shall fail to present such Bond to the Registrar and Paying Agent, for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount called for redemption (and to that extent only).

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SECTION 5.12. Notice of Redemption.

1. Notice of redemption shall be given by the Trustee by mailing a copy of the redemption notice by first-class mail at least 30 days prior to the date fixed for redemption to the Holders of the Bonds to be redeemed at the addresses shown on the registration books maintained by the Registrar and Paying Agent. A copy of such notice of redemption shall be given by the Trustee to the Bond Insurer and the Auction Agent at least 30 days prior to the date fixed for redemption. Any redemption may be conditioned on the receipt of moneys by the Registrar and Paying Agent sufficient to pay the redemption price on the Redemption Date of Bonds called for redemption, if the notice of redemption so states.

2. The Registrar and Paying Agent shall not be required to transfer or exchange Bonds during any period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption and ending at the close of business on the day fixed for redemption; provided, however, that the foregoing shall not apply during a Daily Rate Period, a Weekly Rate Period, a Commercial Paper Rate Period or an Auction Rate Period.

3. Each notice of redemption shall state: (i) the full title of the Bonds, the redemption date, the place of redemption and the redemption price payable upon such redemption; (ii) that the interest on the Bonds, or on the principal amount thereof to be redeemed, shall cease to accrue from and after such redemption date and (iii) that on said date there will become due and payable on the Bonds the principal amount thereof to be redeemed and the interest accrued on such principal amount to the redemption date, if any, and the premium, if any, thereon. Each notice of redemption mailed to the Holder of the Bonds shall, if less than the entire principal sum thereof is to be redeemed, also state the principal amount thereof and the distinctive numbers of the Bonds to be redeemed and that such Bonds must be surrendered to the Trustee in exchange for the payment of the principal amount thereof to be redeemed and the issuance of a new Bond equaling in principal amount that portion of the principal sum not to be redeemed of the Bonds to be surrendered. The failure to give notice to any Holder of a Bond or any defects in such notice shall not affect the proceedings for the redemption of the Bonds for which notice has been properly given.

SECTION 5.13.

Bonds Purchased for Account of Liquidity Facility Issuer. Bonds subject to mandatory purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09 shall be deemed to be purchased by the Company except to the extent the Liquidity Facility expressly provides that the Bonds are to be purchased by the issuer of the Liquidity Facility in which event such Bonds shall be deemed to be purchased by the issuer of the Liquidity Facility in a principal amount equal to the amount of a draw on, or borrowing or payment under, the Liquidity Facility for the payment of Bonds subject to purchase, upon the deposit with the Registrar and Paying Agent of the proceeds of such draw on, or borrowing or payment under, the Liquidity Facility in an amount equal to the principal of such Bonds plus accrued interest thereon to the purchase date, and such Bonds shall not be deemed paid and shall remain outstanding hereunder until the issuer of the Liquidity Facility has been reimbursed for such draws on, or borrowings or payments under, the Liquidity Facility to pay such principal and interest. Unless the issuer of any Liquidity Facility shall otherwise direct, any Bonds purchased by the issuer of the Liquidity Facility shall be immediately registered in the name of the Company except to the extent the Liquidity Facility expressly provides that the Bonds are to be purchased by the issuer of the Liquidity Facility in which event such Bonds shall be registered

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in the name of the issuer of the Liquidity Facility as a Holder and the issuer of the Liquidity Facility shall have all rights of a Holder of Bonds under this Indenture.

SECTION 5.14.

Effect of Redemption. If the Bonds have been duly called for redemption and notice of the redemption thereof has been duly given or provided for as hereinbefore provided and if monies for the payment of the Bonds (or of the principal amount thereof to be redeemed) and the interest to accrue to the redemption date on the Bonds (or of the principal amount thereof to be redeemed), if any, and the premium, if any, thereon are held for the purpose of such payment by the Trustee, then the Bonds (or the principal amount thereof to be redeemed) shall on the redemption date designated in such notice, become due and payable and interest on the Bonds (or the principal amount thereof to be redeemed) so called for redemption shall cease to accrue from such date and the Holder thereof shall thereafter have no rights hereunder as the Holder of such Bonds (or the principal amount thereof to be redeemed) except to receive the principal amount thereof and premium (if any) thereon and interest to the redemption date.

ARTICLE VI**SUPPORT FACILITY**

SECTION 6.01. Support Facility - General. Pursuant to the Participation Agreement, the Company has agreed not to request that the interest rate mode applicable to the Bonds be adjusted to an Adjustable Rate or a Fixed Rate unless on the effective date of the applicable Change in the Interest Rate Mode the Bonds shall be rated at least “A” by S&P or “A2” by Moody’s or “A” by Fitch or an equivalent rating by any nationally recognized rating agency. Subject to the requirements of the Participation Agreement, such rating of the Bonds may, but is not required to, be achieved by obtaining a Support Facility which meets the requirements of this Article VI. The Company has further agreed to maintain a Liquidity Facility meeting the requirements of the Participation Agreement with respect to the Bonds at all times, except with respect to Bonds bearing interest at an Auction Rate, a Fixed Rate applicable to the stated maturity date of the Bonds or a Term Rate for a period of at least five years. A Liquidity Facility also must be in effect on or prior to the effective date of (i) any Change in the Interest Rate Mode from an Auction Rate to another Adjustable Rate (other than a Change in the Interest Rate Mode to an Auction Rate), and (ii) any change in the Interest Rate Mode from a Fixed Rate to an Adjustable Rate (other than a Change in the Interest Rate Mode to an Auction Rate). The Trustee shall be furnished with a certified copy of any Support Facility obtained pursuant to this Section 6.01.

Notwithstanding anything herein to the contrary, for so long as no Bond Insurer Default has occurred and is continuing, neither the Company nor the Authority shall obtain or put into effect any Credit Facility other than such Policy for the applicable subseries of the Bonds, nor consent to or approve any such action.

SECTION 6.02. Support Facility - Delivery of an initial Liquidity Facility and Alternate Support Facility.

1. At any time, the Authority may, at the request of the Company, provide for the delivery to the Trustee of an initial Liquidity Facility or an Alternate Support Facility. The termination date of such initial Liquidity Facility or such Alternate Support Facility, as the case may be, shall be a date not earlier than 364 days from its date of issuance, subject to earlier termination upon the occurrence of (i) a Terminating Event or another event of default under the related reimbursement agreement or other corresponding agreement relating to such initial Liquidity Facility or Alternate Support Facility, as the case may be, (ii) the issuance of an alternate Liquidity Facility or a subsequent Alternate Support Facility, as the case may be, (iii) payment in full of the Outstanding Bonds or (iv) in the case of an alternate Liquidity Facility, a Change in the Interest Rate Mode to an Auction Rate or a Fixed Rate. Any Liquidity Facility shall specifically allow, in the case of occurrence of any event or events which under the terms of such Liquidity Facility or any agreement providing for the issuance thereof would cause the termination or expiration of such Liquidity Facility, for the mandatory tender of Bonds pursuant to Section 5.09 with a draw on or borrowing or payment under such Liquidity Facility prior to such termination or expiration. On or prior to the date of the delivery of an initial Liquidity Facility or an Alternate Support Facility to the Trustee, the Company shall furnish to the

Trustee on behalf of the Authority (a) an Opinion of Bond Counsel stating that the delivery of such initial Liquidity Facility or Alternate Support Facility, as the case may be, to the Trustee is authorized under this Indenture and complies with the terms hereof and (b) in the case of an Alternate Support Facility, confirmation from S&P, if the Bonds are then rated by S&P, from Moody’s, if the Bonds are then rated by Moody’s, or another rating agency, if the Bonds are then rated by such rating agency, to the effect that such rating agency has reviewed the proposed Alternate Support Facility and that the substitution of the proposed Alternate Support Facility for the Support Facility will not, by itself, result in a reduction or withdrawal of its long or short-term rating of the Bonds below the rating category of S&P or Moody’s or such other rating agency, as the case may be, then in effect with respect to the Bonds.

2. Nothing contained herein shall prevent the Authority, at the request of the Company, from delivering an Alternate Support Facility in substitution for a Support Facility which will result in a decline in the short-term or long-term rating or both assigned to such Bonds by Moody’s or S&P or such other rating agency as a result of the Alternate Support Facility; provided, that (i) the Opinion of Bond Counsel referred to in the preceding paragraph is obtained; provided that such opinion shall also be to the effect that delivery of such Alternate Support Facility will not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes and (ii) all Outstanding Bonds are subject to mandatory tender for purchase pursuant to Section 5.08 (unless the Bonds bear an Auction Rate or a Fixed Rate). The Authority, or the Company on behalf of the Authority, shall deliver notice to the Trustee of the substitution of an Alternate Support Facility which will result in a decline in the short-term or long-term ratings assigned to the Bonds pursuant to this Subsection 2 of Section 6.02 at least forty-five (45) days before the date of substitution.

3. Each Liquidity Facility and each Liquidity Facility Issuer shall be subject to the prior written approval of the Bond Insurer, which approval shall not be unreasonably withheld.

SECTION 6.03. Trustee not Responsible for Enforcement of Support Facility. The Trustee shall have no responsibility with respect to the enforcement of any Support Facility obtained hereunder.

SECTION 6.04. Payments Pursuant to the Policies. At any time a Policy has been issued by the Bond Insurer:

1. The Trustee shall, at least one Business Day prior to each scheduled Interest Payment Date and each date on which payment of principal of the Bonds is scheduled to be due (each such date being a “Principal Payment Date”), determine whether there will be sufficient funds in the Bond Fund to pay the principal of and/or interest on the Bonds on such Interest Payment Date or Principal Payment Date. If the Trustee determines that there will be insufficient funds in the Bond Fund, the Trustee shall so notify the Bond Insurer and its designated agent (if any) (the “Insurance Trustee”). Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. If the Trustee has not so notified the Bond Insurer and the Insurance Trustee (if any) and made a claim under the Policy relating to

the applicable subseries of the Bonds at least one Business Day prior to an Interest Payment Date or Principal Payment Date, the Bond Insurer will make payments of principal or interest due on the Bonds on or before the first Business Day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Trustee.

2. The Trustee shall after giving notice to the Bond Insurer and the Insurance Trustee (if any) as provided in paragraph 1 of this Section 6.04, make available to the Bond Insurer and the Insurance Trustee (if any), the registration books of the Authority maintained by the Trustee and all records relating to the Bond Fund maintained under this Indenture.

3. The Trustee shall provide the Bond Insurer and the Insurance Trustee with a list of Holders of the Bonds entitled to receive principal or interest payments from the Bond Insurer under the terms of the applicable Policy, and shall make arrangements with the Bond Insurer or the Insurance Trustee (if any) (i) to mail checks or drafts to the Holders of the Bonds entitled to receive full or partial interest payments from the Bond Insurer and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the Holders of Bonds entitled to receive full or partial principal payments from the Bond Insurer.

4. The Trustee shall, at the time it provides notice to the Bond Insurer pursuant to paragraph 1 of this Section 6.04, notify Holders of Bonds entitled to receive the payment of principal or interest thereon from the Bond Insurer (i) as to the fact of such entitlement, (ii) that the Bond Insurer will remit to them all or a part of the interest payments next coming due upon proof of the Holders' entitlement to interest payments and delivery to the Bond Insurer or the Insurance Trustee (if any), in form satisfactory to the Bond Insurer or the Insurance Trustee (if any), of an appropriate assignment of the Holder's right to payment, (iii) that should they be entitled to receive full payment of principal from the Bond Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of the Bond Insurer) for payment to the Bond Insurer or the Insurance Trustee (if any), and not the Trustee, and (iv) that should they be entitled to receive partial payment of principal from the Bond Insurer, they must surrender their Bonds for payment thereon first to the Trustee, who shall note on such Bonds the portion of the principal paid by the Trustee and then, along with an appropriate instrument of assignment of the Holder's right to payment in form satisfactory to the Bond Insurer or the Insurance Trustee (if any), to the Bond Insurer or the Insurance Trustee (if any), which will then pay the unpaid portion of principal.

5. In the event that the Trustee has notice that any payment of principal or interest on a subseries of the Bonds which has become Due for Payment (as defined in the Bond Insurer's Policy applicable to such subseries) and which is made to a Holder of a Bond by or on behalf of the Authority has been deemed a preferential transfer and theretofore recovered from its Holder pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee shall, at the time the Bond Insurer is notified pursuant to paragraph 1 of this Section 6.04, notify all Holders of the Bonds that in the event that any Holder's payment is so recovered, such Holder will be entitled to payment from the Bond Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Trustee shall furnish to the

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Bond Insurer its records evidencing the payments of principal or interest on the Bonds which have been made by the Trustee and subsequently recovered from Holders of the Bonds and the dates on which such payments were made.

6. In addition to those rights granted to the Bond Insurer under this Indenture, the Bond Insurer shall, to the extent it makes payment of principal or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the applicable Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Holders of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books upon surrender of the Bonds by the Holders thereof together with proof of the payment of principal thereof to the Holders of the Bonds.

7. If the Trustee provides a notice to the Bond Insurer pursuant to paragraph 1 of this Section 6.04, then, so long as any Bonds bear interest at an Auction Rate, the Trustee shall confirm with the Bond Insurer and the Insurance Trustee (if any) on or prior to the Business Day immediately following the day on which such notice was given that the Bond Insurer made payments under the applicable Policy in an amount that is equal to or exceeds the deficiency in the Bond Fund. If by the end of business on the Business Day immediately following the day on which a notice was given pursuant to paragraph 1 of this Section 6.04 the Trustee was unable to confirm, upon its communication with the Bond Insurer and the Insurance Trustee (if any), that the Bond Insurer made payments under the applicable Policy in an amount that is equal to or exceeds the deficiency in the Bond Fund, then the Trustee shall immediately send a notice to the Auction Agent and Holders of each subseries of Bonds by telex, telecopy or similar means of the occurrence of a Payment Default. If at any time after the occurrence of a Payment Default the Trustee confirms with the Bond Insurer and the Insurance Trustee (if any) that the Bond Insurer made payments under the applicable Policy in an amount that is equal to or exceeds the deficiency in the Bond Fund, the Trustee shall immediately give a notice to the Auction Agent and Holders of each subseries of the Bonds that the Bond Insurer has cured the default under such Policy by making all scheduled payments thereunder.

8. The notice address for the Bond Insurer shall be:

XL Capital Assurance Inc.
1221 Avenue of the Americas
31st Floor
New York, NY 10020-1001

SECTION 6.05. Rights of Credit Facility Issuer After an Event of Default. Notwithstanding any other provision of this Indenture, upon the occurrence of an Event of Default and so long as no Bond Insurer Default has occurred and is continuing, then, in all such events, the Bond Insurer shall be deemed to be the sole owner of the Bonds when the approval, consent, direction or any other action of the owners of such Bonds is required or may be exercised under this Indenture, and shall be entitled to control and direct the enforcement of all

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rights and remedies granted to the Holders or the Trustee for the benefit of the Holders, including, without limitation, (i) the right to control and direct the declaration of principal of and accrued interest on all the Bonds then Outstanding to be due and payable immediately as described herein, (ii) the right to rescind and annul such declaration and the consequences of such declaration, (iii) the right to waive any Event of Default and its consequences and (iv) the rights and remedies granted to the Trustee pursuant to Section 12.05.

SECTION 6.06. Additional Rights of Bond Insurer. For so long as no Bond Insurer Default has occurred and is continuing, the following provisions shall apply:

- (a) the Bond Insurer's consent shall be required in addition to Holder consent, when required, for the initiation or approval of any action which requires Holder consent;
- (b) to the extent that the Company has entered into a continuing disclosure agreement with respect to the Bonds, the Bond Insurer shall be included as a party to be notified; and
- (c) To the extent that this Indenture confers upon or gives or grants to the Bond Insurer any right, remedy or claim under or by reason of this Indenture, the Bond Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

SECTION 6.07. Qualification of Bond Insurer's Right to Consent. A Bond Insurer's right to consent pursuant to the provisions of this Indenture shall not exist when a Bond Insurer Default has occurred and is continuing.

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ARTICLE VII

GENERAL TERMS AND PROVISIONS OF BONDS

SECTION 7.01. Execution and Authentication of Bonds. The Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of its Chair, Vice-Chair, President, Treasurer or any Vice President and shall be sealed with the seal of the Authority, or in lieu thereof shall bear a lithographed, engraved or otherwise reproduced facsimile of such seal attested by the manual or facsimile signature of its Vice President, Treasurer, Secretary or an Assistant Secretary.

Bonds bearing the manual signature of the officer of the Authority authorized to execute such Bonds in office on the date of such manual signing thereof and Bonds bearing the facsimile signature of the officer of the Authority authorized to execute such Bonds in office on the date of the reproducing of such facsimile signature on such Bonds, shall be valid and binding obligations in accordance with their terms, notwithstanding that before the delivery thereof and payment therefor the person whose signature appears thereon shall have ceased to be such officer.

Only Bonds having endorsed thereon a certificate of authentication substantially in the form set forth in Article XVI, duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bonds shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon a Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture and that the Holder thereof is entitled to the benefits of this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized officer of the Trustee.

SECTION 7.02. Books of Registry. The Registrar and Paying Agent shall keep or cause to be kept at its principal office books (herein referred to as the "books of registry" or "registration books") for the registration and transfer of the Bonds. Upon presentation at its principal office for such purpose the Registrar and Paying Agent, under such reasonable regulations as it may prescribe, shall register or transfer, or cause to be registered or transferred, on said books of registry, the Bonds as hereinafter set forth. The books of registry shall at all times during business hours be open for inspection by the Authority, the Company and the Trustee or their duly authorized agents or representatives.

SECTION 7.03. Transfer, Registration and Exchange of Bonds. The transfer of the Bonds may be registered only upon the books of registry required to be kept pursuant to Section 7.02 upon surrender thereof to the Registrar and Paying Agent, together with an assignment duly executed by the Holder thereof or his or her duly authorized agent and accompanied by a guarantee of signature, each in such form as shall be satisfactory to the Registrar and Paying Agent. Upon any such registration of transfer the Authority shall execute and the Trustee shall authenticate and deliver in exchange for such Bonds a new Bond or Bonds registered in the name of the transferee or transferees for a like aggregate principal amount, of

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any denomination or denominations authorized by this Indenture. No transfer of any Bond shall be effective until entered on the books of registry.

Any Bond surrendered in any such registration of transfer shall forthwith be cancelled by the Trustee. Any Bonds registered and transferred to a new Holder pursuant to this Section shall be delivered to the Holder at the principal office of the Registrar and Paying Agent or sent by first-class mail to the Holder at his or her request, risk and expense.

Bonds, upon surrender thereof at the principal corporate trust office of the Registrar and Paying Agent, together with an assignment duly executed by the Holder or his or her authorized agent and accompanied by a guarantee of signature, each in such form as shall be satisfactory to the Registrar and Paying Agent, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of Bonds of any denomination or denominations authorized by this Indenture and in the same form as the Bonds surrendered for exchange. All Bonds so surrendered pursuant to this Section shall be cancelled by the Trustee.

Any Bonds to be delivered to the Holder upon any such exchange shall be delivered to the Holder at the principal office of the Registrar and Paying Agent or sent by first-class mail to the Holder thereof at his or her request, risk and expense.

Any taxes or other governmental charges required to be paid with respect to the registration of transfer or exchange of the Bonds shall be paid by the Holder requesting registration of such transfer or exchange, as a condition precedent to the exercise of such privilege. The Authority or the Registrar and Paying Agent, or both, may charge the Company for every registration of transfer or exchange sufficient to reimburse it for any and all costs required to be paid in respect thereof.

SECTION 7.04. Mutilated, Lost, Stolen, or Destroyed Bonds. In the event any Bond shall be lost, stolen, destroyed, wholly or in part, or so defaced as to impair its value to the Holder, the Trustee shall, upon compliance with the terms provided by law, authenticate and deliver a new Bond of like date and tenor in exchange or replacement therefor against delivery for cancellation of such mutilated Bond, or in lieu of and in replacement of a destroyed, stolen or lost Bond, and upon payment by the Holder of the reasonable expenses of the Registrar and Paying Agent and the Authority and the reasonable charges of the Trustee and Registrar and Paying Agent in connection therewith and, in the event that the Bond is destroyed, stolen or lost, the Holder's filing with the Registrar and Paying Agent of evidence satisfactory to it that the Bond was destroyed, stolen or lost, of the Holder's ownership thereof, and furnishing the Registrar and Paying Agent such security and indemnity as is satisfactory to it which shall name the Authority as an additional indemnified party. Any replacement Bond issued under the provisions of this Section in exchange or substitution for the defaced, mutilated or partly destroyed Bond or in substitution for the allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Indenture as was the original Bond in lieu of which such replacement Bond is issued. Each such replacement Bond shall be prepared in substantially the same manner as the original.

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Notwithstanding the foregoing provisions of this Section, if the lost, stolen, destroyed, defaced or mutilated Bond has matured or been called for redemption and the date fixed for redemption thereof has arrived, at the option of the Authority, payment of the amount due thereon may be made without the issuance of any replacement Bond upon receipt of like evidence, indemnity, security and payment of expenses and the surrender for cancellation of the defaced or mutilated or partly destroyed Bond and upon such other conditions as the Trustee may prescribe.

Except as provided in this sentence and as permitted in the following paragraph, any replacement Bond shall be in the form of the Bond being replaced, and be dated the date of its issuance and bear such number as shall be assigned thereto by the Registrar and Paying Agent, with such subseries designation, if any, as may be deemed appropriate by the Registrar and Paying Agent. The Registrar and Paying Agent shall make an appropriate notation in the books of registry that a replacement Bond has been issued in exchange or substitution for the defaced, mutilated, lost, stolen, or wholly or partly destroyed Bond.

There may be imprinted or affixed on the face and the panel portion of any duplicate Bond a mark to identify such Bond as a replacement Bond.

Prior to arranging for the preparation or printing of a replacement Bond, the Trustee and the Registrar and Paying Agent may require a deposit by the Holder to secure the Trustee, the Registrar and Paying Agent and the Authority for costs and expenses incurred by them in the preparation, printing, execution and issuance of such replacement Bond.

Any amount of such deposit received by the Registrar and Paying Agent in excess of the amount required to reimburse the Registrar and Paying Agent, the Trustee or the Authority for costs and expenses shall be returned to the party which made the deposit.

Any defaced, mutilated or partly destroyed Bond surrendered to the Registrar and Paying Agent in substitution for a new Bond pursuant to this Section shall be cancelled by the Trustee.

SECTION 7.05. Temporary Bonds. Pending the preparation of definitive Bonds, interim receipts or certificates (herein referred to as "temporary Bonds") may initially be issued, exchangeable for definitive Bonds when the latter are ready for delivery. Such temporary Bonds may be printed, lithographed or typewritten, shall be of such denomination or denominations as may be determined by the Authority and may contain such references to any of the provisions of this Indenture as may be appropriate. If temporary Bonds are issued, the Authority will cause to be furnished duly executed definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered for cancellation at the principal office of the Trustee in exchange for definitive Bonds and without charge for such exchange, and the Registrar and Paying Agent shall deliver in exchange for such temporary Bonds so surrendered an equal aggregate principal amount of definitive duly executed Bonds, of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds.

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Nothing in this Indenture shall prevent the Authority from delivering, and the Authority is hereby expressly permitted to deliver, Auction Rate Bonds in typewritten form to the Securities Depository as registered owner thereof.

SECTION 7.06. Disposition of Bonds. Any Bond surrendered to the Registrar and Paying Agent for payment shall be cancelled upon such payment by the Trustee. The Trustee shall dispose of any cancelled Bond which has been paid and which bears any date two (2) years prior to the date of disposition in accordance with the Trustee's procedures in effect for the disposition of cancelled securities as of the date of such disposition. When the Trustee shall dispose of any Bond, it shall deliver a certificate of such disposition to the Authority and the Company.

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ARTICLE VIII

ESTABLISHMENT OF THE PROJECT FUND

SECTION 8.01. Project Fund.

1. There is hereby created and established a special trust fund to be designated "Consolidated Edison Company of New York, Inc. Series 2004A Project Fund" (hereinafter referred to as the "Project Fund") to be held by the Trustee. All income or gain on monies deposited in the Project Fund shall be retained therein.
2. There shall be deposited into the Project Fund the proceeds of the Bonds issued hereunder.
3. The monies on deposit from time to time in the Project Fund shall be held under and subject to this Indenture, but shall not be subject to the liens, pledges, charges, assignments and trusts created hereby for the security and benefit of the Holders of the Bonds and shall not be available for the payment of Bonds within the meaning of the Indenture, and shall be used and applied solely for the purpose of refunding the Prior Bonds in accordance with the remaining provisions of this Section.
4. The Trustee is authorized and directed to make payments from the Project Fund to pay the redemption price of the Prior Bonds or costs incurred in connection therewith, upon receipt of a letter or letters signed by an Authorized Company Representative so directing.

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ARTICLE IX

**CREATION OF SPECIAL FUNDS AND ACCOUNTS;
APPLICATION AND INVESTMENT OF REVENUES**

SECTION 9.01. Creation of Funds and Accounts. (a) The following fund and the following accounts therein, which shall be a special fund and accounts to be held by the Trustee, are hereby created and designated as set forth below:

Bond Fund

- (a) Interest Account
- (b) Principal Account
- (c) Redemption Account
- (d) Acceleration Account

The designation of each fund and account set forth above shall include the term "Consolidated Edison Company of New York, Inc. Series 2004A," which term shall precede the designation as set forth above. Such fund and each such account is, however, sometimes referred to herein as set forth above.

(b) The Bond Fund and the accounts therein shall be held in the custody of the Trustee. All monies required to be deposited with or paid to the Trustee under any provision of this Indenture shall be held by the Trustee in trust and applied only in accordance with the provisions of this Indenture and shall be trust funds for the purposes specified in this Indenture.

SECTION 9.02. Deposit of Note Payments. The Trustee shall deposit the Note Payments or other money set forth below in the Bond Fund and credit the Accounts set forth below in the order set forth below:

The Company shall pursuant to Sections 4.02, 4.03 and 4.04 of the Participation Agreement deposit, or cause to be deposited, the following in immediately available funds with the Trustee as the Note Payments become due or are declared to be immediately due and payable under the Participation Agreement and the Note unless sufficient amounts are then available in such Accounts to make the required payments therefrom:

(a) No later than 12:00 noon (New York City time) on the Business Day next preceding each Interest Payment Date, into the Bond Fund for credit to the Interest Account an aggregate amount of funds available on the next Business Day in The City of New York equal to the aggregate amount required for the payment of the interest payable on the Bonds, on such Interest Payment Date.

In the event a Direct-Pay Credit Facility is in place, amounts required to be deposited in the Bond Fund for credit to the Interest Account shall be derived solely from the

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following sources of funds in the priority indicated and shall be so deposited and credited to the Interest Account on the date indicated:

- (I) First, on each Interest Payment Date, the proceeds of a draw, borrowing or payment under the Direct-Pay Credit Facility in respect of interest payable on such Interest Payment Date; and
- (II) Second, on each Interest Payment Date, any other monies provided by the Company pursuant to the preceding paragraph for such purpose.

The Trustee shall deposit the proceeds of a draw, borrowing or payment under a Direct-Pay Credit Facility in a segregated sub-account of the Interest Account in the Bond Fund and such proceeds shall not be commingled with moneys in any other Account or sub-account or derived from any other source.

(b)(i) During an Auction Rate Period, no later than 12:00 noon (New York City time) on the second Business Day next preceding each Auction Date, into the Bond Fund for credit to the Redemption Account an aggregate amount of funds available on the next Business Day in The City of New

York equal to the aggregate amount required to pay the principal of and premium, if any, and accrued interest on any Auction Rate Bonds, called for redemption; provided, however if the scheduled date of such deposit to the Redemption Account by the Company is not a Business Day then the date for such deposit to the Redemption Account by the Company shall be the first Business Day immediately preceding the scheduled date of such deposit to the Redemption Account by the Company.

(ii) Other than during an Auction Rate Period, on the last Business Day prior to the day on which any redemption is to occur or on the last Business Day prior to the Stated Maturity, into the Bond Fund for credit to the Redemption Account or the Principal Account, as appropriate, the amount required to pay principal of and premium, if any, and accrued interest on any Bonds called for redemption or at the Stated Maturity, the amount required to pay the principal of the Bonds.

In the event a Direct-Pay Credit Facility is in place, amounts required to be deposited in the Bond Fund for credit to the Redemption Account or the Principal Account, as appropriate, shall be derived solely from the following sources of funds in the priority indicated and shall be so deposited and credited in the Redemption Account or the Principal Account, as appropriate, on the date indicated:

(I) First, on the date any redemption is scheduled to occur and on the Stated Maturity, the proceeds of a draw, borrowing or payment under the Direct-Pay Credit Facility in respect of the amounts described in the preceding paragraph; and

(II) Second, on the date any redemption is scheduled to occur and on the Stated Maturity, any other monies provided by the Company pursuant to the preceding paragraph for such purpose.

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The Trustee shall deposit the proceeds of a draw, borrowing or payment under a Direct-Pay Credit Facility in a segregated sub-account of the Redemption Account or Principal Account, as the case may be, in the Bond Fund and such proceeds shall not be commingled with moneys in any other Account or sub-account or derived from any other source.

If other monies are received by the Trustee as advance payments of Note Payments to be applied to the redemption of all or a portion of the Bonds, such monies shall be deposited in the Bond Fund for credit to the Redemption Account therein.

(c) Immediately following the declaration of principal of and accrued interest on the Bonds then Outstanding to be immediately due and payable pursuant to Section 12.03, into the Bond Fund for credit to the Acceleration Account, the amount required to pay principal of and accrued interest on such Bonds.

In the event a Direct-Pay Credit Facility is in place, amounts required to be deposited in the Bond Fund for credit to the Acceleration Account shall be derived solely from the following sources of funds in the priority indicated and shall immediately be so deposited and credited in the Acceleration Account:

(I) First, the proceeds of a draw, borrowing or payment under the Direct-Pay Credit Facility in respect of principal of and accrued interest on the Bonds; and

(II) Second, any other monies provided by the Company pursuant to the preceding paragraph for such purpose.

The Trustee shall deposit the proceeds of a draw, borrowing or payment under a Direct-Pay Credit Facility in a segregated sub-account of the Acceleration Account in the Bond Fund and such proceeds shall not be commingled with moneys in any other Account or sub-account or derived from any other source.

SECTION 9.03. Application of Monies in the Bond Fund and the Bond Purchase Fund.

1. The Bond Fund shall be used for the purpose of making scheduled payments of principal of and interest on the Bonds, of making payments of principal of and premium, if any, and accrued interest on Bonds then subject to redemption in the manner herein provided and of making payments of principal of and accrued interest on the Bonds then Outstanding that have been declared to be immediately due and payable pursuant to Section 12.03. The monies in the Bond Fund shall be applied as follows:

(a) Interest Account. Subject to the succeeding sentence, on each Interest Payment Date, the Trustee shall apply the amount of monies then credited to the Interest Account equal to the interest then payable on the Bonds to the payment of such interest on such Interest Payment Date. In the event a Direct-Pay Credit Facility is in place and payments are required to be made in the order specified in Section 9.02 (a)(ii), the

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Trustee shall request a draw, borrowing or payment under the Direct-Pay Credit Facility in accordance with the terms thereof in an amount equal to the amount required to pay the interest payable on the Outstanding Bonds on such Interest Payment Date and shall notify the Company of the amount and date of such request. If sufficient funds are not available under Section 9.02(a)(ii)(I) to pay such interest, the Trustee shall apply funds, if any, available pursuant to Section 9.02(a)(ii)(II), to the extent necessary, to such payment of interest. If the interest on the Bonds has been paid in full when due and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(a)(ii)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

(b) Principal Account. Subject to the succeeding sentence, on the Stated Maturity, the Trustee shall apply the amount of monies then credited to the Principal Account equal to the principal amount of Bonds then payable to the payment of such principal on such date. In the event a Direct-Pay Credit Facility is in place, the Trustee shall request a draw, borrowing or payment under the Direct-Pay Credit Facility in accordance with the terms thereof in the amount required, to pay such principal amount and shall notify the Company of the amount and date of such request. If sufficient funds are not available under Section 9.02(b)(ii)(I) to pay such principal, the Trustee shall apply funds, if any, available pursuant to Section

9.02(b)(ii)(II), to the extent necessary, to such payment. If the principal of the Bonds has been paid in full when due and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(b)(ii)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

(c) Redemption Account. The Trustee shall redeem on the date set for the redemption thereof, as provided in Article V of this Indenture, a principal amount of Bonds then subject to redemption. Subject to the following sentence, the Trustee shall apply an amount credited to the Redemption Account equal to the principal amount and premium, if any, of Bonds then subject to redemption, together with accrued interest thereon to the redemption date, to the payment of such Bonds on the redemption date from funds described in Section 9.02(b).

In the event a Direct-Pay Credit Facility is in place, the Trustee shall request a draw under the Direct-Pay Credit Facility in accordance with the terms thereof, in an amount equal to the amount required to pay the principal amount and premium, if any, of Bonds then to be redeemed, together with accrued interest thereon to the date set for redemption and shall notify the Company of the date and amount of such request. If sufficient amounts to make such payment are not available under Section 9.02(b)(ii)(I), the Trustee shall apply amounts, if any, available pursuant to Section 9.02 (b)(ii)(II), to the extent necessary, to such payment. Such redemption shall be made pursuant to the provisions of Article V. If the redemption price of the Bonds equal to the principal amount of Bonds then to be redeemed, together with premium, if

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any, and accrued interest thereon has been paid in full on the redemption date and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(b)(ii)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

Upon the retirement of any portion of the Bonds by redemption pursuant to the provisions of this Section 9.03, the Trustee shall file with the Authority and the Company a statement stating the amounts of the Bonds so redeemed and setting forth the date of their redemption and the amount paid as principal, premium and interest thereon. The expenses in connection with the redemption of the Bonds shall be paid by the Company as Additional Payments.

All monies in the Redemption Account on the last Business Day prior to the Stated Maturity shall be transferred to the Principal Account.

(d) Acceleration Account. The Trustee shall immediately apply an amount credited to the Acceleration Account equal to the principal amount of and accrued interest on the Bonds then Outstanding that have been declared to be immediately due and payable pursuant to Section 12.03 from funds described in Section 9.02(c).

In the event a Direct-Pay Credit Facility is in place, the Trustee shall request a draw under the Direct-Pay Credit Facility in accordance with the terms thereof, in an amount equal to the amount required to pay the principal amount of and accrued interest of the Bonds then Outstanding that have been declared to be immediately due and payable pursuant to Section 12.03 and shall notify the Company of the date and amount of such request. If sufficient amounts to make such payment are not available under Section 9.02(c)(I), the Trustee shall apply amounts, if any, available pursuant to Section 9.02(c)(II), to the extent necessary, to such payment. If the principal of and interest on the Bonds has been paid in full after such Bonds have been declared to be immediately due and payable and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(c)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

2. Bond Purchase Fund. Pursuant to Section 4.02(d) of the Participation Agreement, the Company has agreed that the Company shall provide funds to the Registrar and Paying Agent for deposit in the Bond Purchase Fund and credit to the Company Account therein established under the Bond Purchase Trust Agreement to be applied to the payment of the Purchase Price of any Bond pursuant to the Bond Purchase Trust Agreement to the extent not otherwise provided from the sources described in the Bond Purchase Trust Agreement.

In the event sufficient funds are not available under Section 2.03(a)(i) of the Bond Purchase Trust Agreement to pay such Purchase Price on the date of purchase of any Bonds pursuant to Section 5.03, 5.04, 5.08 or 5.09 hereof, the Registrar and Paying Agent on or prior to

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the time specified in the Bond Purchase Trust Agreement shall direct the Trustee to request a draw or payment under the Liquidity Facility in accordance with the terms thereof in the amount required, together with amounts, if any, available under Section 2.03(a)(i) of the Bond Purchase Trust Agreement, to pay the Purchase Price of such Bonds on such date of purchase. The Trustee shall on or prior to the time specified in the Bond Purchase Trust Agreement request such draw or payment under the Liquidity Facility in accordance with the terms thereof and shall on or prior to the time specified in the Bond Purchase Trust Agreement transfer the proceeds of such draw or payment to the Registrar and Paying Agent, who shall cause the proceeds of such draw or payment to be deposited in the Bond Purchase Fund under the Bond Purchase Trust Agreement and credited to the Liquidity Facility Proceeds Account therein. The Registrar and Paying Agent shall notify the Company of the amount and date of such request. The Registrar and Paying Agent shall promptly notify the Company in the event that it has not received any amounts requested under a Support Facility prior to the time specified in the Bond Purchase Trust Agreement on any date a Purchase Price is due.

The Remarketing Agent for a subseries of Bonds shall notify the Registrar and Paying Agent and the Trustee, at or prior to 11:15 a.m. (New York City time) on a specified purchase date, of the amount of the proceeds of the related remarketing, and shall specify whether remarketing proceeds (excluding any such proceeds from the Company, the Authority or an affiliate of either) equal to the full amount of the Purchase Price payable on such purchase date are held by such Remarketing Agent and will be available on such purchase date for the payment of such Purchase Price, and, if the amount of such remarketing proceeds that will be available on such purchase date for the payment of such Purchase Price shall not be equal to the full amount of the Purchase Price payable on such purchase date, such notice shall specify the amount of the deficiency. By 11:45 a.m. (New York City time) on such purchase date, the Remarketing Agent shall pay to the Registrar and Paying Agent, for deposit in the Bond Purchase Fund and credit to the Remarketing Proceeds

Account, an aggregate amount of such remarketing proceeds equal to the amount stated in such notice to be available on such purchase date for the payment of such Purchase Price.

SECTION 9.04. Investment of Funds. Monies in the Bond Fund and the accounts in such fund shall only be invested and reinvested by the Trustee in Investment Securities selected by the Company, so long as the Company is not in default hereunder or under the Participation Agreement, and maturing in the amounts and at the times as determined by the Company so that the payments required to be made from such funds and accounts may be made when due and subsequent to the occurrence of an Event of Default hereunder or under the Participation Agreement, the Trustee shall hold monies in the Bond Fund uninvested. Investment earnings shall be considered on deposit in any Fund or Account as of the date they are actually received by the Trustee. Notwithstanding the foregoing, so long as a Direct-Pay Credit Facility is in effect, monies in the Bond Fund, except for proceeds of refunding bonds, shall be held uninvested.

Monies on deposit in the Project Fund shall be invested and reinvested by the Trustee at the express direction of the Company, promptly confirmed in writing (which may be provided by telecopy), so long as the Company is not in default under the Participation Agreement, to the extent reasonable and practicable, in Investment Securities maturing in such

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amounts and at such times as it is anticipated by the Company that such monies will be required to pay the redemption price of the Prior Bonds.

The Trustee, with the consent of the Company, shall be authorized to sell any investment when necessary to make the payments to be made from the funds and accounts therein. All earnings on and income from monies in said funds and accounts (other than the Project Fund) created hereby shall be considered to be Revenues and shall be held in the respective account in the Bond Fund for use and application as are all other monies deposited in such accounts. The Trustee shall, in the statement required by Section 11.07, set forth the Investment Securities held separately in, and the earnings realized on investment for, each fund and account hereunder. The Trustee shall not be liable for any depreciation in the value of the Investment Securities acquired hereunder or any loss suffered in connection with any investment of funds made by it in accordance herewith, including, without limitation, any loss suffered in connection with the sale of any investment pursuant hereto.

The Trustee may make any such investments through its own investment department upon written direction of the Company.

All Investment Securities shall constitute a part of the respective fund and accounts therein from which the investment in Investment Securities was made.

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ARTICLE X

PARTICULAR COVENANTS OF THE AUTHORITY

SECTION 10.01. Payment of Principal of and Interest and Redemption Premium on Bonds. The Authority will promptly pay solely from the Note Payments and other monies held by the Trustee and available therefor, the principal of, and the interest on, every Bond issued under and secured by the Indenture and any premium required to be paid for the retirement of said Bonds by redemption, at the places, on the dates and in the manner specified in this Indenture and in said Bonds according to the true intent and meaning thereof, subject, however, to the provisions of Section 2.02.3.

SECTION 10.02. Performance of Covenants. The Authority will faithfully perform at all times all covenants, undertakings, stipulations and provisions contained in the Indenture, in any and every Bond and in all proceedings of the Authority pertaining thereto.

SECTION 10.03. Further Instruments. The Authority will from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of the Indenture; provided, however, that no such instruments or actions shall pledge the credit of the Authority or the State of New York or the taxing power of the State of New York or otherwise be inconsistent with the provisions of Section 2.02.3.

SECTION 10.04. Inspection of Project Books. All books and documents in the possession of the Authority relating to the Project or the Participation Agreement shall at all times be open to inspection by such accountants or other agents as the Trustee or the Bond Insurer may from time to time designate.

SECTION 10.05. No Extension of Time of Payment of Interest. In order to prevent any accumulation of claims for interest after maturity, the Authority will not directly or indirectly extend or assent to the extension of the time of payment of any claims for interest on, any of the Bonds and will not directly or indirectly be a party to or approve any such arrangement by purchasing such claims for interest or in any other manner. In case any such claim for interest shall be extended in violation hereof, such claim for interest shall not be entitled, in case of any default hereunder, to the benefit or security of the Indenture except subject to the prior payment in full of the principal of, and premium, if any, on, all Bonds issued and outstanding hereunder, and of all claims for interest which shall not have been so extended or funded.

SECTION 10.06. Trustee's, Auction Agent's, Remarketing Agent's, Broker-Dealers', Registrar and Paying Agent's and Indexing Agent's Fees, Charges and Expenses. Pursuant to the provisions of Section 4.02 of the Participation Agreement, the Company has agreed to pay the fees and the expenses (including, in the case of the Trustee, the Registrar and Paying Agent and the Remarketing Agents, the reasonable fees and expenses of counsel and accountants) of the Trustee, the Registrar and Paying Agent, Indexing Agent, Remarketing Agents and in the case of Auction Rate Bonds, the Auction Agent and Broker-Dealers, in the

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amounts set forth more fully therein, and the Authority shall have no liability for the payment of any fees or expenses of the Trustee, the Registrar and Paying Agent, Indexing Agent, Remarketing Agents and in the case of Auction Rate Bonds, the Auction Agent and Broker-Dealers.

SECTION 10.07. Agreement of the State of New York. In accordance with the provisions of subdivision 11 of Section 1860 of the Act, the Authority, on behalf of the State of New York, does hereby pledge to and agree with the Bondholders that the State of New York will not limit or alter the rights and powers vested by the Act in the Authority to fulfill the terms of any contract made with Bondholders, or in any way impair the rights and remedies of such Bondholders, until the Bonds, together with the premium and interest thereon, with (to the extent permitted by law) interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such Bondholders, are fully met and discharged.

SECTION 10.08. Recording and Filing. Pursuant to the Participation Agreement, the Company covenants that it will cause all financing statements related to this Indenture and all supplements thereto and the Participation Agreement and all supplements thereto, as well as such other security agreements, financing statements and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may from time to time be required by law in order to preserve and protect fully the security of Holders and the rights of the Trustee hereunder, and to take or cause to be taken any and all other action necessary to perfect the security interest created by this Indenture. The Company is obligated under Section 5.08 of the Participation Agreement to file all such financing statements and other security agreements. The Trustee is hereby authorized to file all financing statements in the event that the Company does not file them.

SECTION 10.09. Rights Under the Participation Agreement and the Note. The Participation Agreement, a duly executed counterpart of which has been filed with the Trustee, sets forth the covenants and obligations of the Authority and the Company and reference is hereby made to the same for a detailed statement of said covenants and obligations of the Company thereunder. Subsequent to the issuance of Bonds and prior to their payment in full or provision for payment thereof in accordance with the provisions hereof, neither the Participation Agreement nor the Note may be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article XIV hereof. The Authority agrees that the Trustee, in its name or in the name of the Authority, may enforce all rights of the Authority and all obligations of the Company under and pursuant to the Participation Agreement and the Note for and on behalf of the Holders, whether or not the Authority is in default hereunder. The Note heretofore delivered to the Trustee evidences the obligations of the Company to make certain specified payments under the Participation Agreement. Nothing herein contained shall be construed to prevent the Authority from enforcing directly any or all of its rights to administrative compensation or indemnification under the Participation Agreement.

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ARTICLE XI

CONCERNING THE TRUSTEE; APPOINTMENT OF REGISTRAR AND PAYING AGENT, REMARKETING AGENTS, AUCTION AGENT AND INDEXING AGENT

SECTION 11.01. Appointment of Trustee. The Bank of New York is hereby appointed the Trustee hereunder and by the execution of this Indenture accepts such appointment and without further act, deed or conveyance, shall be fully vested with all the estate, properties, rights, powers, trusts, duties and obligations of the Trustee hereunder.

The Trustee shall set up suitable accounts for the deposit of the Note Payments and for the payment of the Bonds and the interest thereon and for all other payments provided or required by this Indenture, including, without limiting the generality of any of the foregoing, setting up of the Funds created by Articles VIII and IX.

SECTION 11.02. Indemnification of Trustee as Condition for Remedial Action. The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees and other reasonable disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without indemnity, and in such case the Trustee shall be reimbursed from the Additional Payments required to be made pursuant to the Participation Agreement for all costs and expenses, outlays and counsel fees and other reasonable disbursements incurred in connection therewith. If the Company shall fail to make such reimbursement, the Trustee may reimburse itself from any monies in its possession under the provisions of this Indenture and shall be entitled to a preference over the Bonds; provided, however, that the proceeds of a Support Facility or of remarketing of Bonds shall be applied solely as set forth elsewhere herein and in such Support Facility and shall not be applied to the reimbursement set forth in this Section 11.02. Notwithstanding the foregoing, the Trustee shall make all payments of principal of and premium, if any, and interest on the Bonds then Outstanding when due, when called for redemption or when declared to be immediately due and payable pursuant to this Indenture and of the Purchase Price of the Bonds in accordance with this Indenture.

SECTION 11.03. Trustee Not Liable for Failure of the Authority or Company to Act. The Trustee shall not be liable or responsible because of the failure of the Authority or the Company or any of their employees or agents to make any collections or deposits or to perform any act herein required of the Authority or the Company. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other monies deposited with it and paid out, withdrawn or transferred hereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Indenture. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

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SECTION 11.04. Certain Duties and Responsibilities of the Trustee. (a) Except during the continuance of an Event of Default specified in Section 12.01 of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08,

(1) the Trustee shall undertake to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(b) In case an Event of Default specified in Section 12.01 has occurred and is continuing of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in such exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(c) None of the provisions of this Indenture shall be construed to relieve the Trustee from liability for negligent action, negligent failure to act, or willful misconduct, except that

(1) this Subsection (c) shall not be construed to limit the effect of Subsection (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be proved that the Trustee was negligent;

(3) in the absence of bad faith on its part, the Trustee shall be protected and shall incur no liability in acting or proceeding or in not acting or not proceeding upon any resolution, order, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher requisition, bond or other paper or document which the Trustee shall believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any attorney, engineer, accountant or other expert believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements;

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(4) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in aggregate principal amount of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under the provisions of this Indenture; and

(5) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Notwithstanding anything contained elsewhere in this Indenture, the Trustee shall have the right to reasonably require, in respect of the payment or withdrawal of any monies or the taking of any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that required by the terms hereof as a condition of such action by the Trustee.

(e) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers, and shall not be responsible for any negligence or misconduct on the part of any such attorney, agent or receiver appointed by it if the Trustee shall have exercised due care and diligence in appointing or selecting such person, and shall be entitled to advice of counsel concerning all matters of the trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney or attorneys (who may be the attorney or attorneys for the Authority or the Company), approved by the Trustee in the exercise of reasonable care, and the Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(f) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon a certificate of an Authorized Company Representative or an Authorized Officer.

(g) The Trustee shall not be accountable for the use by the Company of any proceeds of the Bonds authenticated or delivered hereunder.

(h) The Trustee shall not be required to give any bonds or surety in respect of the execution of its trusts and powers hereunder.

(i) The Trustee may treat and deem the Holder of any Bonds as set forth in the books of the registry hereunder as the absolute owner thereof.

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(j) Notwithstanding any other provision of this Indenture, in determining whether the rights of the Holders will be adversely affected by any action taken pursuant to the terms and provisions of this Indenture, the Trustee shall consider the effect on the Holders as if there were no Policies.

(k) The Trustee shall furnish to the Bond Insurer, upon request, such information concerning the subseries of the Bonds to which such Policy applies as it may reasonably request.

(l) The Trustee shall provide to the Bond Insurer (attention: Surveillance Department), a copy of any notice to be given to the registered owners of the related subseries of Bonds, including, without limitation, notice of any redemption of or defeasance of the Bonds, and any certificate rendered pursuant to this Indenture relating to the security for the Bonds.

(m) The Trustee shall notify the Bond Insurer of any failure of the Company to provide relevant notices, certificates or other information pursuant to the terms hereof or of the Participation Agreement.

(n) Notwithstanding any other provision of this Indenture, the Trustee shall immediately notify the Bond Insurer if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any Event of Default hereunder

SECTION 11.05. Limitations on Obligations and Responsibilities of Trustee. The Trustee shall be under no obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the Company, or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made. The Trustee, except as to the acceptance of the trusts by its execution of this Indenture and the performance of its responsibilities hereunder, shall have no responsibility in respect of the validity, sufficiency, due execution or acknowledgment of this Indenture, or in respect of the validity of the Bonds or the due execution or issuance thereof. The Trustee shall be under no obligation to see that any duties herein or in the Participation Agreement, the Remarketing Agreement, the Auction Agency Agreement, the Broker-Dealer Agreement or any Support Facility imposed upon the Authority, the Company, the issuer of any Support Facility, or any party other than itself in its capacity as Trustee, or any covenants herein contained on the part of any party other than itself in its capacity as Trustee to be performed, shall be done or performed, and the Trustee shall be under no obligation for failure to see that any such duties or covenants are so done or performed.

SECTION 11.06. Compensation and Indemnification of Trustee. The Company has agreed in the Participation Agreement (1) to pay to the Trustee from time to time such compensation for all services rendered by it hereunder or shall from time to time be agreed

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in writing (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust); (2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and (3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

SECTION 11.07. Statements from Trustee. It shall be the duty of the Trustee, on or about the fifteenth (15th) day of each month, and at such other reasonable time or times as may be determined by the Authority or the Company, to file with the Authority, upon the written request thereof, and the Company a statement setting forth in respect of the preceding calendar month:

- (a) the amount withdrawn or transferred by it and the amount received by it and held on account of each Fund under the provisions of this Indenture;
- (b) the amount on deposit with it at the end of such calendar month to the credit of each such Fund or Account;
- (c) a monthly account of reconciliation and income which includes a brief description of all obligations held by it as an investment of monies in each such Fund or Account;
- (d) the amount applied to the redemption of the Bonds under the provisions of Article V and Section 9.03 and the amount of the Bonds remaining Outstanding; and
- (e) any other information which the Authority or the Company may reasonably request.

All records and files pertaining to the Bonds and the Company in the custody of the Trustee shall be open at all reasonable times upon prior notice to the inspection of the Authority, the Company and their agents and representatives.

SECTION 11.08. Notice of Default. Except upon the happening of any Event of Default specified in clauses (a) through (d), inclusive, of Section 12.01, the Trustee shall not be obliged to take notice or be deemed to have notice of any Event of Default hereunder, unless a Responsible Officer of the Trustee shall have actual knowledge thereof or be specifically notified in writing of such Event of Default by the issuer of any Support Facility, any Remarketing Agent, the Auction Agent or the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding and such written notice shall state that it is a "notice of default."

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SECTION 11.09. Trustee May Deal in Bonds. The bank or trust company acting as Trustee under this Indenture, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in the Bonds issued under and secured by this Indenture, and may join in the capacity of a Holder of a Bond in any action which any Holder of a Bond may be entitled to take with like effect as if such bank or trust company were not the Trustee under this Indenture.

SECTION 11.10. Trustee Not Responsible For Recitals. The recitals, statements and representations contained herein and in the Bonds shall be taken and construed as made by and on the part of the Authority, and not by the Trustee, and the Trustee assumes, and shall be under, no responsibility for the correctness of the same or for the recording or re-recording or filing or refiling of the Indenture or any supplements thereto or any instruments of further assurance (including financing statements) except as otherwise provided herein. The Trustee makes no representations as to the value of any property pledged hereunder to the payment of Bonds or as to the title of the Authority or the Company thereto or as to the validity, sufficiency or

adequacy of the security afforded thereby or hereby or as to the validity of this Indenture, the Note, the Participation Agreement, any Support Facility or of the Bonds.

SECTION 11.11. Qualification of the Trustee. There shall at all times be a Trustee hereunder which shall be a trust company or bank in good standing located in or incorporated under the laws of the State of New York, duly authorized to exercise trust powers and subject to examination by Federal or State authority, and having reported capital and surplus of not less than \$75,000,000. The Trustee hereunder shall not be required to maintain, and any successor Trustee shall not be required to have, an office in the city in which the principal corporate trust office of the initial Trustee hereunder is located.

If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 11.11, it shall resign immediately in the manner and with the effect specified in Section 11.12.

SECTION 11.12. Resignation and Removal of Trustee.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 11.13.

(b) The Trustee may resign at any time by giving written notice thereof to the Authority, the Bond Insurer and the Company. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the retiring Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by demand of the Holders of a majority in principal amount of the Bonds then Outstanding, signed in person by such Holders or by their attorneys, legal representatives or agents and delivered to such

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Trustee, the Authority and the Company (such demand to be effective only when received by the Trustee, the Authority and the Company).

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 11.11 and shall fail to resign after written request by the Authority or by a Holder who shall have been a bona fide Holder for at least six months,

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, or

(3) the Trustee shall breach any trust or obligation hereunder,

then, in any such case, (i) the Authority may remove, and the Company or the Bond Insurer may direct the Authority to remove, the Trustee, or (ii) any Holder who has been a bona fide Holder for at least six months may, on behalf of herself and all other similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Trustee for any cause, the Authority shall promptly appoint a successor; the Company or the issuer of any Support Facility or both of them, having the right to request the appointment of a particular qualified institution as such successor. Within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee may be appointed by an instrument or concurrent instruments in writing executed by the Holders of a majority in principal amount of the Bonds then Outstanding delivered to the Authority and the retiring Trustee, and, upon such delivery, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Authority.

(f) The Authority shall give notice to the Trustee, the Bond Insurer, the Company, the applicable Remarketing Agents, the Registrar and Paying Agent, the Auction Agent and the Bondholders of each resignation and each removal of a Trustee and each appointment of a successor Trustee in the manner set forth in Section 17.03 with respect to Bondholders and Section 17.09 with respect to the Company, the Bond Insurer, the Auction Agent and the applicable Remarketing Agents. Each notice shall include the name and address of the Principal Corporate Trust Office of the successor Trustee.

(g) The Trustee at any time other than during the continuance of an Event of Default and for any reason may be removed by an instrument in writing, executed by an Authorized Officer, appointing a successor, filed with the Trustee so removed.

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SECTION 11.13. Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the Authority and the Company, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on written request of its successor or of the Authority and upon payment of expenses, charges and other disbursements of such predecessor which are payable pursuant to the provisions of Sections 11.02 and 11.06, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and monies held by it hereunder to its successor, subject, nevertheless, to its first lien and preference provided for in Sections 11.02 and 11.06. Should any instrument in writing from the Authority be required by any successor Trustee for more fully vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the Authority.

Every successor Trustee appointed pursuant to this Section shall be a trust company or bank in good standing located in or incorporated under the laws of the State of New York, duly authorized to exercise trust powers and subject to examination by Federal or State authority, having a reported capital and surplus of not less than \$75,000,000.

Notwithstanding any of the foregoing provisions of this Article, any bank or trust company having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be converted, merged or consolidated, or to which the corporate trust business assets as a whole or substantially as a whole of such bank or trust company may be sold, shall be deemed the successor of the Trustee.

SECTION 11.14. Appointment of Remarketing Agents. Citigroup Global Markets Inc., J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and Banc One Capital Markets, Inc. are hereby appointed by the Authority as the initial Remarketing Agents to serve as such under the terms and provisions hereof and of the Market Agent Agreements for the Series 2004A-1 Bonds, the Series 2004A-2 Bonds, the Series 2004A-3 Bonds and the Series 2004A-4 Bonds, respectively, and of any successor Remarketing Agreement. The Remarketing Agent for any subseries, including any successor appointed pursuant hereto, shall be a member of the National Association of Securities Dealers, Inc. having capitalization of at least \$25,000,000, and be authorized by law to perform all the duties imposed upon it by this Indenture, the Bond Purchase Trust Agreement and the Remarketing Agreement. The Remarketing Agent for any subseries of Bonds may be removed at any time by the Authority, upon thirty (30) days' notice, acting at the written direction of the Company by an instrument signed by the Authority and filed with the Trustee, the Registrar and Paying Agent, the Remarketing Agent and the Company. If there shall not be at least one Remarketing Agent serving as such for any subseries of Bonds following the effective date of a proposed removal of a Remarketing Agent for such subseries, no such removal shall take effect until the appointment of a successor Remarketing Agent for such subseries of Bonds. The Remarketing

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Agent for any subseries of Bonds may resign upon 30 days' written notice delivered to the Company, the Authority, the Trustee, the Registrar and Paying Agent and the Bond Insurer or any other issuer of any Support Facility. The Company shall use its best efforts to cause the Authority to appoint a successor Remarketing Agent that is a qualified institution, effective as of the effectiveness of any such resignation or removal. Each successor Remarketing Agent shall be a qualified institution selected and appointed by the Authority, upon the written request and with the approval of the Company and the Bond Insurer. If there shall be more than one Remarketing Agent serving as such for a subseries of Bonds, the Authority, at the request of the Company, shall designate one such Remarketing Agent as "Remarketing Representative" to act on behalf of all Remarketing Agents for such subseries, and each other Remarketing Agent shall agree in writing to accept the determinations of such Remarketing Representative.

SECTION 11.15. Appointment of Registrar and Paying Agent. The Bank of New York in New York, New York is hereby appointed by the Authority to serve as the Registrar and Paying Agent hereunder. The Company shall have the right to request the appointment of an institution meeting the requirements of Section 11.19 to serve as successor thereto in the event of the removal or resignation of such Registrar and Paying Agent.

The Trustee hereby appoints any Registrar and Paying Agent appointed hereunder as authenticating agent.

SECTION 11.16. General Provisions Regarding Registrar and Paying Agent.

(a) The Registrar and Paying Agent shall:

(i) hold all Bonds delivered to it for purchase hereunder in trust for the benefit of the respective Bondholders which shall have so delivered such Bonds until monies representing the purchase price of such Bonds shall have been delivered to or for the account of or to the order of such Holders and deliver said Bonds in accordance with the provisions of this Indenture;

(ii) hold all monies delivered to it for the purchase of Bonds, in trust for the benefit of the person or entity who has delivered such monies until the Bonds purchased with such monies have been delivered to or for the account of such person or entity as provided in this Indenture;

(iii) maintain the books of registry and keep such books and records as shall be consistent with prudent industry practice and make such books and records available for inspection by the Trustee, the Remarketing Agent, the Authority and the Company at all reasonable times;

(iv) perform the duties and undertake the obligations assigned to them in Sections 7.02 through 7.06;

(b) The Registrar and Paying Agent may deem and treat the Holder of any Bonds as set forth in the books of registry hereunder as the absolute owner thereof;

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(c) The Registrar and Paying Agent may in good faith hold any other form of indebtedness issued by the Authority or any security issued by the Company, or any affiliate of the Company; own, accept or negotiate any drafts, bills of exchange, acceptances or obligations thereof; and make disbursements therefor and enter into any commercial or business arrangement therewith; all without any liability on the part of such Registrar and Paying Agent for any real or apparent conflict of interest by reason of any such actions; and

(d) The Registrar and Paying Agent agrees to cooperate with the Trustee and the Company in preparing and conveying information necessary for drawings under any Support Facility. To the extent that any other certificate to be submitted by the Trustee to an issuer of a Support Facility in connection with a drawing under the Support Facility requires the Trustee to state that the Registrar and Paying Agent has certified certain information to the Trustee, the Registrar and Paying Agent agrees to provide such certification to the Trustee to the extent such information is known to it.

SECTION 11.17. Payment of Registrar and Paying Agent; Indemnification. The Authority will cause the Company to agree in the Participation Agreement to pay all reasonable fees, charges and expenses of the Registrar and Paying Agent for acting under and pursuant to this Indenture. In addition, the Authority will cause the Company to agree in the Participation Agreement to indemnify the Registrar and Paying Agent and its directors, officers and employees against and save them harmless from any and all losses, costs, charges, expenses, judgments and liabilities incurred while carrying out the transactions contemplated by this Indenture, except that said indemnity does not apply to the extent that they are caused by the negligent action, negligent failure to act or willful misconduct of the Registrar and Paying Agent or its directors, officers, employees or agents.

SECTION 11.18. Registrar and Paying Agent's Performance; Duty of Care. The duties and obligations of the Registrar and Paying Agent shall be determined solely by the provisions of this Indenture. None of the provisions of this Indenture shall be construed to relieve the Registrar and Paying Agent from liability for negligent action, negligent failure to act or willful misconduct, except that (a) the Registrar and Paying Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and, in the absence of bad faith on the part of the Registrar and Paying Agent, the Registrar and Paying Agent may conclusively rely, as to the truth of the statements expressed therein, upon any document furnished to the Registrar and Paying Agent and conforming to the requirements of this Indenture and the Registrar and Paying Agent may conclusively rely and shall be protected in acting upon any document believed by it to be genuine and to have been signed or presented by the proper party or parties, provided that, in the case of any such document which by any provision of this Indenture is specifically required to be furnished to the Registrar and Paying Agent, the Registrar and Paying Agent shall be under a duty to examine the same to determine whether or not it conforms to the requirements of this Indenture, and (b) no provisions of this Indenture shall require the Registrar and Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder. The Registrar and Paying Agent may act upon the opinion or advice of any attorney or attorneys (who may be the attorney or attorneys for the Authority or the Company),

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approved by the Trustee in the exercise of reasonable care, and the Registrar and Paying Agent shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

SECTION 11.19. Qualifications of Registrar and Paying Agent. The Registrar and Paying Agent, including any successor appointed pursuant to this Indenture, shall be a bank duly organized under the laws of the United States of America or any State or territory thereof, having a combined capital and unimpaired surplus of at least \$50,000,000 and authorized by law to exercise trust powers and perform all the duties imposed upon it by this Indenture. Unless the Bonds bear an Auction Rate, or a Fixed Rate, the Registrar and Paying Agent shall have an office or agency in New York, New York capable of performing its obligations hereunder.

SECTION 11.20. Resignation or Removal of Registrar and Paying Agent and Successor to Registrar and Paying Agent; Termination of Registrar and Paying Agent's Obligations. The Registrar and Paying Agent may at any time resign and be discharged of the duties and obligations created hereunder and under the Bond Purchase Trust Agreement by giving at least sixty days' notice to the Authority, the Company, the Trustee, the Bond Insurer and the Remarketing Agent. The Registrar and Paying Agent may be removed at any time upon and pursuant to the request of the Company by an instrument, signed by the Authority and filed with the Trustee, the Bond Insurer and the Registrar and Paying Agent and the Company, provided that such removal shall not take effect until the appointment of a successor Registrar and Paying Agent. The Authority at the request of the Company shall appoint a successor Registrar and Paying Agent effective as of the effectiveness of any such resignation or removal. Each successor Registrar and Paying Agent shall be a qualified institution selected by the Company and, so long as a Support Facility is in effect, reasonably acceptable to the issuer of a Support Facility, and approved and appointed by the Authority.

In the event of the resignation or removal of the Registrar and Paying Agent, the Registrar and Paying Agent shall pay over and deliver any monies and Bonds held by it in such capacity to its successor or, if there is no successor, to the Trustee. In the event that there is no successor to the Registrar and Paying Agent on the effective date of its resignation, the entity acting as Trustee shall perform the functions of the Registrar and Paying Agent; provided that monies held by the Trustee pursuant to this paragraph shall not be deemed to be held by the Trustee in its capacity as Trustee.

SECTION 11.21. Appointment of Auction Agent; Qualifications of Auction Agent; Resignation; Removal. The Authority hereby appoints The Bank of New York to serve as the Auction Agent for the Bonds. The Auction Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 90 days' notice, or, if it has not been paid, 30 days' notice, to the Trustee, the Company, the Authority, and to the Remarketing Agent. During the Auction Rate Period, the Auction Agent may be removed at any time by the Authority acting at the request of the Company by an instrument signed by the Authority and filed with the Company, the Auction Agent, the Bond Insurer, the Remarketing Agent and the Registrar and Paying Agent upon at least 90 days' notice. No resignation or removal of the Auction Agent shall take effect until the appointment of a

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successor Auction Agent. During any Auction Rate Period, an Authorized Officer of the Authority shall appoint a successor Auction Agent with the consent of the Company and the Bond Insurer. The Company shall evidence its consent to such appointment by entering into an Auction Agency Agreement with the Auction Agent. The Auction Agent shall be (a) a bank or trust company duly organized under the laws of the United States of America or any State or territory thereof having its principal place of business in the Borough of Manhattan, in The City of New York and having a combined capital stock, surplus and undivided profits of at least \$25,000,000 or (b) a member of the National Association of Securities Dealers, Inc., having a capitalization of at least \$25,000,000 and, in either case, authorized by law to perform all the duties imposed upon it under the Auction Agency Agreement.

If the Auction Agent shall fail to determine, or for any reason fail to timely provide, a rate of interest pursuant to the Auction Procedures for three consecutive Auction Periods, the Authority shall use its best efforts to remove the then-existing Auction Agent and appoint a successor Auction Agent in accordance with this Indenture and the then-existing Auction Agency Agreement.

SECTION 11.22. Appointment of Broker-Dealers. On the Closing Date, the Company appointed, subject to the consent of the Authority, Citigroup Global Markets Inc., J.P. Morgan Securities Inc., Morgan Stanley & Co. Incorporated and Banc One Capital Markets, Inc. as the initial lead Broker-Dealers for the Series 2004A-1 Bonds, the Series 2004A-2 Bonds, the Series 2004A-3 Bonds and the Series 2004A-4 Bonds, respectively. The Authority hereby consents to such appointment of Citigroup Global Markets Inc., Morgan Stanley & Co. Incorporated, J.P. Morgan Securities Inc. and Banc One Capital Markets, Inc. On or prior to a subsequent Change in the Interest Rate Mode to an Auction Rate Period with respect to a subseries, the Company

with the consent of the Authority shall appoint an initial Broker-Dealer for such subseries. After the Closing Date or a Change in the Interest Rate Mode to an Auction Rate Period, as the case may be, the Company may select, with the consent of the Auction Agent, the Authority and the initial lead Broker-Dealer or any successor, from time to time, one or more additional persons to serve as Broker-Dealers under Broker-Dealer Agreements. Notwithstanding anything in this Indenture or the Auction Agency Agreement to the contrary, the Authority may substitute any Broker-Dealer for a subseries with a new Broker-Dealer in a written direction, provided at the request of the Company, to the Auction Agent and to the Broker-Dealer to be substituted at any time not less than 30 days in advance of the date of substitution.

SECTION 11.23. Appointment of Additional Paying Agents; Each Paying Agent to Hold Money in Trust. The Authority may at the request of the Company appoint an additional Paying Agent or Paying Agents for the Bonds. Each such Paying Agent shall hold in trust subject to the provisions of the Indenture for the benefit of the Holders all sums held by such Paying Agent for the payment of the principal of, premium, if any, and interest on the Bonds. Any such Paying Agent may be any person or corporation authorized to perform such functions, including to the extent permitted by law, the Company.

SECTION 11.24. Appointment and Duties of Indexing Agents. The Authority hereby appoints Kenny Information Systems, Inc. as Indexing Agent for the Bonds

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for the purpose of calculating each rate index defined in Section 1.01. The Authority may, with the approval of the Company, appoint additional or successor Indexing Agents, subject to the conditions set forth in this Section. There may be separate Indexing Agents for the purpose of calculating each rate index defined in Section 1.01. The Indexing Agent shall designate to the Trustee its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Authority, the Trustee, the Company and the Remarketing Agent under which the Indexing Agent will agree, particularly:

- (a) to compute the Daily Rate Index, the Commercial Paper Rate Index, the Weekly Rate Index, the Monthly Rate Index, the Semi-annual Rate Index, the Term Rate Index or the Fixed Rate Index, as the case may be, pursuant to and in accordance with Section 3.01, and to give notice to the Trustee, the Registrar and Paying Agent, the Remarketing Agent and the Company of such rate index on the date of the computation thereof in accordance with Section 3.01; and
- (b) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Authority, the Trustee, the Registrar and Paying Agent, the Remarketing Agent and the Company at all reasonable times.

The Indexing Agent will perform the duties provided for in Section 3.01. Whenever the Indexing Agent makes a computation under that Section, it will promptly notify the Trustee, the Registrar and Paying Agent, the Authority, the Remarketing Agent (and during any Auction Rate Period, the Auction Agent), and the Company of the results and date of computation. The Indexing Agent will keep adequate records pertaining to the performance of its duties and allow the Trustee, the Bond Insurer, Registrar and Paying Agent, the Authority, the Remarketing Agent and the Company (and, if appropriate, the Auction Agent) to inspect the records at reasonable times.

SECTION 11.25. Qualifications of Indexing Agents. Each Indexing Agent shall be a commercial bank, a member of the National Association of Securities Dealers, Inc. or a nationally recognized municipal securities evaluation service authorized by law to perform all the duties imposed upon it by the Indenture. Any Indexing Agent may at any time resign and be discharged of the duties and obligations created by the Indenture by giving at least sixty (60) days' notice to the Authority, the Company, the Remarketing Agent and the Trustee. The Indexing Agent may be removed at any time, at the written direction of the Company, by an instrument, signed by the Authority, filed with the Company, the Indexing Agent, the Remarketing Agent, the Trustee, the Bond Insurer, the Registrar and Paying Agent and the issuer of a Support Facility, if any.

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ARTICLE XII

EVENTS OF DEFAULT; REMEDIES UPON OCCURRENCE THEREOF

SECTION 12.01. Events of Default. Each of the following is hereby defined as and declared to be and shall constitute an "Event of Default":

- (a) Payment of the principal of and premium, if any, on any Bond (whether by maturity, proceedings for redemption, purchase in accordance with Article V hereof or the Remarketing Agreement, or otherwise) shall not be made when the same shall become due and payable; or
- (b) Payment of any installment of interest on any Bond shall not be made when the same shall become due and payable and such nonpayment shall continue for one (1) Business Day; or
- (c) Receipt by the Trustee of written notice from the Bond Insurer of the occurrence and continuance of an event of default under the agreement entered into with the Company in connection with the issuance of a Policy directing the Trustee to declare an Event of Default; or
- (d) The Authority shall fail in the due and punctual performance of any of the covenants, conditions, agreements, provisions or obligations, other than as set forth in (a) and (b) above, contained in the Bonds or in this Indenture or in any Supplemental Indenture on the part of the Authority to be performed, and such failure shall continue for ninety (90) days after written notice specifying such failure and requiring the same to be remedied shall have been given to the Authority, the Company, the Governor, the Comptroller and the Attorney General of the State of New York, by the Trustee or to the Trustee, the Authority and the Company by the Bond Insurer or by the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding as provided for in Section 12.08; provided that if any such failure shall be such that it cannot be cured or corrected within such ninety (90) day period, it shall not constitute an Event of Default hereunder if curative or corrective action is instituted within such period and diligently pursued until the failure of performance is cured or corrected; or

- (e) The occurrence of an event of default as defined in Section 7.01 of the Participation Agreement.

SECTION 12.02. Notice to Holders and Others Upon Occurrence of an Event of Default or a Payment Default. 1. The Trustee shall give notice to the Bondholders of all Events of Default within sixty (60) days after the Trustee has been notified thereof or is deemed to have notice thereof as provided in Section 11.08, unless the Event of Default shall have been cured before the giving of such notice or unless the Trustee shall deem it in the best interest of the Holders to defer or withhold notice under this Section; provided, however, that if a notice of

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an Event of Default is given to any Bondholder, the Trustee shall concurrently therewith cause a copy to be provided to all beneficial owners.

2. So long as ownership of the Auction Rate Bonds is maintained in book-entry form by the Securities Depository, upon the occurrence of an Event of Default, the Trustee shall immediately send a notice thereof in substantially the form required by the Auction Agency Agreement to the Auction Agent and to the registered Holders of each series of Bonds by telecopy or similar means.

3. So long as the ownership of the Auction Rate Bonds is maintained in book-entry form by the Securities Depository, the Trustee shall immediately send a notice in substantially the form required by the Auction Agency Agreement to the Auction Agent and to the registered Holders of each series of Bonds by telecopy or similar means if an Event of Default has been cured or waived in accordance with this Article XII.

4. Upon the occurrence of a Payment Default, or in the event such Payment Default is cured, the Trustee shall give the Auction Agent the notices referred to in paragraph 7 of Section 6.04 hereof.

SECTION 12.03. Declaration of Principal and Interest As Due. Upon the occurrence and continuation of any Event of Default, of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08, then and in every case the Trustee, by a notice in writing to the Authority, the Company and (to addresses then specified by the Authority) the Governor, the Comptroller and the Attorney General of the State of New York, may with the written consent of the Bond Insurer (such consent, however, not being required if a Bond Insurer Default has occurred and is continuing), and shall, unless a Bond Insurer Default has occurred and is continuing, upon the written request or direction of the Bond Insurer, or, if a Bond Insurer Default has occurred and is continuing, upon the written request or direction of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding (determined in accordance with the provisions of Section 13.03) shall, declare the principal of and accrued interest on all the Bonds then Outstanding (if not then due and payable) to be due and payable immediately, and upon such declaration the same shall become due and be immediately due and payable, anything contained in the Bonds or in this Indenture to the contrary notwithstanding. If, however, at any time after the principal of the Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Indenture, monies shall have accumulated in the Bond Fund sufficient to pay the principal of and any premium (or redemption price) on all Bonds (or portions of the principal amount thereof) then or theretofore required to be redeemed pursuant to any provisions of this Indenture (excluding principal not then due except by reason of the aforesaid declaration) and all arrears of interest and interest then due, if any, upon Bonds then Outstanding and if the fees, compensation, expenses, disbursements, advances and liabilities of the Trustee and all other amounts then payable by the Company under the Participation Agreement and the Note shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and every other Event of Default known to the Trustee in the observance or performance of any covenant, condition or

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agreement contained in the Bonds or in this Indenture (other than default in the payment of the principal of such Bonds then due only because of a declaration under this Section) shall have been remedied to the satisfaction of the Trustee or, the Company shall be taking, or shall be causing to be taken, appropriate action in good faith to effect its cure, then and in every such case the Trustee may with the written consent of the Bond Insurer, unless a Bond Insurer Default has occurred and is continuing, and shall upon the written request of the Bond Insurer, unless a Bond Insurer Default has occurred and is continuing, or, if a Bond Insurer Default has occurred and is continuing, upon the written request or direction of the Holders of not less than a majority in principal amount of the Bonds (determined in accordance with the provisions of Section 13.03) then Outstanding shall, by written notice to the Authority, rescind and annul such declaration and its consequences; provided, however, that notwithstanding any such rescission and annulment during an Auction Rate Period, the Bonds shall continue to bear interest at the Overdue Rate for the applicable period of time determined pursuant to Article III. No such rescission or annulment pursuant to the next preceding sentence shall extend to or affect any subsequent default or impair any right consequent thereto.

SECTION 12.04. Action by Trustee Upon Occurrence of Event of Default. Subject to Section 6.05, upon the occurrence and continuation of an Event of Default the Trustee (i) for and on behalf of the Holders of the Bonds, shall have the same rights hereunder which are possessed by any Holders of the Bonds; (ii) shall be authorized to proceed, in its own name and as trustee of an express trust; (iii) may pursue any available remedy by action at law or suit in equity to enforce the payment of the principal of and interest and premium, if any, on the Bonds; (iv) may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of such Trustee and of the Bondholders allowed in any judicial proceedings relative to the Company, its creditors, its property or the Bonds; and (v) may, and upon the written request or direction of the Bond Insurer, unless a Bond Insurer Default has occurred and is continuing, or Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding (determined in accordance with the provisions of Section 13.03), with, so long as no Bond Insurer Default has occurred and is continuing, the prior written consent of the Bond Insurer, shall proceed to protect and enforce all rights of the Holders and the Trustee under and as permitted by this Indenture and the laws of the State of New York, by such means or appropriate judicial proceedings as shall be suitable or deemed by it most effective in the premises, including the appointment of temporary trustees and any actions, suits or special proceedings at law or in equity or in bankruptcy or by proceedings in the office of any board or officer having jurisdiction, or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture, or in aid of execution of any power granted in this Indenture or to enforce any other legal or equitable right or remedy vested in the Holders of the Bonds or the Trustee by this Indenture or by such laws, or for the appointment of a receiver. All rights of action (including the right to file proofs of claim) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Trustee shall be brought in its name and as trustee of an express trust without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery or judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

In the enforcement of any remedy under this Indenture the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts, then or during any Event of Default becoming, and at any time remaining, due from the Company and unpaid under the Participation Agreement and the Note for principal, premium, interest or otherwise under any of the provisions of this Indenture or of the Bonds, with interest on overdue payments if such interest then is permitted by the laws of the State of New York, together with any and all costs and expenses of collection and of all proceedings hereunder and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders, and to recover and enforce judgment or decree against the Company which is in default of its respective obligations under the Participation Agreement and the Note, but solely as provided herein and in such Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the monies adjudged or decreed to be payable. Any such judgment shall be recovered by the Trustee, in its own name and as trustee of an express trust.

SECTION 12.05. Powers of Trustee With Respect to Participation Agreement and Other Agreements. If the payments required to be paid to the Trustee under the Participation Agreement and the Note or other agreement pledged and assigned hereunder, as the case may be, are not paid when due or upon the happening and continuance of an Event of Default set forth in clause (a) or (b) of Section 12.01, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of all payments due and unpaid under the Participation Agreement and the Note or other agreement, as the case may be, and required to be paid to the Trustee and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or the obligor under any other agreement, as the case may be, and collect in the manner provided by law out of the property of the Company or such obligor wherever situated, the monies adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company under the Participation Agreement or an obligor under any other agreement pledged and assigned hereunder, as the case may be, under the Federal Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company under the Participation Agreement and the Note or an obligor under any other agreement pledged and assigned hereunder, as the case may be, the Trustee, regardless of whether the principal of the Bonds shall then be due and payable as therein expressed or by declaration or otherwise and regardless of whether the Trustee shall have made any demand pursuant to the power vested in it by this Indenture, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid under the Participation Agreement and the Note by the Company or under such other agreement by such obligor, as the case may be, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or bad faith) and of the Holders allowed in any such judicial proceedings relative to the Company or other obligor, as the case may be, or to the creditors or

property of the Company or other obligor, as the case may be, and to collect and receive any monies or other property payable or deliverable on such claims, and to distribute in accordance with the provisions hereof all amounts received with respect to the claims of the Holders and of the Trustee on their behalf, and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holders any plan of reorganization, arrangement, adjustment or composition of the Authority or the Company affecting the Bonds or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holders in any such proceeding. In the event of any such reorganization, arrangement, adjustment, composition or liquidation, the Bond Insurer shall have the right to vote on behalf of all Holders who hold Bonds covered by the Policy applicable to such Bonds unless a Bond Insurer Default has occurred and is continuing.

The provisions of this Section shall not be construed as in any way limiting the powers of the Trustee, with respect to defaults by the Authority or by the Company under the Participation Agreement and the Note, or an obligor under any other agreement pledged and assigned hereunder, as the case may be, whether such powers be expressly or implicitly granted to the Trustee elsewhere in this Indenture or in the Participation Agreement or the Note or other agreement, as the case may be, or as a denial that the Trustee has any such other powers, but the powers granted to the Trustee by this Section shall be supplemental, additional and cumulative to all other powers possessed by the Trustee with respect to defaults under this Indenture or under the Participation Agreement, the Note or other agreement pledged and assigned hereunder, as the case may be.

SECTION 12.06. Disposition of Monies in Event of Insufficiencies in Funds and Accounts. All monies (other than proceeds of any Support Facility) received by the Trustee pursuant to any right given or action taken under the provisions of this Article, after payment of the costs and expenses of the proceedings resulting in the collection of such monies and of the expenses, fees and advances incurred or made by the Trustee hereunder, shall be deposited in the Bond Fund. If at any time the monies in the Bond Fund shall not be sufficient to pay the interest or principal or premium, if any (or the redemption price), of the Bonds as the same become due and payable (whether at maturity or upon proceedings for the redemption thereof or by acceleration or otherwise), the monies in such fund, together with any other monies then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article XII or otherwise, shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become due and payable or shall have been declared due and payable pursuant to the provisions of Section 12.03, all such monies shall be applied:

First: to the payment to the persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest, and if the amount available shall not be sufficient to pay in full any particular installment, then to

the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference; and

Second: to the payment of the premium, if any, on and the principal of the Bonds, to the purchase and retirement of Bonds and to the redemption of Bonds, all in accordance with the provisions of this Indenture.

(b) If the principal of all the Bonds shall have become due and payable or shall have been declared due and payable pursuant to the provisions of Section 12.03, all such monies shall be applied to the payment of the principal and interest then due and unpaid, with interest on such principal as aforesaid, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all the Bonds shall have been declared due and payable pursuant to the provisions of Section 12.03, and if such declaration shall thereafter have been rescinded and annulled pursuant to the provisions of such Section 12.03, then, subject to the provisions of subparagraph (b) above of this paragraph in the event that the principal of all the Bonds shall later become due and payable or be declared due and payable pursuant to the provisions of Section 12.03, the monies then held in the Bond Fund shall be applied to the payment of the principal of and premium (or redemption price) on all matured Bonds and all Bonds (or portions of the principal amount thereof) then or theretofore required to be redeemed pursuant to any provisions of this Indenture (excluding principal not then due except by reason of such declaration) and all arrears of interest and interest then due, if any, upon all Bonds then Outstanding, and any monies thereafter deposited in the Bond Fund shall be applied in accordance with the provisions of Article IX.

Whenever monies are to be applied by the Trustee pursuant to the provisions of subparagraphs (a) and (b) of this Section, (i) such monies shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such monies available for application and the likelihood of additional monies becoming available for such application in the future; (ii) the deposit of such monies, in trust for the proper purpose, shall constitute proper application by the Trustee; and (iii) the Trustee shall incur no liability whatsoever to the Authority, to any Holder or to any other person for any delay in applying any such monies, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such monies, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment

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to the Holder of any unpaid Bond until such Bond shall be surrendered to the Trustee for appropriate endorsement, or for cancellation if fully paid.

SECTION 12.07. Effect of Delay or Omission; Waiver of Default; Direction of Remedial Proceedings by the Holders. No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein.

Anything in this Indenture to the contrary notwithstanding, but subject to Section 6.05, the Holders of not less than a majority in principal amount of the Bonds at the time Outstanding (determined in accordance with the provisions of Section 13.03) with, so long as the no Bond Insurer Default has occurred and is continuing, the prior written consent of the Bond Insurer shall be authorized and empowered and have the right, by an instrument or concurrent instruments in writing delivered to the Trustee on behalf of the Holders of the Bonds then Outstanding to consent to the waiver of any Event of Default or its consequences, and the Trustee shall waive any Event of Default and its consequences upon the written request of the Holders of such majority with the prior written consent of the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing; provided, however, that there shall not be waived (i) any default in payment of principal or premium when due or (ii) any default in payment when due of interest unless, in either case, prior to such waiver all arrears in principal, premium, if any, and interest, with additional interest, to the extent permitted by law, at the rate then borne by the Bonds (which, in the case of a Payment Default with respect to Auction Rate Bonds shall be the Overdue Rate), and all fees and expenses of the Trustee shall have been paid or provided for; provided, however, that notwithstanding any such waiver, any Auction Rate Bonds shall continue to bear interest at the Overdue Rate until such Payment Default is cured. No such waiver shall extend to or affect any other existing or subsequent default or Event of Default or impair any rights or remedies consequent thereon.

Anything in this Indenture to the contrary notwithstanding, but subject to Section 6.05, the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds at the time Outstanding (determined in accordance with the provisions of Section 13.03) with, so long as no Bond Insurer Default has occurred and is continuing, the prior written consent of the Bond Insurer shall be authorized and empowered and have the right, by an instrument or concurrent instruments in writing delivered to the Trustee to direct the time and method of conducting any proceeding for any remedy to enforce the payment of the Bonds to be taken by the Trustee or available to the Trustee or available to the Holders of the Bonds, or exercising any trust or power conferred upon the Trustee hereunder provided: (1) such direction shall not be in conflict with any rule of law or with this Indenture or expose the Trustee to personal liability, or be unduly prejudicial to Holders not joining therein, and (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 12.08. Suits or Actions by Holders; Any Holder May Enforce Overdue Payment of His or Her Bond or Interest Thereon. No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder or for any other remedy hereunder unless there shall have occurred an Event

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of Default of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08, and such Holder previously shall have given to the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, with the consent of the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing, shall have made written request of the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a period of 60 days either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, the Trustee shall have been indemnified by Holders against the costs, expenses and liabilities to be incurred in compliance with such request, and shall not have received an inconsistent direction from the Bond Insurer, so long as no Bond Insurer Default

has occurred and is continuing, or from the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds and the Trustee shall have refused or neglected to comply with such request within a reasonable time. It is understood and intended that no one or more Holders of the Bonds hereby secured shall have any right in any manner whatever by the action of such Holder or Holders to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder except in the manner herein provided; that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Holders of such Outstanding Bonds; and that any individual rights of action or other right given to one or more of such Holders by law are restricted by this Indenture to the rights and remedies herein provided. Notwithstanding the foregoing and subject to Section 11.02, the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders, unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. The rights of any Holder under this Section 12.08 are subject to the rights of the Bond Insurer under Section 6.05.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Bond to receive payment of the principal of, premium, if any, and interest on such Bond, on or after the respective due dates expressed in such Bond, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder, except that no Holder of any such Bond shall have the right to institute any such suit, if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver, or loss of the lien of this Indenture.

SECTION 12.09. Remedies Not Exclusive. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee, the Bond Insurer or the Holders of the Bonds is intended to be exclusive of any other remedy so conferred or reserved or to be exclusive of other remedies now or hereafter existing at law or in equity or by statute, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder to the Trustee, the Bond Insurer or to the Holders of the Bonds or now or hereafter existing at law or in equity or by statute. Every such right, power and remedy given hereunder or by law or in equity or by statute may be exercised from time to time and as often as may be deemed expedient.

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SECTION 12.10. Effect of Abandonment of Proceedings on Default. In case any proceeding taken by the Trustee or the Holders of the Bonds on account of any Event of Default shall have been discontinued or abandoned for any reason, then and in every such case the Authority, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

SECTION 12.11. Interest on Overdue Amounts. To the extent permitted by law all amounts which are due and payable but which have not been so paid under this Indenture shall bear interest at the then current rate of interest on the Bonds until paid; provided, however, that upon the occurrence of a Payment Default during any Auction Rate Period all amounts which are due and owing but unpaid hereunder shall bear interest at the Overdue Rate until paid.

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ARTICLE XIII

EXECUTION OF INSTRUMENTS BY BONDHOLDERS AND OWNERSHIP OF BONDS; EXCLUSION OF BONDS OWNED BY THE AUTHORITY OR THE COMPANY

SECTION 13.01. Execution of Requests, Directions and Consents and Other Instruments and Proof of Same; Ownership of Bonds and Proof of Same. Any request, direction, consent or other instrument required by this Indenture to be signed or executed by Holders of Bonds may be signed or executed by such Holders in person or by agent or agents duly appointed in writing, and may be in any number of concurrent writings of substantially similar tenor. Proof of the execution of any such request, direction, consent or other instrument or of a writing appointing any such agent, and of the holding or ownership of Bonds, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee hereunder with regard to any action taken by it under such request, direction, consent or other instrument or of a writing appointing any such agent, if made in the following manner:

- (a) the fact and date of the execution by any person of any such request, direction, consent or other instrument in writing may be proved in any reasonable manner which the Trustee deems sufficient;
- (b) the ownership of Bonds shall be proved by the books of registry kept under the provisions of this Indenture.

Any request, direction, consent or vote of the Holder of any Bond shall bind and be conclusive upon the Holder of such Bond giving such request, direction or consent or casting such vote and upon every future Holder of the same Bond in respect of anything done or suffered to be done by the Trustee or otherwise, or by the Holders of other Bonds, in pursuance of such request, direction, consent or vote, and whether or not such future Holder has knowledge of or information as to such request, direction, consent or vote; provided that any request, direction, consent or vote of the Holder of a Bond required by any of the provisions hereof may be revoked by the Holder giving such request, direction, consent or vote or by a subsequent Holder if such revocation in writing is filed with the Trustee, prior to the time when the request, direction, consent or vote of the percentage of the Holders of the Bonds required by such provision shall have been given and action taken by the Trustee or otherwise, or by the Holders of other Bonds, under authority of such request, direction, consent or vote.

The payment of or on account of principal to or upon the order of the person in whose name the Bonds shall at the time be registered on said books of registry and the payment of interest to or upon the order of any person in whose name the Bonds shall at the time be registered on said books of registry, shall be valid and effectual fully to satisfy and discharge all liability hereunder or upon the Bonds to the extent of the sum or sums so paid.

The Authority at the request of the Company may establish a record date for the taking of any action by the Holders.

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SECTION 13.02. Meetings of Holders. The Trustee or the Holders of not less than twenty percent (20%) in principal amount of the Bonds then Outstanding may at any time call a meeting of the Holders of the Bonds for the purpose of the consenting to, the approving, the requesting, or the directing by the Holders of the Bonds of any action required to be consented to or approved by them hereunder or which they may request or direct hereunder to be taken, or for the making by the Holders of any appointments they may make hereunder, or for the purpose of taking any other action which the Holders may take hereunder, or for any other purpose concerning the payment and security of the Bonds hereunder. Every such meeting shall be held at such place in The City of New York, State of New York, as may be specified in the notice calling such meeting. Written notice of such meeting, stating the place and time of the meeting and in general terms the business to be submitted, shall be mailed to the Holders whose names and addresses then appear upon the books of registry by the Registrar and Paying Agent or the Holders calling such meeting, not less than 20 days nor more than 60 days before such meeting. Any meeting of Holders shall, however, be valid without notice if the Holders of all Bonds then Outstanding are present in person or by proxy or if notice is waived before or within 30 days after the meeting by those not so present.

Attendance and voting by Holders at meetings thereof may be in person or by proxy. Holders of Bonds may, by an instrument in writing under their hands, appoint any person or persons, with full power of substitution, as their proxy to attend and vote at any meeting for them.

Persons named by the Trustee, or elected by the Holders of a majority in principal amount of the Bonds represented at the meeting in person or by proxy in the event the Trustee is not represented at such meeting, shall act as temporary chairman and temporary secretary of any meeting of Holders. A permanent chairman and a permanent secretary of such meeting shall be elected by the Holders of a majority in principal amount of the Bonds represented at such meeting in person or by proxy. The permanent chairman of the meeting shall appoint two (2) inspectors of votes who shall count all votes cast at such meeting, except votes on the election of chairman and secretary as aforesaid, and who shall make and file with the secretary of the meeting and the Trustee their verified report of all such votes cast at the meeting.

The Holders of not less than the principal amount of the Bonds required by the provisions hereof to consent to, approve, request or direct any action to be taken at a meeting of Holders, or required by the provisions hereof to make any appointments to be made at such meeting, or required by the provisions hereof to take any other action to be taken at such meeting, must be present at such meeting in person or by proxy in order to constitute a quorum for the transaction of such business. Less than a quorum, however, shall have power to adjourn the meeting from time to time without notice of such adjournment other than the announcement thereof at the meeting; provided, however, that if such meeting is adjourned by less than a quorum for more than ten (10) days, notice of such adjournment shall be given by the Trustee at least five (5) days prior to the adjourned date of the meeting.

Any Holder of a Bond shall be entitled in person or by proxy to attend and vote at such meeting as Holder of the Bond or Bonds registered in his or her name without producing

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such Bond or Bonds. Such persons and their proxies shall, if required, produce such proof of personal identity as shall be satisfactory to the Secretary of the meeting.

All proxies presented at such meeting shall be delivered to the Inspector of Votes and filed with the Secretary of the meeting. The right of a proxy for a Holder to attend the meeting and act and vote thereat may be proved (subject to the Trustee's right to require additional proof) by a written proxy executed by such Holder as aforesaid.

The officers or nominees of the Trustee may be present or represented at such meeting and take part therein, but shall not be entitled to vote thereat, except for such officers or nominees who are Holders or proxies for Holders (including the Trustee).

The vote at any such meeting of the Holder of any Bond, or his or her proxy, entitled to vote thereat shall be binding upon such Holder and upon every subsequent Holder of such Bond (whether or not such subsequent Holder has notice thereof).

SECTION 13.03. Exclusion of Bonds Held by or for the Authority, the Company and of Bonds No Longer Deemed Outstanding Hereunder. In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent, vote or waiver under this Indenture, any Bonds which are owned by or on behalf of or for the account of the Authority, the Company and, except for the purposes of Section 15.01, any Bonds which are deemed no longer Outstanding hereunder shall be disregarded and not included for the purpose of any such determination, and such Bonds shall not be entitled to vote upon, consent to or concur in any action provided in this Indenture, except that for the purposes of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent, vote or waiver only Bonds which a Responsible Officer of the Trustee knows are owned as aforesaid shall be disregarded. The Trustee may require each Holder of a Bond or Bonds, before such Holder's demand, request, direction, consent, vote or waiver shall be deemed effective, to reveal if the Bonds as to which such demand, request, direction, consent, vote or waiver is made, granted, cast or given are disqualified as provided in this Section.

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ARTICLE XIV

AMENDING AND SUPPLEMENTING THE INDENTURE, THE PARTICIPATION AGREEMENT, THE REMARKETING AGREEMENT, AUCTION AGENCY AGREEMENT, BROKER-DEALER AGREEMENTS, BOND PURCHASE TRUST AGREEMENT

SECTION 14.01. Amending and Supplementing Indenture Without Consent of Holders. The Authority and the Trustee, from time to time and at any time and without the consent or concurrence of any Holder, may enter into a Supplemental Indenture, (i) to make any changes, modifications, amendments or deletions to this Indenture that may be required to permit the Indenture to be qualified under the Trust Indenture Act of 1939 of the United States of America or (ii) for any one or more of the following purposes:

(a) (x) to make any changes or corrections in this Indenture or any Supplemental Indenture as to which the Authority shall have been advised by counsel that the same are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provision or omission or mistake or manifest error contained in this Indenture or Supplemental Indenture, or (y) to insert in this Indenture such provisions clarifying matters or questions arising under this Indenture as are necessary or desirable if such provisions shall not materially and adversely affect the rights of the Holders;

(b) to add additional covenants and agreements of the Authority for the purpose of further securing the payment of the Bonds;

(c) to surrender any right, power or privilege reserved to or conferred upon the Authority by the terms of this Indenture;

(d) to confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Indenture or any Supplemental Indenture;

(e) to grant to or confer upon the Holders any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them, or to grant to or to confer upon the Trustee for the benefit of the Holders any additional rights, duties, remedies, power or authority;

(f) to provide for the issuance of Bonds in book entry or coupon form, if at the time permitted by applicable law;

(g) to provide for the substitution of rating agencies;

(h) to provide for any new administrative or procedural provisions made necessary or desirable by the issuance of a Support Facility or an Alternate Support Facility, other credit, liquidity or support facility, including, but not limited to, any amendment necessary to obtain a rating on the Bonds based upon such facility; and

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(i) to modify, amend or supplement the Indenture in such manner as to permit the qualification of the Bonds for deposit with a Securities Depository, and, in connection therewith, if they so determine, to add to the Indenture, such other terms, conditions and provisions as may be required to permit such qualification.

No Supplemental Indenture shall be entered into unless in the Opinion of Bond Counsel which shall be delivered to the Trustee (which opinion may be combined with the opinion required by Section 14.04) the execution of such Supplemental Indenture is permitted by the foregoing provisions of this Section and the provisions of such Supplemental Indenture do not materially and adversely affect the rights of the Holders of the Bonds and the Trustee may rely on any such opinion.

SECTION 14.02. Amending and Supplementing Indenture with Consent of Holders. With the consent of the Holders of a majority in principal amount of the Bonds then Outstanding and, so long as no Bond Insurer Default has occurred and is continuing, the Bond Insurer, the Authority and the Trustee from time to time and at any time may enter into a Supplemental Indenture for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, this Indenture, or modifying or amending the rights and obligations of the Authority hereunder, or modifying or amending in any manner the rights of the Holders; provided that, without the specific consent of the Holders of all Bonds Outstanding which would be affected thereby and the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing, no Supplemental Indenture amending or supplementing the provisions hereof shall: (a) change the fixed maturity date for the payment of the principal of any Bond, or the dates for the payment of interest thereon or the terms of the purchase or redemption thereof, or reduce the principal amount of any Bond or the rate of interest thereon or the method of calculating the same except as otherwise provided in this Indenture; or (b) reduce the aforesaid percentage of Bonds, the Holders of which are required to consent to any Supplemental Indenture amending or supplementing the provisions of this Indenture; or (c) give to any Bond any preference over any other Bond secured hereby; or (d) authorize the creation of any pledge of payments under the Participation Agreement or Note Payments prior or superior to the pledge of a lien and charge thereon assigned herein for the payment of the Bonds; or (e) effect any change in the purchase or redemption provisions relating to the Bonds; or (f) deprive any Holders in any material respect of the security afforded by this Indenture. A modification or amendment of the provisions of Article IX hereof with respect to the Bond Fund or any other Funds or Accounts established thereby shall not be deemed a change in the terms of payment; provided that no such modification or amendment shall, except upon the consent of the Bond Insurer and the Holders of all Bonds Outstanding affected thereby, reduce the amount or amounts required to be deposited in the Bond Fund. Nothing in this paragraph contained, however, shall be construed as making necessary the approval of the Holders of the execution of any Supplemental Indenture authorized by the provisions of Section 14.01.

The proof of the giving of any consent by any Holder required by this Section and of the holding of the Bonds for the purpose of giving consents shall be made in accordance with the provisions of Article XIII. It shall not be necessary that the consent of the Holders approve the particular form of wording of the proposed supplemental amendment or supplement, but it shall be sufficient if such consent approves the substance of the proposed amendment or

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supplement. After the Holders of the required percentage of Bonds shall have filed their consents to the amending or supplementing hereof pursuant to this Section, the Authority shall mail a copy of a notice of such consent, postage prepaid, to each Holder at his or her address as it appears upon the books of registry and to the Trustee. Nothing in this paragraph contained, however, shall be construed as requiring the giving of notice of any amending or supplementing of this Indenture authorized by this Section. A record of the consents shall be filed with the Trustee, and shall be proof of the matters therein stated until the contrary is proved. No action or proceeding to set aside or invalidate such Supplemental Indenture or any of the proceedings for its adoption shall be instituted or maintained unless such action or proceeding is commenced within sixty (60) days after the mailing of the notice required by this paragraph.

Notwithstanding anything in this Indenture to the contrary, the consent of the Holders of the required amount of Bonds shall be deemed given with respect to a Supplemental Indenture if:

(a) (i) the Supplemental Indenture takes effect on a date on which all of the Bonds that are affected by such Supplemental Indenture are subject to mandatory tender for purchase in accordance with this Indenture, (ii) any modification or amendment effected thereby is consented to in writing by the Remarketing Agent, if any, for such Bonds on or prior to such effective date and (iii) the Bonds so tendered are purchased;

(b) (i) not less than 30 days before the effective date of the Supplemental Indenture, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Bonds that are affected by such Supplemental Indenture and the Holders of such Bonds have the right to tender their Bonds for purchase pursuant to Section 5.03 hereof before such effective date, (ii) the Remarketing Agent, if any, for such Bonds consents in writing to the proposed modification or amendment on or prior to such effective date and (iii) the Bonds so tendered are purchased; or

(c) (i) not less than 30 days before the Auction Date for the Auction Period during which any modification or amendment to this Indenture shall become effective, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Auction Rate Bonds that are affected by such modification or amendment, (ii) the Auction Rate determined for such Auction Rate Bonds at the Auction immediately preceding the effective date of the modification or amendment is a Winning Bid Rate, and (iii) any modification or amendment effected thereby is consented to in writing by the Broker-Dealer(s) for such Bonds on or prior to such effective date and is disclosed in the official statement or other disclosure document delivered by the Broker-Dealer(s) to Potential Holders prior to the Auction immediately preceding such effective date; provided, however, that, notwithstanding anything to the contrary in this Indenture, any Auction Rate Bonds that are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order at the Auction immediately preceding such effective date.

SECTION 14.03. Notation upon Bonds; New Bonds Issued upon Amendments. The Bonds delivered after the effective date of any action taken as provided in

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this Article, if any, may and shall if required by the Trustee bear a notation as to such action, by endorsement or otherwise and in form approved by the Authority. In that case, upon demand of any Holder at such effective date and upon presentation of Bonds at the Principal Corporate Trust Office of the Trustee or other transfer agent or registrar hereunder for such Bonds, and at such additional offices, if any, as the Authority may select and designate for that purpose, a suitable notation shall be made on the Bonds.

SECTION 14.04. Effectiveness of Supplemental Indentures. Upon the execution pursuant to this Article by the Authority and the Trustee of any Supplemental Indenture amending or supplementing the provisions of this Indenture and the delivery to the Trustee of an Opinion of Bond Counsel that such Supplemental Indenture is permitted by the provisions of this Article XIV and has been duly executed in accordance with the provisions hereof and applicable law and that the provisions thereof are valid (upon which opinion the Trustee, subject to the provisions of Section 11.04, shall be fully protected in relying), or upon such later date as may be specified in such Supplemental Indenture, (i) this Indenture and the Bonds shall be modified and amended in accordance with such Supplemental Indenture; (ii) the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Authority, the Trustee, and the Holders shall thereafter be determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments; and (iii) all of the terms and conditions of any such Supplemental Indenture shall be a part of the terms and conditions of the Bonds and of this Indenture for any and all purposes.

SECTION 14.05. Supplemental Indenture Affecting Support Facility Provider. No Supplemental Indenture affecting the rights or obligations of the Support Facility Issuer which takes effect while any Support Facility is in effect may, so long as the Support Facility Issuer is not in default under the Support Facility and no event of the type described in (b) through (g) of the definition of Bond Insurer Default contained herein shall have occurred and be continuing in respect to the Support Facility Issuer, be entered into by the Authority and the Trustee or be consented to by the Holders without written consent of each Support Facility Issuer.

SECTION 14.06. Supplemental Participation Agreements Not Requiring the Consent of the Holders. The Authority and the Company may, with the written consent of the Trustee but without notice to or consent of any Holder, from time to time and at any time, agree to such supplemental agreements supplementing the Participation Agreement or amendments to the Participation Agreement as shall not be inconsistent with the terms and provisions of the Participation Agreement or this Indenture and, in the opinion of the Authority, shall not be detrimental to the interests of the Holders (which Supplemental Participation Agreements shall thereafter form a part of the Participation Agreement):

(a) to cure any ambiguity or formal defect or omission in the Participation Agreement or in any supplemental agreement;

(b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders or the Trustee;

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(c) to provide for any new administrative, security or procedural provisions necessitated by the issuance of an Alternate Support Facility; or

(d) to provide for or add any further changes or corrections that are necessary or desirable to comply with any Supplemental Indenture entered into pursuant to Section 14.01;

provided that no such Supplemental Participation Agreement which takes effect while a Support Facility is in effect shall, so long as the Support Facility Issuer is not in default under the Support Facility, be effective prior to the receipt by such parties of the written consent of each Support Facility Issuer.

SECTION 14.07. Notice and Consent for Supplemental Participation Agreements Requiring the Consent of the Holders. Except for Supplemental Participation Agreements or amendments provided for in Section 14.06, neither the Authority nor the Trustee shall agree or consent, as the case may be, to any Supplemental Participation Agreement or amendment to the Participation Agreement unless notice of the proposed execution of such Supplemental Participation Agreement or amendment shall have been given and the Holders, and, so long as no Bond Insurer Default has occurred and is continuing, the Bond Insurer shall have consented to and approved the execution thereof in the same manner and form as provided for in Section 14.02 in the case of Supplemental Indentures; provided that no such Supplemental Participation Agreement which materially and adversely affects any issuer of a

Support Facility (so long as such Support Facility is in effect) shall be effective prior to the receipt by such parties of the written consent of the issuer of such Support Facility, so long as the Support Facility Issuer is not in default under the Support Facility and no event of the type described in (b) through (g) of the definition of Bond Insurer Default contained herein shall have occurred and be continuing in respect of the Support Facility Issuer.

Notwithstanding anything in this Indenture to the contrary, the consent of the Holders of the required amount of Bonds shall be deemed given with respect to any Supplemental Participation Agreement or amendment to the Participation Agreement if:

(a) (i) the Supplemental Participation Agreement or amendment to the Participation Agreement takes effect on a date on which all of the Bonds that are affected by such Supplemental Participation Agreement or amendment to the Participation Agreement are subject to mandatory tender for purchase in accordance with this Indenture, (ii) any modification or amendment effected thereby is consented to in writing by the Remarketing Agent, if any, for such Bonds on or prior to such effective date and (iii) the Bonds so tendered are purchased;

(b) (i) not less than 30 days before the effective date of the Supplemental Participation Agreement or amendment to the Participation Agreement, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Bonds that are affected by such modification or amendment and the Holders of such Bonds have the right to tender their Bonds for purchase pursuant to Section 5.03 hereof before such effective date, (ii) the Remarketing Agent, if any, for such Bonds consents in writing to

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the proposed modification or amendment on or prior to such effective date and (iii) the Bonds so tendered are purchased; or

(c) (i) not less than 30 days before the Auction Date for the Auction Period during which any modification or amendment to the Participation Agreement shall become effective, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Auction Rate Bonds that are affected by such modification or amendment, (ii) the Auction Rate determined for such Auction Rate Bonds at the Auction immediately preceding the effective date of the modification or amendment is a Winning Bid Rate, and (iii) any modification or amendment effected thereby is consented to in writing by the Broker-Dealer(s) for such Bonds on or prior to such effective date and is disclosed in the official statement or other disclosure document delivered by the Broker-Dealer(s) to Potential Holders prior to the Auction immediately preceding such effective date; provided, however, that, notwithstanding anything to the contrary in this Indenture, any Auction Rate Bonds that are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order at the Auction immediately preceding such effective date.

SECTION 14.08. Effectiveness of Supplemental Participation Agreement. Upon the execution pursuant to this Article and of applicable law by the Authority and the Company of any Supplemental Participation Agreement amending or supplementing the provisions of the Participation Agreement and the delivery to the Trustee of an Opinion of Bond Counsel that such Supplemental Participation Agreement is in due form, has been duly executed in accordance with the provisions hereof and applicable law and that the provisions thereof are valid (upon which opinion the Trustee, subject to the provisions of Section 11.04, shall be fully protected in relying), or upon such later date as may be specified in such Supplemental Participation Agreement, (i) the Participation Agreement shall be modified and amended in accordance with such Supplemental Participation Agreement; (ii) the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Authority and the Company shall thereafter be determined, exercised and enforced thereunder subject in all respects to such modifications and amendments; and (iii) all of the terms and conditions of any such Supplemental Participation Agreement shall be a part of the terms and conditions thereof for any and all purposes.

SECTION 14.09. Amending and Supplementing the Remarketing Agreement, Auction Agency Agreement, Broker-Dealer Agreements or Bond Purchase Trust Agreement. Amendments of or supplements to the Remarketing Agreement, the Auction Agency Agreement, any Broker-Dealer Agreement or the Bond Purchase Trust Agreement shall be made only in accordance with the terms thereof.

SECTION 14.10. Supplemental Participation Agreement Affecting Support Facility Provider. No Supplemental Participation Agreement or amendments to the Participation Agreement affecting the rights or obligations of the Support Facility Issuer which take effect while any Support Facility is in effect may, so long as the Support Facility Issuer is not in default under the Support Facility and no event of the type described in (b) through (g) of the definition of Bond Insurer Default contained herein shall have occurred in respect to the

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Support Facility Issuer, be entered into by the Authority or be consented to by the Holders without written consent of each Support Facility Issuer.

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ARTICLE XV

DEFEASANCE; MONEYS HELD FOR PAYMENT OF DEFEASED BONDS

SECTION 15.01. Discharge of Liens and Pledges; Bonds No Longer Deemed to be Outstanding Hereunder. Bonds purchased pursuant to Section 5.03, 5.04, 5.08 or 5.09 shall continue to be Outstanding hereunder until such Bonds shall be cancelled in accordance with Section 5.15 or paid at maturity or redeemed pursuant to Article V or otherwise defeased. The obligations of the Authority under this Indenture and the liens, pledges, charges, trusts, covenants and agreements of the Authority, herein made or provided for, shall be, subject to the terms of Section 15.02, fully discharged and satisfied as to the Bonds or portion thereof and the Bonds shall no longer be deemed to be Outstanding hereunder:

(a) when the Bonds shall have been cancelled, or shall have been surrendered for cancellation and are subject to cancellation, or shall have been redeemed by the Trustee from monies held by it under this Indenture; or

(b) if the Bonds have not been cancelled or so surrendered for cancellation or subject to cancellation, or so redeemed, when (1) payment of the principal of and premium, if any, on the Bonds, plus interest on such principal to the due date thereof (whether such due date be by reason of maturity or upon redemption or prepayment, or otherwise) and of any Purchase Price which is or may become due on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee in trust, and irrevocably appropriating and setting aside exclusively for such payments (A) monies sufficient to make such payment, or (B) Governmental Obligations maturing as to principal and interest in such amounts and at such times as will insure the availability of sufficient and timely monies to make such payments when due, or (C) a combination of both such monies and Governmental Obligations, whichever the Authority deems to be in its best interest, (2) there shall have been delivered to the Trustee (x) a letter addressed to the Trustee from a nationally recognized firm of independent public accountants verifying the mathematical accuracy of the sufficiency of the deposit made pursuant to (1)(ii) above, (y) an Opinion of Bond Counsel to the effect that upon the provision of payment on the Bonds as described in (1)(ii) above, the Bonds are no longer deemed to be Outstanding under the Indenture and (z) in the case of Bonds bearing interest at a Daily Rate, a Weekly Rate, an Auction Rate, a Monthly Rate and a Semi-annual Rate, written confirmation from S&P, if the Bonds are then rated by S&P, to the effect that the deposit made pursuant to (1)(ii) above will not, by itself, result in a reduction or withdrawal of its short-term or long-term rating of the Bonds below the rating category of S&P then in effect with respect to the Bonds, and (3) all necessary and proper fees, compensation and expenses of the Trustee pertaining to the Bonds or portion thereof with respect to which such deposit is made, shall have been paid or the payment thereof provided to the satisfaction of the Trustee.

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At such time as the Bonds shall be deemed to be no longer Outstanding hereunder, as aforesaid, such Bonds shall cease to accrue interest from the due date thereof (whether such due date occurs by reason of maturity, or upon redemption or prepayment or otherwise) and, except for the purposes of any such payment from such monies or Governmental Obligations and except, in the case of Auction Rate Bonds, to the extent provided in the definition of Outstanding in Article I shall no longer be secured by or entitled to the benefits of this Indenture.

Any such monies so deposited with the Trustee as provided in this Section may at the written direction of the Company also be invested and reinvested in Governmental Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Governmental Obligations in the hands of the Trustee pursuant to this Section which is not required for the payment of the Bonds and interest thereon with respect to which such monies shall have been so deposited shall be paid to the Company or if any Bonds are then Outstanding, be deposited in the Bond Fund and credited to the Principal Account as and when realized and collected, for use and application as are other monies credited to such Account.

Anything in Article XV to the contrary notwithstanding, if monies or Governmental Obligations have been deposited or set aside with the Trustee pursuant to this Section for the payment of the Bonds, the Bonds shall be deemed to have been paid in full. No amendment to the provisions of this Article shall be made without the consent of the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing, and the Holders of the Bonds affected thereby.

The Trustee shall promptly surrender any Support Facility (if appropriate for the type of instrument or instruments then serving as Support Facility) to the issuer of such Support Facility for cancellation or shall otherwise take appropriate action to terminate the Support Facility following any such defeasance.

Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by the Bond Insurer pursuant to a Policy, the Bonds to which such Policy relates shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Authority or Company, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the Authority and Company to the Holders shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such Holders.

SECTION 15.02. Release of Indenture, Termination of Right, Title and Interest of Trustee. When the Bonds shall be deemed to be paid in accordance with the provisions of Section 15.01, then and in the case all right, title and interest of the Trustee under this Indenture shall thereupon cease, determine and become void, and the Trustee in such case shall release this Indenture, shall execute such documents to evidence such release as may be reasonably required by the Authority and furnish the Authority with the same, and shall turn over to the Company any surplus monies and balances remaining in any of the Funds and Accounts created in or held under this Indenture, other than monies and Governmental Obligations held by it pursuant to Section 15.01 or the provisions of Section 15.03 for the

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redemption, payment or prepayment of the Bonds; otherwise, this Indenture shall be, continue and remain in full force and effect.

Notwithstanding the satisfaction and discharge of this Indenture, the rights of the Trustee and the Registrar and Paying Agent under Sections 11.02, 11.06 and 11.17 shall survive defeasance of the Bonds hereunder.

SECTION 15.03. Bonds Not Presented for Payment When Due; Monies Held for the Bonds after Due Date of Bonds. Subject to the provisions of the next sentence of this paragraph, if the Bonds shall not be presented for payment when the principal thereof shall become due, whether at maturity or at the date fixed for the redemption thereof, or otherwise, and if monies or Governmental Obligations shall at such due date be held by the Trustee in trust for that purpose sufficient and available to pay the principal of and premium, if any, on the Bonds, together with all interest due on such principal to the due date thereof or to the date fixed for redemption thereof, all liability of the Authority and the Company for such payment shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold said monies or Governmental Obligations without liability to the Holders for interest thereon, in trust for the benefit of the Holders, which thereafter shall be restricted exclusively to said monies or Governmental Obligations for any claim of whatever nature on its part on or with respect to the Bonds, including for any claim for the payment thereof. Notwithstanding anything to the contrary in Section 9.04, any monies or Governmental Obligations held by the Trustee for the Holders after the principal of and premium, if any, and interest on the Bonds or any portion thereof with respect to which such monies or Governmental Obligations have been so set aside has become due and payable (whether at maturity or upon redemption or prepayment or otherwise) shall be either held uninvested as cash or at the written direction of the Company invested and reinvested in Governmental Obligations which mature on the next Business Day. Any such monies or Governmental Obligations held by the Trustee for the Holders after the principal of and premium, if any, and interest on the Bonds or any portion thereof with respect to

which such monies or Governmental Obligations have been so set aside has become due and payable (whether at maturity or upon redemption or prepayment or otherwise) shall be deemed abandoned property when such monies or Governmental Obligations shall have remained unpaid or undelivered to the Holder or Holders entitled thereto for three years from the date the principal of and premium, if any, and interest on the Bonds or any portion thereof has become due and payable and shall be subject to the laws of the State of New York relating to disposition of unclaimed property.

ARTICLE XVI

FORM OF BONDS AND ENDORSEMENT AND ASSIGNMENT PROVISIONS

SECTION 16.01. Form of Bonds and Endorsement and Assignment Provisions. The form of Bond, the form of the certificate of authentication thereof, the form of endorsement to appear thereon and the form of assignment thereof shall be substantially in the form set forth in Appendix A hereto.

ARTICLE XVII

MISCELLANEOUS

SECTION 17.01. Benefits of Indenture Limited to Authority, Company, Trustee, Registrar and Paying Agent, Support Facility Issuer, and Auction Agent and Holders of the Bonds. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or should be construed to confer upon or give to any person other than the Authority, the Company, the Trustee, the Registrar and Paying Agent, the Bond Insurer and any other Support Facility Issuer, the Auction Agent and the Holders of the Bonds any legal or equitable right, remedy or claim under or by reason of or in respect to this Indenture or any covenant, condition, stipulation, promise, agreement or provision herein contained. Unless otherwise expressly set forth herein, this Indenture and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Authority, the Company, the Trustee, the Registrar and Paying Agent, the Bond Insurer or any other Support Facility Issuer, the Auction Agent and the Holders of the Bonds as herein and therein provided.

SECTION 17.02. Indenture a Contract; Indenture Binding Upon Successors or Assigns of the Authority. In consideration of the acceptance of the Bonds by any person who shall hold the same from time to time, each of the obligations, duties, limitations and restraints imposed by this Indenture upon the Authority or any employee thereof shall be deemed to be a covenant between the Authority and every Holder and this Indenture and every provision and covenant hereof shall be a contract by the Authority with the Holders of the Bonds issued hereunder to secure the full and final payment of the principal of, premium, if any, of and the interest on the Bonds executed and delivered hereunder. The provisions of the Act shall be a contract by the Authority with the Holders and the duties of the Authority and any employee thereof under the Act shall be enforceable by the Holders. This Indenture shall be enforceable by the Holders, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. The covenants and agreements herein set forth to be performed by the Authority and any employee thereof, shall be for the benefit, security and protection of the Holders. All the terms, provisions, conditions, covenants, warranties and agreements contained in this Indenture shall be binding upon the assigns of the Authority, and shall inure to the benefit of the Trustee, its successors or substitutes in trust and assigns, and the Holders.

SECTION 17.03. Notice to Holders of Bonds. Except as is otherwise provided in this Indenture, any provision for the mailing of a notice or other paper to the Holders shall be fully complied with if it is mailed postage prepaid, to the Holder of the Bonds at such Holder's address appearing upon the books of registry kept pursuant to Article VII. The Trustee shall furnish a copy of any notice to a Holder upon a request by the Holder that a copy of such notices be provided directly to the Holder; provided, however, that any failure to provide such a notice to a Holder shall not effect the validity of the provision of the notice in the preceding sentence.

SECTION 17.04. Waiver of Notice. Whenever in this Indenture the giving of notice by mail, publication, or otherwise is required, the giving of such notice may be waived by the person entitled to receive such notice, and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 17.05. Effect of Saturdays, Sundays and Non-Business Days. Except as otherwise specifically provided herein, whenever this Indenture requires any action to be taken on a Saturday, Sunday or other day which is not a Business Day, such action shall be taken on the first Business Day occurring thereafter. Except as otherwise specifically provided herein, whenever in this Indenture the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday or other day which is not a Business Day, such time shall continue to run until midnight on the next succeeding Business Day.

SECTION 17.06. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this Indenture on the part of the Authority or the Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in this Indenture and the invalidity thereof shall in no way affect the validity of the other provisions of this Indenture or of the Bonds, but the Holders shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for

any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatsoever.

SECTION 17.07. Law and Place of Enforcement of Indenture. This Indenture shall be construed and interpreted in accordance with the laws of the State of New York and all suits and actions arising out of this Indenture shall be instituted in a court of competent jurisdiction in the State of New York.

SECTION 17.08. Requests, Approvals and Directions of Authority. Whenever in this Indenture a request, approval, direction or other action is required of the Authority, such request, approval, direction or other action shall be in the form of and evidenced by a certificate of an Authorized Officer of the Authority unless otherwise provided herein.

SECTION 17.09. Notices, Demands; Requests. Except as otherwise set forth herein, all notices, demands, directions and requests to be given to or made hereunder by the Company, the Authority, the Trustee, the Remarketing Agent, the Auction Agent and the

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Registrar and Paying Agent shall be given or made in writing and shall be deemed to be properly given or made if sent by first class United States mail, postage prepaid, addressed as follows:

- | | | |
|-----|--------------------------------------|---|
| (a) | As to the Company | 4 Irving Place New York, New York 10003 Attention: Secretary |
| (b) | As to the Authority | 17 Columbia Circle Albany, New York 12203-6399 Attention: President |
| (c) | As to the Trustee | 101 Barclay Street - 21W New York, New York 10286 Attention: Corporate Trust Trustee Administration |
| (d) | As to the Auction Agent | at the address specified in the Auction Agency Agreement |
| (e) | As to the Remarketing Agents | at the address specified in the applicable Remarketing Agreement |
| (f) | As to the Registrar and Paying Agent | 101 Barclay Street - 21W New York, New York 10286 Attention: Corporate Trust Trustee Administration |
| (g) | As to the Bond Insurer | 1221 Avenue of the Americas New York, New York 10020 Attention: Surveillance Department and General Counsel |

Any such notice, demand, direction or request may also be transmitted to the appropriate above-mentioned party by telegram, teletype, telex or similar means and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be in writing and sent as specified above.

Any notice, demand, direction or request given or transmitted to the Trustee or the Authority shall be effective only upon receipt.

Any of such addresses may be changed at any time upon written notice of such change sent by first-class United States mail, postage prepaid, to the other parties by the party affecting the change.

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If the Bonds shall be rated by Moody's, the Trustee shall furnish to Moody's at 99 Church Street, New York, New York, Attention: Corporate Department Structured Finance Group or such other office as Moody's may designate to the Trustee, if the Bonds shall be rated by S&P, the Trustee shall furnish to S&P at 55 Water Street, New York, New York 10041, Attention: Letter of Credit Surveillance Group, and if the Bonds shall be rated by Fitch, the Trustee shall furnish to Fitch, Inc. at One State Street Plaza, New York, New York 10004, Attention: Municipal Structured Finance Group (i) a copy of each amendment to the Indenture, Participation Agreement, Bond Purchase Trust Agreement, and each Support Facility of which it has knowledge, (ii) notice of the termination, extension or expiration of any Support Facility, (iii) notice of the payment of all the Bonds (iv) notice of a Change in the Interest Rate Mode, and (v) notice of any successor Trustee, Registrar and Paying Agent or Remarketing Agent; provided, however, that failure by the Trustee to so notify Moody's, S&P or Fitch shall not result in any liability on the part of the Trustee or affect the validity of such documents or actions.

SECTION 17.10. Effect of Article and Section Headings and Table of Contents. The heading or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Indenture.

SECTION 17.11. Indenture May be Executed in Counterparts; Effectiveness of Indenture. This Indenture may be simultaneously executed in counterparts. Each such counterpart so executed shall be deemed to be an original, and all together shall constitute but one and the same instrument. This Indenture shall take effect immediately upon the execution and delivery hereof. Notwithstanding the actual date hereof, for convenience and purposes of reference this Indenture shall be dated as of January 1, 2004 and may be cited and referred to as the "Indenture dated as of January 1, 2004".

SECTION 17.12. Liability of Authority Limited to Revenues. Notwithstanding anything in this Indenture or in the Bonds contained, the Authority shall not be required to advance any monies derived from any source other than the Revenues and other assets pledged under this Indenture for any of the purposes in this Indenture mentioned, whether for the payment of the principal or redemption price of or interest on the Bonds or for any other purpose of this Indenture. Pursuant to Section 5.09 of the Participation Agreement, the Company has agreed to indemnify and hold harmless the Authority and the Trustee from all liability arising hereunder.

SECTION 17.13. Waiver of Personal Liability. No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of or premium, if any, or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

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[Signature Page of this Indenture Follows]

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IN WITNESS WHEREOF, the Authority has caused this Indenture to be executed by its Acting President, Vice President or Treasurer and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, and the Trustee has caused this Indenture to be executed by its authorized officer, all as of the date first above written.

**NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY**

By _____
Acting President

(SEAL)

Attest:

Assistant Secretary

THE BANK OF NEW YORK
as Trustee,

By _____

[Signature Page of Indenture]

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TRUST INDENTURE

BETWEEN

NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY

AND

THE BANK OF NEW YORK,
as Trustee

Dated as of January 1, 2004

-relating to-

\$146,975,000 Facilities Revenue Bonds, Series 2004B
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THIS TRUST INDENTURE, made and dated as of January 1, 2004, by and between New York State Energy Research and Development Authority (the "Authority"), a body corporate and politic, constituting a public benefit corporation, and The Bank of New York, as trustee (the "Trustee"), a banking corporation organized and existing under and by virtue of the laws of the State of New York with its principal corporate trust office located in The City of New York.

WITNESSETH THAT:

WHEREAS, pursuant to a special act of the Legislature of the State of New York (Title 9 of Article 8 of the Public Authorities Law of New York, as from time to time amended and supplemented, herein called the "Act"), the Authority has been established, as a body corporate and politic, constituting a public benefit corporation; and

WHEREAS, pursuant to the Act, the Authority is empowered to contract with any power company to participate in the construction of facilities for the furnishing of electric energy and the furnishing of gas to the extent required by the public interest in development, health, recreation, safety, conservation of natural resources and aesthetics; and

WHEREAS, pursuant to the Act, the Authority is also authorized to extend credit and make loans from bond proceeds to any person for the construction, acquisition, installation, reconstruction, improvement, maintenance, equipping, furnishing or leasing of any special energy project (as defined in the Act) including, but not limited to, facilities for the distribution of steam or for the reimbursement to any person for costs incurred in connection with a special energy project completed or not completed at the time of such credit or loan, which credits or loans may, but need not, be secured by mortgages, contracts, leases or other instruments, upon such terms and conditions as the Authority shall determine reasonable in connection with such credits or loans; and

WHEREAS, the Authority is also authorized under the Act to borrow money and issue its negotiable bonds and notes to provide sufficient monies for achieving its corporate purposes, including the refunding of its outstanding obligations; and

WHEREAS, the Authority is also authorized under the Act to enter into any contracts and to execute all instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes; and

WHEREAS, the Company has requested that the Authority issue bonds for the purpose of refunding the Authority's 5 1/4% Facilities Refunding Revenue Bonds, Series 1993 B (Consolidated Edison Company of New York, Inc. Project), in the aggregate principal amount of \$127,715,000 and the Authority's 5 3/8% Facilities Refunding Revenue Bonds, Series 1993C (Consolidated Edison Company of New York, Inc. Project), in the aggregate principal amount of \$19,760,000 (the "Prior Bonds"). The Prior Bonds were issued for the purpose of refunding a portion of the Authority's 9% Electric Facilities Revenue Bonds, Series 1985A (Consolidated Edison Company of New York, Inc. Project) and 9 1/4% Electric Facilities Revenue Bonds, Series 1987B (Consolidated Edison Company of New York, Inc. Project), which were issued to

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finance the acquisition, construction, and installation (or any combination thereof) of certain facilities of the Company for the local furnishing of electric energy within the Company's electric energy service area;

WHEREAS, pursuant to Resolution No. 1039 adopted September 22, 2003, the Authority has determined to issue the Bonds, in an aggregate principal amount not to exceed \$101,000,000, for the purpose of refunding the Prior Bonds, all such Bonds to be issued under and secured by this Trust Indenture; and

WHEREAS, contemporaneously with the execution hereof, the Company and the Authority have entered into a Participation Agreement of even date herewith (herein referred to as the "Participation Agreement"); and

WHEREAS, the bonds to be issued will be in the aggregate principal amount of \$146,975,000 and will be designated as Facilities Revenue Bonds, Series 2004B (Consolidated Edison Company of New York, Inc. Project) (the "Bonds"), which will be used, together with Company funds, to refund the Prior Bonds, such Bonds to be issued under and secured by this Trust Indenture; and

WHEREAS, simultaneously with the issuance and delivery of such bonds, the Company will execute and deliver a promissory note dated the date of issuance of such bonds (the "Note") as evidence of its obligation to make payments required by the Participation Agreement; and

WHEREAS, all acts, conditions and things necessary or required by the Constitution and statutes of the State of New York, or otherwise, to exist, happen, and be performed as prerequisites to the passage of this Indenture, do exist, have happened, and have been performed; and

WHEREAS, the Trustee has accepted the trusts created by this Trust Indenture and in evidence thereof has joined in the execution hereof;

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Bonds are authenticated, issued and delivered, and in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Holders thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure payment of the principal of and premium, if any, and interest on the Bonds according to their tenor and effect and the performance and observance by the Authority of all covenants, agreements and conditions herein and in the Bonds contained, the Authority has acknowledged, executed, signed and delivered this Indenture and hereby assigns, confirms, pledges with and sets over and entrusts to the Trustee hereunder, its successors in trust and assigns, subject to the provisions of this Indenture (the following being called the "Trust Estate"): (1) the Revenues (as hereinafter defined); (2) the Participation Agreement and the Note and all rights, remedies and interest of the Authority under the Participation Agreement and the

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Note, and any other agreement relating to the Project (exclusive of the Authority's rights with respect to (a) administrative compensation, attorney's fees and indemnification, (b) the receipt of notices, opinions, reports, copies of instruments and other items of a similar nature required to be delivered to the Authority under the Participation Agreement, (c) granting approvals and consents and making determinations when required under the Participation Agreement, (d) making requests for information and inspections in accordance with the Participation Agreement, (e) Article III and Sections 4.02(f), 4.14 and 5.09 of the Participation Agreement and, insofar as the obligations of the Company under Section 4.12 relate to taxes and assessments imposed upon the Authority and not the Trustee, Section 4.12 thereof, and (f) the right to amend the Participation Agreement); (3) the Tax Regulatory Agreement (as hereinafter defined), and all rights, remedies and interest of the Authority thereunder, subject to the provisions of the Tax Regulatory Agreement relating to the amendment thereof and

to a reservation by the Authority of the right to enforce the obligations of the Company thereunder independently of the Trustee; (4) all other monies, rights and properties held by the Trustee or other depository under this Indenture including, but only for the benefit of the persons specified herein, the proceeds of any draw, borrowing or payment under any Credit Facility (other than the Policies (as hereinafter defined)), and the securities (and the interest, income and profits therefrom) in which such monies may from time to time be invested (exclusive of the proceeds of a Liquidity Facility (as hereinafter defined) or the Project Fund (as hereinafter defined)); and (5) any and all other real or personal property of every nature from time to time hereafter by delivery or by writing of any kind specially mortgaged, pledged, or hypothecated, as and for additional security hereunder, by the Company in favor of the Trustee or the Authority which are hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular of said Trust Estate unto the Trustee, its successors in trust and assigns, forever, in trust, nevertheless, to inure to the use and benefit of the Holders of all the Bonds, for the securing of the observance or performance of all the terms, provisions and conditions therein and herein contained and for the equal and proportionate benefit and security of all and singular the present and future Holders of the Bonds, without preference, priority, prejudice or distinction as to lien or otherwise of any Bond over any other Bond, to the end that each Holder of a Bond shall have the same rights, privileges and lien under and by virtue of this Trust Indenture, except as hereinafter otherwise specifically provided;

AND UPON THE CONDITION THAT, if the Authority shall cause to be paid fully and promptly and indefeasibly when due all of its indebtedness, liabilities, obligations and sums at any time secured hereby, including interest, the Trustee's fees and reasonable expenses (including reasonable attorneys' fees and expenses), and shall promptly, faithfully and strictly keep, perform and observe, or cause to be kept, performed and observed, all of its covenants, obligations, warranties and agreements contained herein, then and in such event, this Trust Indenture shall be and become void and of no further force and effect, otherwise the same shall remain in full force and effect.

THIS TRUST INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said income and Revenues hereby pledged are to be dealt with and disposed of

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under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Authority has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Holders, from time to time, of the said Bonds, or any part thereof, as follows (provided that in the performance of the agreements of the Authority herein contained any obligation it may thereby incur for the payment of money shall never constitute a general or moral obligation of the State of New York or any political subdivision thereof within the meaning of any state constitutional provision or statutory limitation, and shall not be secured directly or indirectly by the full faith and credit, the general credit or any revenue or taxes of the State of New York or any political subdivision thereof, but shall be payable solely out of the income and Revenues derived under the Participation Agreement and the Note and from drawings under the Credit Facility (paid to the Insurance Trustee (as hereinafter defined) in the case of the Policies), if any, and other monies, rights and properties of the Trust Estate), that is to say:

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ARTICLE I

DEFINITIONS; COMPUTATIONS; CERTIFICATES AND OPINIONS; EVIDENCE OF ACTION BY AUTHORITY

SECTION 1.01. Definitions of Specific Terms. Unless the context shall clearly indicate some other meaning or may otherwise require, the terms defined in this Section shall, for all purposes of this Indenture and of any indenture, resolution or other instrument amendatory hereof or supplemental hereto and of any certificate, opinion, instrument or document herein or therein mentioned, have the meanings herein specified, with the following definitions to be equally applicable to both the singular and plural forms of any terms herein defined and vice versa.

“Act” shall mean the New York State Energy Research and Development Authority Act, Title 9 of Article 8 of the Public Authorities Law of the State of New York, as from time to time amended and supplemented.

“Additional Payments” shall mean the Additional Payments as defined in Section 4.02(f) of the Participation Agreement.

“Adjustable Rate” shall mean any of the following types of interest rates: a Commercial Paper Rate, an Auction Rate, a Daily Rate, a Weekly Rate, a Monthly Rate, a Semi-annual Rate and a Term Rate.

“Administration Fees” shall mean the amounts payable by the Company to the Authority pursuant to Section 4.02(f) of the Participation Agreement to defray a portion of the expenses incurred by the Authority in conducting and administering its special energy project programs and the amount payable as state bond issuance charge pursuant to Section 4.02(f) of the Participation Agreement.

“Affiliate” shall mean any person known to the Auction Agent to be controlled by, in control of or under common control with the Company; provided that no Broker-Dealer controlled by, in control of or under common control with the Company shall be an Affiliate nor shall any corporation or any person controlled by, in control of or in common control with such corporation be an Affiliate solely because a director or executive officer of such Broker-Dealer is also a director of the Company.

“After-Tax Equivalent Rate” on any date of determination shall mean with respect to Auction Rate Bonds, the interest rate per annum equal to the product of (x) Commercial Paper/Treasury Rate on such date and (y) (1.00 minus the Statutory Corporate Tax Rate on such date).

“Agent Member” shall mean a member of, or participant in, the Securities Depository.

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“All Hold Rate” shall mean for any subseries of Bonds on any date of determination with respect to Auction Rate Bonds the rate per annum equal to 85% (as such percentage may be adjusted pursuant to Section 3.10) of the lesser of (i) the BMA Index on such date and (ii) the After-Tax Equivalent Rate on such date; provided, however, that in no event shall such All Hold Rate exceed the Maximum Allowed Rate.

“Alternate Support Facility” shall mean any Support Facility obtained pursuant to the provisions of Section 6.02 in replacement of an existing Support Facility.

“Applicable Percentage” on any date of determination for any subseries of Bonds shall mean the percentage determined as set forth below (as such percentage may be adjusted for Auction Rate Bonds pursuant to Section 3.10) based on the prevailing long-term rating of the Auction Rate Bonds in effect at the close of business on the Business Day immediately preceding such date of determination:

| <u>Prevailing Rating</u> | <u>Applicable Percentage</u> |
|--------------------------|------------------------------|
| AAA/”Aaa” | 175% |
| AA/”Aa” | 175% |
| A/”A” | 175% |
| BBB/”Baa” | 200% |
| Below BBB/”Baa” | 265% |

For purposes of this definition, the “prevailing rating” of the Auction Rate Bonds will be (a) AAA/”Aaa,” if the Auction Rate Bonds have a rating of AAA or better by S&P and a rating of “Aaa” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, (b) if not AAA/”Aaa,” then AA/”Aa” if the Auction Rate Bonds have a rating of AA- or better by S&P and a rating of “Aa3” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, (c) if not AAA/”Aaa” or AA/”Aa,” then A/”A” if the Auction Rate Bonds have a rating of A- or better by S&P and a rating of “A3” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, (d) if not AAA/”Aaa,” AA/”Aa” or A/”A,” then BBB/”Baa,” if the Auction Rate Bonds have a rating of BBB- or better by S&P and a rating of “Baa3” or better by Moody’s, or the equivalent of such ratings by a substitute rating agency or agencies selected as provided below, and (e) if not AAA/”Aaa,” AA/”Aa,” A/”A” or BBB/”Baa,” then below BBB/”Baa,” whether or not the Auction Rate Bonds are rated by any securities rating agency.

If (x) the Auction Rate Bonds, are rated by a rating agency or agencies other than Moody’s or S&P and (y) the Company has delivered on behalf of the Authority to the Trustee and the Auction Agent an instrument designating one or two of such rating agencies to replace Moody’s or S&P, or both, then for purposes of the definition of “prevailing rating” Moody’s or S&P, or both, will be deemed to have been replaced in accordance with such instrument; provided, however, that such instrument must be accompanied by the consent of the applicable Market Agent. For purposes of this definition, S&P’s rating categories of AAA, AA-, A- and BBB-, and Moody’s rating categories of “Aaa,” “Aa3,” “A3” and “Baa3,” refer to and include the respective rating categories correlative thereto in the event that either or both of such rating

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agencies have changed or modified their generic rating categories. If the prevailing ratings for the Bonds are split between the categories set forth above, the lower rating will determine the prevailing rating.

“Auction” shall mean each periodic implementation of the Auction Procedures for Auction Rate Bonds.

“Auction Agency Agreement” shall mean the Auction Agency Agreement to be entered into between the Company and the Auction Agent with respect to the Auction Rate Bonds, as from time to time amended and supplemented.

“Auction Agent” shall mean any entity appointed as such pursuant to Section 11.21 and its successors and assigns.

“Auction Date” shall mean with respect to each Auction Period, the last Wednesday of the immediately preceding Auction Period (or such other day that the applicable Market Agent shall establish as the Auction Date therefor pursuant to Section 3.05); provided, that if such day is not a Business Day, the Auction Date shall be the next succeeding Business Day.

“Auction Period” shall mean for any subseries of Bonds the period from and including the Closing Date to and including the initial Auction Date for such subseries and thereafter, or after a Change in the Interest Rate Mode to an Auction Rate, until the effective date of a Change in the Interest Rate Mode or the Stated Maturity, each period from and including the last Interest Payment Date for the immediately preceding Auction Period or Calculation Period, as the case may be, to and including the next succeeding Auction Date or, in the event of a Change in the Interest Rate Mode, to but excluding the effective date of such change, provided, if any day that would be the last day of any such period does not immediately precede a Business Day, such period shall end on the next day which immediately precedes a Business Day.

“Auction Procedures” shall mean with respect to the Auction Rate Bonds the procedures set forth in Sections 3.03 through 3.10.

“Auction Rate” shall mean with respect to Auction Rate Bonds and each Auction Period for such Auction Rate Bonds, the rate of interest per annum determined for the Bonds pursuant to Article III.

“Auction Rate Bonds” shall mean with respect to an Auction Rate Period, any Bonds or subseries of Bonds which bear interest at the Auction Rate.

“Auction Rate Bonds Period Record Date” shall mean, with respect to each Interest Payment Date during an Auction Rate Period, the Business Day immediately preceding such Interest Payment Date.

“Auction Rate Period” shall mean any period during which the Auction Rate Bonds bear interest at an Auction Rate determined pursuant to the implementation of Auction Procedures established under Article III, which period shall commence on the Closing Date or on

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the effective date of a Change in the Interest Rate Mode to an Auction Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of a Change in the Interest Rate Mode or (b) the Stated Maturity.

“Authority” shall mean New York State Energy Research and Development Authority, the public benefit corporation created by the Act, and its successors and assigns.

“Authorized Company Representative” shall mean any officer or other employee of the Company at the time designated to act on behalf of the Company by written certificate furnished to the Authority and the Trustee containing the specimen signature of such person and signed on behalf of the Company by its Chairman, President or a Vice President and its Secretary or an Assistant Secretary.

“Authorized Officer” shall mean the Chair, Vice-Chair, President, Vice President, Treasurer, Assistant Treasurer or Secretary of the Authority.

“Available Auction Rate Bonds” shall mean with respect to the Auction Rate Bonds, Available Auction Rate Bonds as defined in Section 3.08.

“Bid” shall mean with respect to the Auction Rate Bonds, Bid as defined in Section 3.06.

“Bidder” shall mean with respect to the Auction Rate Bonds, Bidder as defined in Section 3.06.

“BMA Index” shall mean, as of any date of determination, The Bond Market Association Municipal Swap Index that is most recently released by Municipal Market Data to its subscribers prior to such date of determination; provided, however, that if the BMA Index is unavailable for a period of over 21 days preceding such date of determination, references to the BMA Index shall be replaced by the After-Tax Equivalent Rate.

“Bond Counsel” shall mean an attorney or firm or firms of attorneys, satisfactory to the Authority and the Trustee, nationally recognized and experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

“Bond Fund” shall mean the special trust fund of the Authority designated as “Consolidated Edison Company of New York, Inc. Series 2004B Project Bond Fund” created and established under, and to be held and administered by the Trustee as provided in Section 9.01 and, unless the context shall clearly indicate otherwise, shall include the “Interest Account,” the “Principal Account,” and the “Redemption Account” created and established therein.

“Bond Insurer” shall mean XL Capital Assurance Inc., or any successor thereto.

“Bond Insurer Default” shall mean the occurrence and continuance of one or more of the following events: (a) the failure of the Bond Insurer to pay principal of or interest on the Bonds when and to the extent required by a Policy; (b) the issuance of an order of liquidation or

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dissolution of a Bond Insurer; (c) the commencement by a Bond Insurer of a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect including, without limitation, the appointment of a trustee, receiver, liquidator, custodian or other similar official for itself or any substantial part of its property; (d) the consent of a Bond Insurer to any relief referred to in the preceding clause (c) in an involuntary case or other proceeding commenced against it; (e) the making by a Bond Insurer of an assignment for the benefit of creditors; (f) the failure of a Bond Insurer to generally pay its debts as they become due; (g) a default by the Bond Insurer under a Policy; or (h) the initiation by a Bond Insurer of any actions to authorize any of the foregoing; provided that the events described in clauses (b) - (e) above shall constitute a Bond Insurer Default only if such event has the effect of lowering the rating assigned to the bonds insured by the Bond Insurer to less than “AA” by S&P or “Aa2” by Moody’s or “A” by Fitch.

“Bond Purchase Agreement” shall mean the Bond Purchase Agreement, dated as of January 28, 2004, among the Authority, the Company and the underwriters named therein.

“Bond Purchase Fund” shall mean the Bond Purchase Fund established pursuant to the Bond Purchase Trust Agreement.

“Bond Purchase Trust Agreement” shall mean the Bond Purchase Trust Agreement dated as of the date hereof between the Authority and the Registrar and Paying Agent, as from time to time amended or supplemented.

“Bond Year” shall have the meaning set forth in the Tax Regulatory Agreement.

“Bondholder”, “Holder of a Bond” or “Holder” shall mean any registered owner of a Bond.

“Bonds” shall mean \$146,975,000 aggregate principal amount of the “Facilities Revenue Bonds, Series 2004B (Consolidated Edison Company of New York, Inc. Project)” issued as authorized in Section 2.02 at any time Outstanding.

“Broker-Dealer” shall mean any broker-dealer (as defined in the Securities Exchange Act), commercial bank or other entity permitted by law to perform the functions required of a Broker-Dealer set forth in the Auction Procedures (i) that is an Agent Member (or an affiliate of an Agent Member), (ii) that has been selected by the Auction Agent and the Company with the consent of the Authority, and (iii) that has entered into a Broker-Dealer Agreement with the Auction Agent and the Company that remains effective.

“Broker-Dealer Agreement” shall mean each agreement applicable to the Auction Rate Bonds, between a Broker-Dealer, the Company and the Auction Agent pursuant to which the Broker-Dealer, among other things, agrees to participate in Auctions as set forth in the Auction Procedures, as from time to time amended and supplemented.

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“Business Day” shall mean any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York, or any city in which is located the principal corporate trust office of the Trustee or the Auction Agent, or the fiscal agent appointed by the Bond Insurer are authorized or required by law or executive order to remain closed.

“Calculation Period” shall mean (a) during any Commercial Paper Rate Period following a Change in the Interest Rate Mode to a Commercial Paper Rate Period, the period from and including the effective date of the Change in the Interest Rate Mode to a Commercial Paper Rate Period to but not including any day not more than 270 days thereafter which is a day immediately preceding a Business Day established by a Remarketing Agent pursuant to Section 3.02 and, thereafter, any Calculation Period established by such Remarketing Agent pursuant to Section 3.02 which shall end on a day not later than 270 days from the commencement thereof; (b) during any Daily Rate Period, the period from and including a Business Day to but not including the next succeeding Business Day; (c) during any Weekly Rate Period following a Change in the Interest Rate Mode to a Weekly Rate, the period from and including the effective date of the Change in the Interest Rate Mode to and including the following Tuesday, and, thereafter, the period from and including Wednesday of each week to and including the following Tuesday; (d) during any Monthly Rate Period following a Change in the Interest Rate Mode to a Monthly Rate, the period from and including the effective date of the Change in the Interest Rate Mode to but excluding the first Business Day of the following month, and, thereafter each period from and including the first Business Day of the month to but excluding the first Business Day of the following month; (e) during any Semi-annual Rate Period following a Change in the Interest Rate Mode to a Semi-annual Rate, the period from and including the effective date of the Change in the Interest Rate Mode to but excluding the next succeeding Interest Payment Date and, thereafter, each period from and including the day following the end of the last Calculation Period to but excluding the next succeeding Interest Payment Date; (f) during any Term Rate Period, any period of not less than 365 days from and including a Business Day to and including any day (established by the Authority, at the request of the Company, pursuant to Section 4.01.1) not later than the day prior to the Stated Maturity; and (g) during any Fixed Rate Period following a Change in the Interest Rate Mode to a Fixed Rate, the period from and including the effective date of the Change in the Interest Rate Mode through the day immediately preceding the Stated Maturity.

“Change in the Interest Rate Mode” shall mean any change in the type of interest rate borne by the Bonds pursuant to Section 4.01 or Section 4.02.

“Change of Preference Law” shall mean any amendment to the Code or other statute enacted by the Congress of the United States or any temporary, proposed or final regulation promulgated by the United States Treasury, after the date hereof which (a) changes or would change any deduction, credit or other allowance allowable in computing liability for any Federal tax with respect to, or (b) imposes, or would impose, or increases or would increase any Federal tax (including, but not limited to, preference or excise taxes) upon, any interest earned by any holder of bonds the interest on which is excluded from Federal gross income under Section 103 of the Code.

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“Closing Date” shall mean the date on which the Note becomes legally effective, the same being the date on which the Bonds are paid for by and delivered to the original purchasers thereof.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder and applied to the Bonds or the use of proceeds thereof, and also includes all amendments and successor provisions unless the context clearly requires otherwise.

“Commercial Paper Dealers” shall mean Lehman Commercial Paper Inc. and CS First Boston Corporation or any other commercial paper dealers specified by the Authority at the request of the Company, or in lieu of any thereof, their respective affiliates or successors, provided that any such entity is a commercial paper dealer and, if not, as replaced by the Substitute Commercial Paper Dealer.

“Commercial Paper Period Record Date” shall mean, with respect to each Interest Payment Date during a Commercial Paper Rate Period, the Business Day next preceding such Interest Payment Date.

“Commercial Paper Rate” shall mean with respect to each Calculation Period during a Commercial Paper Rate Period, a rate or rates of interest equal to the rate or rates of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate or rates of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate or rates of interest shall not exceed the lesser of 110% of the Commercial Paper Rate Index on and as of such date and the Maximum Allowed Rate.

“Commercial Paper Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Commercial Paper Rate Period, the average of yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued) all of which shall have a term as near as practicable to such Calculation Period or which are subject to optional or mandatory tender by the owner thereof at the end of a term as near as practicable to such Calculation Period, the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its

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highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent’s judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that

Rating Agency and not have any outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Commercial Paper Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Commercial Paper Rate Period” shall mean any period during which the Bonds bear interest at a Commercial Paper Rate or Rates, which period shall commence on the effective date of a Change in the Interest Rate Mode to a Commercial Paper Rate or Rates, as the case may be, and extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode or (b) the Stated Maturity.

“Commercial Paper/Treasury Rate” on any date of determination shall mean with respect to Auction Rate Bonds (i) in the case of any Auction Period of less than 49 days, the interest equivalent of the 30-day rate, (ii) in the case of any Auction Period of 49 days or more and but less than 70 days, the interest equivalent of the 60-day rate, (iii) in the case of any Auction Period of 70 days or more but less than 85 days, the arithmetic average of the interest equivalent of the 60-day and 90-day rates, (iv) in the case of any Auction Period of 85 days or more but less than 99 days, the interest equivalent of the 90-day rate; (v) in the case of any Auction Period of 99 days or more but less than 120 days, the arithmetic average of the interest equivalent of the 90-day and 120-day rates, (vi) in the case of any Auction Period of 120 days or more but less than 141 days, the interest equivalent of the 120-day rate, (vii) in the case of any Auction Period of 141 days or more but less than 162 days, the arithmetic average of the interest equivalent of the 120-day and 180-day rates, (viii) in the case of any Auction Period of 162 days or more but less than 183 days, the interest equivalent of the 180-day rate, and (ix) in the case of any Auction Period of 183 days or more, the Treasury Rate for such Auction Period. The foregoing rates shall in all cases, except with respect to the Treasury Rate, be rates on commercial paper placed on behalf of issuers whose corporate bonds are rated “AA” by S&P, or the equivalent of such rating by Moody’s, as made available on a discount basis or otherwise by the Federal Reserve Bank of New York for the Business Day immediately preceding such date of determination, or in the event that the Federal Reserve Bank of New York does not make available any such rate, then the arithmetic average of such rates, as quoted on a discount basis or otherwise, by the Commercial Paper Dealers, to the Auction Agent for the close of business on the Business Day immediately preceding such date of determination.

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If any Commercial Paper Dealer does not quote a commercial paper rate required to determine the Commercial Paper/Treasury Rate, the Commercial Paper/Treasury Rate shall be determined on the basis of a commercial paper quotation or quotations furnished by the remaining Commercial Paper Dealer or Commercial Paper Dealers and any Substitute Commercial Paper Dealer or Substitute Commercial Paper Dealers selected by the Authority at the request of the Company to provide such quotation or quotations not being supplied by any Commercial Paper Dealer or Commercial Paper Dealers, as the case may be, or if the Authority does not select any such Substitute Commercial Paper Dealer or Substitute Commercial Paper Dealers, by the remaining Commercial Paper Dealer or Commercial Paper Dealers. For purposes of this definition, the “interest equivalent” of a rate stated on a discount basis (a “discount rate”) for commercial paper of a given day’s maturity shall be equal to the product of (A) 100 times (B) the quotient (rounded upwards to the next higher one-thousandth (.001) of 1%) of (x) the discount rate (expressed in decimals) divided by (y) the difference between (1) 1.00 and (2) a fraction the numerator of which shall be the product of the discount rate (expressed in decimals) times the number of days in which such commercial paper matures and the denominator of which shall be 360. In no event shall the Commercial Paper/Treasury Rate be greater than the lesser of 15% or the maximum rate permitted by applicable law.

“Commission” shall mean the Securities and Exchange Commission.

“Company” shall mean Consolidated Edison Company of New York, Inc., and any surviving, resulting or transferee corporation as provided in Section 5.18 of the Participation Agreement.

“Company Account” shall mean the account created pursuant to Section 2.01(a) of the Bond Purchase Trust Agreement.

“Component Issuers” shall mean issuers of securities, the interest on which is excluded from gross income for Federal income tax purposes, selected by the Indexing Agent.

“Computation Date” shall mean each date which is one (1) Business Day prior to any Determination Date.

“Computation Period” shall have the meaning set forth in the Tax Regulatory Agreement.

“Credit Facility” shall mean any Support Facility which provides for the payments referred to in clause (ii) of the definition thereof. The initial Credit Facilities are the Policies.

“Credit Facility Issuer” shall mean any bank or banks or other financial institution or institutions, having issued any Credit Facility. The initial Credit Facility Issuer is the Bond Insurer.

“Current Adjustable Rate” shall mean the interest rate borne by Bonds immediately prior to a Change in the Interest Rate Mode or the establishment of a Fixed Rate.

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“Daily Period Record Date” shall mean, with respect to each Interest Payment Date during a Daily Rate Period, the Business Day next preceding such Interest Payment Date.

“Daily Rate” shall mean with respect to each Calculation Period during a Daily Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount

thereof plus accrued interest thereon; provided that such rate of interest shall not exceed the lesser of 110% of the Daily Rate Index on and as of such day and the Maximum Allowed Rate.

“Daily Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Daily Rate Period, the average of one-day yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent and which have redemption or tender provisions comparable to the then applicable provisions of the Bonds, computed by the Indexing Agent on and as of the Determination Date. If the Bonds are rated by a Rating Agency, each Component Issuer must have outstanding securities rated by a Rating Agency in a short-term debt rating category which is the same as the short-term debt rating category in which the Bonds are rated. The specific issuers included in the Component Issuers may be changed from time to time by the Indexing Agent in its discretion and shall be issuers whose securities, in the judgment of the Indexing Agent, have characteristics similar to the Bonds. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Daily Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Daily Rate Period” shall mean any period during which Bonds bear interest at a Daily Rate which period shall commence on the effective date of the Change in the Interest Rate Mode to a Daily Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of a Change in the Interest Rate Mode or (b) the Stated Maturity.

“Determination Date” shall mean, for any Calculation Period, the first Business Day occurring during such Calculation Period; provided, however, with respect to Bonds which bear interest at the Weekly Rate, each Wednesday or, if such Wednesday is not a Business Day, the Business Day next preceding such Wednesday.

“Direct-Pay Credit Facility” shall mean any Credit Facility which by its terms permits the Trustee to draw moneys thereunder for deposit in the Bond Fund.

“Event of Default” shall mean Event of Default as defined in Section 12.01.

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“Existing Holder” shall mean with respect to Auction Rate Bonds a person that is listed as the beneficial owner of Auction Rate Bonds in the records of the Auction Agent.

“Fiscal Year” shall mean the fiscal year of the Company as established from time to time by the Company which as of the Closing Date is the twelve-month period commencing on January 1 of each calendar year and ending on December 31 of the next calendar year.

“Fitch” shall mean Fitch Ratings and its successor or successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency or shall be replaced by some other nationally recognized rating agency by the Authority at the request of the Company, “Fitch” shall be deemed to refer to such other nationally recognized rating agency designated by the Authority at the request of the Company.

“Fixed Rate” shall mean, with respect to a Fixed Rate Period, the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of such date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such date to remarket the Bonds in a secondary market transaction at a price equal to 100% of the Outstanding principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Fixed Rate Index on and as of such date and 18% per annum;

“Fixed Rate Conversion Date” shall have the meaning set forth in Section 4.02.

“Fixed Rate Index” shall mean with respect to a Fixed Rate Conversion Date, the average of the yield evaluations (on the basis of full coupon securities trading at par with a term approximately equal to the Fixed Rate Period) of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent and which have a long-term rating by a Rating Agency in the same rating category as the Bonds are rated at the time by such Rating Agency or, if no such bonds are so rated, shall be debt which, in the judgment of the Indexing Agent, is of credit quality comparable to that of the Bonds, computed by the Indexing Agent on and as of the Fixed Rate Conversion Date. In the event that the Indexing Agent fails to compute the Fixed Rate Index and no other qualified municipal securities evaluation service can be appointed Indexing Agent by the Authority, the Fixed Rate Index shall be determined by the applicable Remarketing Agent and shall be 90% of the average yield shown for the most recent calendar month for United States Treasury notes or bonds having the same number of years to maturity as the number of 12-month periods (or months if the Fixed Rate Period is less than one year) in the Fixed Rate Period, as published in the Federal Reserve Bulletin in the last issue before the Fixed Rate Conversion Date. If that issue does not contain such a yield, the Fixed Rate Index will be determined by linear interpolation between the yields shown in that issue for United States Treasury notes and bonds having the next shorter and next longer number of years (or months) to maturity. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the

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Fixed Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Fixed Rate Period” shall mean any period during which Bonds bear interest at a Fixed Rate, which period shall commence on the effective date of a Change in the Interest Rate Mode to a Fixed Rate, and shall extend through the day immediately preceding the Stated Maturity.

“Fixed Rate Record Date” shall mean, with respect to each Interest Payment Date during a Fixed Rate Period, the fifteenth day of the month next preceding such Interest Payment Date, or, if such day shall not be a Business Day, the next preceding Business Day.

“Governmental Obligations” shall mean any of the following which are non-callable:

- (a) direct obligations of, or obligations the payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America; and
- (b) bonds, debentures or notes issued by the Federal Financing Bank, Farmers Home Administration, or any other comparable Federal agency hereafter created to the extent that said obligations are unconditionally guaranteed by the United States of America.

“Hold Order” shall mean with respect to the Auction Rate Bonds, Hold Order as defined in Section 3.06.

“Indenture” shall mean this Trust Indenture dated as of January 1, 2004 between the Authority and the Trustee, as the same may be amended or supplemented.

“Indexing Agent” shall mean the Indexing Agent appointed in accordance with Section 11.24.

“Interest Payment Date” shall mean:

- (a) during each Commercial Paper Rate Period, the Business Day immediately succeeding the last day of any Calculation Period;
- (b) during an Auction Rate Period (i) for an Auction Period of 91 days or less, the Business Day immediately succeeding such Auction Period and (ii) for an Auction Period of more than 91 days, each 13th Thursday after the first day of such Auction Period or the next Business Day if such Thursday is not a Business Day, and the Business Day immediately succeeding the last day of each such Auction Period;
- (c) during each Daily Rate Period, the first Business Day of each month thereof;

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- (d) during each Weekly Rate Period, the first Business Day of each month thereof;
- (e) during each Monthly Rate Period, the first Business Day of each month thereof;
- (f) during each Semi-annual Rate Period, (i) the first Business Day of the sixth calendar month following the month in which the first day of such Semi-annual Rate Period occurred, (ii) each anniversary of the date so determined, and (iii) each anniversary of the first day of the first month of such Semi-annual Rate Period;
- (g) during each Term Rate Period, the April 1 or October 1 next succeeding the first day of a Calculation Period and each April 1 or October 1 thereafter; provided, however, that if the April 1 or October 1 next succeeding the first day of a Calculation Period occurs less than twenty-one (21) days after the first day of such Calculation Period, the first Interest Payment Date shall be the second such date following the first day of such Calculation Period;
- (h) the April 1 or October 1 next succeeding a Fixed Rate Conversion Date and each April 1 or October 1 thereafter; provided, however, that if the April 1 or October 1 next succeeding a Fixed Rate Conversion Date occurs less than twenty-one (21) days after such Fixed Rate Conversion Date, the first Interest Payment Date shall be the second such date following the first day of the Fixed Rate Period;
- (i) a Fixed Rate Conversion Date;
- (j) any day on which Bonds are subject to mandatory tender for purchase pursuant to Section 5.04, 5.08 or 5.09 or redemption in whole pursuant to Section 5.01, 5.05, 5.06 or 5.07; and
- (k) the Stated Maturity;

provided, however, that if any such date determined in any of the foregoing clauses is not a Business Day, the Interest Payment Date shall be the next succeeding day which is a Business Day.

“Investment Securities” shall mean any of the following which at the time are legal investments under the laws of the State of New York for the monies held hereunder:

- (a) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest of which are unconditionally guaranteed by the United States of America (“Direct U.S. governments”).
- (b) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are

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backed by the full faith and credit of the United States of America, including (stripped securities are only permitted if they have been stripped by the agency itself):

- (i) U.S. Export-Import Bank (Eximbank). Direct obligations or fully guaranteed certificates of beneficial ownership;
- (ii) Farmers Home Administration (FmHA). Certificates of Beneficial Ownership;
- (iii) U.S. Maritime Administration. Guaranteed Title XI financing;
- (iv) General Service Administration. Participation Certificates;
- (v) U.S. Department of Housing & Urban Development (HUD). Project Notes; Local Authority Bonds; New Communities Debentures - U.S. government guaranteed debentures; and U.S. Public Housing Notes and Bonds - U.S. government guaranteed, public housing notes and bonds;
- (vi) Federal Housing Administration (FHA Debentures);
- (vii) Federal Financing Bank; and
- (viii) Government National Mortgage Association (GNMA or "Ginnie Mae"). GNMA - guaranteed mortgage-backed bonds; GNMA - guaranteed pass-through obligations

(c) bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies which are not backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

- (i) Federal Home Loan Bank System. Senior debt obligations;
- (ii) Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac"). Participation Certificate; Senior debt obligations;
- (iii) Resolution Funding Corporation (REFCORP) obligations;
- (iv) Federal National Mortgage Association (FNMA or "Fannie Mae"). Mortgage-backed securities and senior debt obligations;
- (v) Student Loan Marketing Association (SLMA or "Sallie Mae"). Senior debt obligations; and
- (vi) Farm Credit System. Consolidated system-wide bonds and notes.

(d) Federal funds and bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" or better by Moody's and "A-1" or "A" or better by S&P;

(e) commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1" or better by S&P;

(f) bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies;

(g) money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of AAAM-G; AAA-m; or AA-m and if rated by Moody's rated Aaa, Aa1 or Aa2;

(h) certificates of deposit secured at all times by collateral described in (a) and/or (b) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral;

(i) certificate of deposit, savings account, deposit accounts or market deposits which are fully insured by FDIC, including BIF and SAIF;

(j) investment agreements, including GIC's, Forward Purchase Agreements and Reserve Fund Put Agreements acceptable to the Bond Insurer;

(k) repurchase agreements ("Repos") for 30 days or less must follow the following criteria. Repos which exceed 30 days must be acceptable to the Bond Insurer. Repos provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date:

(i) Repos must be between the municipal entity and a dealer bank or securities firm:

(A) Primary dealers on the Federal Reserve reporting dealer list which are rated A or better by Standard & Poor's Corporation and Moody's Investor Services, or

(B) Banks rated "A" or above by Standard & Poor's Corporation and Moody's Investor Services;

(ii) The written Repo contract must include the following:

(A) Securities which are acceptable for transfer are: (1) Direct U.S. governments, or (2) obligations of federal agencies referred to in (b) above, and (3) obligations of FNMA and FHLMC;

(B) The term of the Repo may be up to 30 days;

(C) The collateral must be delivered to the municipal entity, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee supplying the collateral) before/simultaneous with payment (perfection by possession of certified securities);

(D) Valuation of Collateral (1) the securities must be valued weekly, marked-to-market at current market price plus accrued interest, (2) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.

(iii) A legal opinion which must be delivered to the municipal entity that states that the Repo meets guidelines under state law for legal investment of public funds.

Any such Investment Securities may be held by the Trustee in book entry form, whereby certificated securities are held by an independent custodian and the Trustee is the beneficial owner of all or a portion of such certificated securities.

“Liquidity Facility” shall mean a Support Facility which provides for the payments referred to in clause (i) of the definition thereof.

“Liquidity Facility Issuer” shall mean any bank or banks or other financial institution or institutions, having issued any Liquidity Facility.

“Market Agent” shall mean the Remarketing Agent or Remarketing Agents appointed pursuant to Section 11.14 to perform certain duties and obligations hereunder with respect to the Bonds of a subseries while Bonds of such subseries are in an Auction Rate Period.

“Market Agent Agreement” shall mean an agreement among the Company and a Market Agent dated the Closing Date and any similar agreement or agreements entered into between the Company and one or more successor Market Agents, as from time to time amended, pursuant to which the applicable Market Agent undertakes to perform its duties and obligations hereunder while Bonds of a subseries are in an Auction Rate Period.

“Maximum Allowed Rate” shall mean as of any date 15% per annum, or if lower, the rate specified as such in any Support Facility then in effect, provided, however, that such Maximum Allowed Rate shall not exceed the maximum rate, if any, permitted by applicable law.

“Maximum Auction Rate” shall mean on any date of determination with respect to Auction Rate Bonds, the lesser of the Maximum Allowed Rate and the following: (i) in all cases other than as provided in (ii) or (iii) below, the interest rate per annum equal to the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period and the BMA Index, (ii) with respect to any change in an Auction Period and/or the Standard Auction Period pursuant to Section 3.04, including any automatic reversion to a Standard Auction Period pursuant to Section 3.03, the interest rate per annum equal to the highest of (a) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period, and the BMA Index, (b) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to the Auction Period which is proposed to be established and the BMA Index, and (c) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to the Auction Period in effect immediately prior to such proposed change in the Auction Period and the BMA Index, or (iii) with respect to any Change in the Interest Rate Mode from an Auction Rate pursuant to Section 4.01 or any change from an Auction Rate to a Fixed Rate pursuant to Section 4.02, the interest rate per annum equal to the higher of (a) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period and the BMA Index, and (b) the Applicable Percentage of the higher of the After-Tax Equivalent Rate determined on such date with respect to the Auction Period in effect immediately prior to such proposed change and the BMA Index.

“Monthly Period Record Date” shall mean, with respect to each Interest Payment Date during a Monthly Period, the Business Day next preceding such Interest Payment Date.

“Monthly Rate” shall mean with respect to each Calculation Period during a Monthly Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent, and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Monthly Rate Index on and as of such date and the Maximum Allowed Rate.

“Monthly Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Monthly Rate Period, the average of 30-day yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its

two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent's judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency and not have any outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Monthly Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Monthly Rate Period” shall mean any period during which Bonds bear interest at a Monthly Rate which period shall commence with the effective date of the Change in the Interest Rate Mode to a Monthly Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode or (b) the Stated Maturity.

“Moody's” shall mean Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware and its successor or successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency or if Moody's shall be replaced, subject to the definition of “prevailing rating” in the definition of Applicable Percentage, by some other nationally recognized rating agency by the Authority at the request of the Company, “Moody's” shall be deemed to refer to such other nationally recognized rating agency designated by the Authority at the request of the Company.

“Note” shall mean the promissory note of the Company executed by the Company and delivered to the Trustee, to evidence the obligations of the Company to repay the loan to be made by the Authority pursuant to the Participation Agreement.

“Note Payments” shall mean the portion of the Payments required to be made pursuant to Section 4.02 of the Participation Agreement and the Note to be applied to the payment of principal of, premium, if any, and interest on the Bonds.

“Notice of Election to Tender” shall mean the notice given by a Holder of Bonds pursuant to Section 5.03.

“Opinion of Bond Counsel” shall mean a written opinion of Bond Counsel.

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“Option to Convert” shall mean the Authority's right and option to convert the rate of interest payable on the Bonds from an Adjustable Rate to a Fixed Rate as provided in Section 4.02.

“Order” shall mean with respect to Auction Rate Bonds, an Order as defined in Section 3.06.

“Outstanding”, whether appearing in upper or lower case, when used with respect to any Bond shall mean, as of any date, any Bond theretofore or thereupon being authenticated and delivered pursuant to this Indenture, except:

1. a Bond cancelled by the Trustee or delivered to the Trustee for cancellation at or prior to such date;
2. a Bond in lieu of or in substitution for which another Bond shall have been issued under Sections 5.10, 5.11, 7.03, 7.04 or 7.05;
3. a Bond or portion thereof deemed to have been paid in accordance with Section 15.01;

and

provided, however, that with respect to Auction Rate Bonds for the purposes of the Auction Procedures on any Auction Date, Auction Rate Bonds as to which the Company or any person known to the Auction Agent to be an Affiliate of the Company is the Existing Holder thereof shall be disregarded and deemed not to be Outstanding; and provided further, however, that to the extent the principal of or interest due on the Bonds is paid by the Bond Insurer pursuant to the applicable Policy, such Bonds shall remain Outstanding for all purposes until the Bond Insurer receives full payment therefor.

“Overdue Rate” shall mean on any date of determination 265% of the higher of the After-Tax Equivalent Rate determined on such date with respect to a Standard Auction Period and the BMA Index on such date of determination; provided that in no event shall the Overdue Rate exceed the Maximum Allowed Rate.

“Participation Agreement” shall mean the Participation Agreement dated as of the date hereof, between the Authority and the Company, as amended and supplemented by Supplemental Participation Agreements from time to time.

“Payments” shall mean collectively the Note Payments and the Additional Payments.

“Payment Default” shall mean the receipt by the Auction Agent of a notice from the Trustee of (i) failure to make payments of principal of and premium, if any, or interest on any subseries of the Bonds when the same shall become due and payable and (ii) the occurrence of a default by the Bond Insurer under the Policy applicable to such subseries of the Bonds.

“Policy” shall mean each Credit Facility issued by the Bond Insurer on the Closing Date in the form of a financial guaranty insurance policy insuring the regularly

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scheduled payments of principal of and interest on a subseries of the Bonds (collectively, the “Policies”).

“Potential Holder” shall mean a person, including any Existing Holder, who may be interested in acquiring a beneficial interest in Auction Rate Bonds in addition to Auction Rate Bonds currently owned by such person, if any.

“Principal Corporate Trust Office” shall mean the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date hereof is located at 101 Barclay Street - - 21W, New York, New York 10286.

“Project” shall mean any acquisition, purchase, construction, reconstruction, improvement, betterment, extension and equipping, as described in **Exhibit A** and **Exhibit B** to the Participation Agreement as the same may be revised from time to time to reflect any changes or substitutions therein, additions thereto, or deletions therefrom permitted by the Participation Agreement.

“Project Fund” shall mean the special trust fund designated as “Consolidated Edison Company of New York, Inc. Series 2004B Project Fund” created and established under, and to be held and administered by the Trustee as provided in, Section 8.01.

“Purchase Price” shall mean the purchase price of Bonds tendered or deemed tendered for purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09, consisting of the principal amount of such Bonds together with any accrued and unpaid interest plus, in the event Bonds bearing interest at a Term Rate or a Fixed Rate are subject to tender for purchase pursuant to Section 5.04, any premium which would have been required to be paid as part of redemption price on any date on which such Bonds are subject to tender for purchase if such Bonds were subject to optional redemption pursuant to Section 5.01 on such date. With respect to Bonds tendered for purchase on an Interest Payment Date, Purchase Price shall include any accrued interest on such Bonds which is not otherwise being paid pursuant to Section 9.03(a).

“Rate Index” means the Daily Rate Index, the Fixed Rate Index, the Commercial Paper Rate Index, the Monthly Rate Index, the Semi-annual Rate Index, the Term Rate Index, or the Weekly Rate Index.

“Rating Agency” means Moody’s, if the Bonds are then rated by Moody’s, S&P, if the Bonds are then rated by S&P, and Fitch, if the Bonds are then rated by Fitch.

“rating category” shall mean one of the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such rating category by a numerical modifier, plus or minus sign, or otherwise.

“Record Date”, at any time, shall mean each Commercial Paper Period Record Date during a Commercial Paper Rate Period, each Auction Rate Bonds Period Record Date during an Auction Rate Period, each Daily Period Record Date during a Daily Rate Period, each Weekly Period Record Date during a Weekly Rate Period, each Monthly Period Record Date

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during a Monthly Rate Period, each Semi-annual Period Record Date during a Semi-annual Rate Period, each Term Period Record Date during a Term Rate Period and each Fixed Rate Record Date during a Fixed Rate Period.

“Registrar and Paying Agent” shall mean The Bank of New York in its separate capacity as Registrar and Paying Agent for the Bonds, or its successors or assigns.

“Remarketing Agent” shall mean the Remarketing Agent or Remarketing Agents appointed pursuant to Section 11.14, its or their successors or assigns, including without limitation any Market Agent appointed in connection with Auction Rate Bonds of a subseries.

“Remarketing Agreement” shall mean any Market Agent Agreement between the Company and a Market Agent dated the Closing Date and any agreement or agreements entered into between the Company and one or more successor Remarketing Agents, as from time to time amended, including without limitation any Market Agent Agreement, pursuant to which the applicable Remarketing Agent undertakes to perform its duties and obligations hereunder during a period of time specified in such agreement.

“Responsible Officer” shall mean, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Revenues” shall mean and include all income, revenues and monies derived by the Authority under the Participation Agreement and the Note (except administrative compensation and indemnification payable under the Participation Agreement), and, without limiting the generality of the foregoing, shall include to the extent provided in this Indenture, earnings on the investment of monies held under this Indenture and the proceeds of the sale of any such investments. The term “Revenues” shall not include monies received as proceeds from the sale of the Bonds or any other bonds, notes or evidences of indebtedness or as grants or gifts.

“S&P” shall mean Standard & Poor’s, a division of The McGraw-Hill Companies and its successor or successors, and if such corporation shall for any reason no longer perform the functions of a securities rating agency or if S&P shall be replaced, subject to the definition of “prevailing rating” in the definition of Applicable Percentage, by some other nationally recognized rating agency by the Authority at the request of the Company, “S&P” shall be deemed to refer to such other nationally recognized rating agency designated by the Authority at the request of the Company.

“Securities Depository” shall mean The Depository Trust Company and its successors and assigns or if (i) the then Securities Depository resigns from its functions as depository of the Bonds or (ii) the Authority discontinues use of the then Securities Depository pursuant to Section 2.03, any other securities depository which agrees to follow the procedures

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required to be followed by a Securities Depository in connection with the Bonds and which is selected by the Authority, with the consent of the Company, the Trustee, the Auction Agent and the applicable Remarketing Agent pursuant to Section 2.03.

“Securities Exchange Act” shall mean the Securities Exchange Act of 1934, as amended.

“Sell Order” shall mean with respect to Auction Rate Bonds, Sell Order as defined in Section 3.06.

“Semi-annual Period Record Date” shall mean, with respect to each Interest Payment Date during a Semi-annual Rate Period, the fifteenth day of the calendar month next preceding such Interest Payment Date.

“Semi-annual Rate” shall mean with respect to each Calculation Period during a Semi-annual Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Semi-annual Rate Index on and as of such date and the Maximum Allowed Rate.

“Semi-annual Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Semi-annual Rate Period, the average of six-month yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent’s judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or the other debt obligations supported by support facilities issued by the issuer of a Support Facility or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency and not have any outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from

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time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Semi-annual Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Semi-annual Rate Period” shall mean any period during which Bonds bear interest at a Semi-annual Rate, which period shall commence on the effective date of a Change in the Interest Rate Mode to a Semi-annual Rate, and shall extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode, or (b) the Stated Maturity.

“Standard Auction Period” initially shall mean an Auction Period of 35 days, and after the establishment of a different Standard Auction Period pursuant to Section 3.04, shall mean such different Standard Auction Period.

“State” shall mean any state of the United States of America.

“Stated Maturity” with respect to the Bonds shall mean January 1, 2039, provided that, subject to the next sentence, in any case where the date of maturity of, or payment of premium on, interest on, or principal of, the Bonds or the date fixed for redemption of any Bonds shall be on a day other than a Business Day, then payment of interest, principal and premium, if any, need not be made on such date but may be made (without additional interest) on the next succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption. Notwithstanding anything in this Indenture to the contrary, in no event shall the final maturity date of the Bonds extend beyond 35 years from the Closing Date, and the length of any Auction Period shall be reduced at the discretion of the Authority to the extent necessary to ensure compliance with the provisions of this sentence.

“Statutory Corporate Tax Rate” shall mean as of any date of determination the highest tax rate bracket (expressed in decimals) now or hereafter applicable in each taxable year on the taxable income of every corporation as set forth in Section 11 of the Code or any successor section with regard to any minimum additional tax provision or provisions regarding changes in rates during a taxable year, which on the date hereof is .35. Any change in the Statutory Corporate Tax Rate shall be evidenced by a certificate of the Company.

“Submission Deadline” shall mean 1:00 p.m., New York City time, on any Auction Date or such other time on any such Auction Date by which Broker-Dealers are required to submit Orders to the Auction Agent as specified by the Auction Agent from time to time.

“Submitted Bid” shall mean with respect to Auction Rate Bonds, Submitted Bid as defined in Section 3.08.

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“Submitted Hold Order” shall mean with respect to Auction Rate Bonds, Submitted Hold Order as defined in Section 3.08.

“Submitted Order” shall mean with respect to Auction Rate Bonds, Submitted Order as defined in Section 3.08.

“Submitted Sell Order” shall mean with respect to Auction Rate Bonds, Submitted Sell Order as defined in Section 3.08.

“Substitute Commercial Paper Dealers” shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated or any other commercial paper dealers specified by the Authority at the request of the Company or their respective affiliates or successors, if any such person is a commercial paper dealer, provided that none of such persons nor any of their affiliates or successors shall be a Commercial Paper Dealer.

“Substitute U.S. Government Securities Dealer” shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated or any other dealer or dealers in U.S. government securities that may be specified by the Authority at the request of the Company at the time of a Change in the Interest Rate Mode to an Auction Rate, or their respective affiliates or successors, if any such person is a dealer in U.S. government securities, provided that none of such persons nor any of their affiliates or successors shall be a U.S. Government Securities Dealer.

“Sufficient Clearing Bids” shall mean with respect to Auction Rate Bonds, Sufficient Clearing Bids as defined in Section 3.08.

“Supplemental Indenture” shall mean any indenture between the Trustee and the Authority entered into pursuant to and in compliance with the provisions of Article XIV hereof amending or supplementing the provisions of this Indenture as originally executed or as theretofore amended or supplemented.

“Supplemental Participation Agreement” shall mean an agreement supplementing or amending the Participation Agreement entered into pursuant to and in compliance with the provisions of Article XIV.

“Support Facility” shall mean any instrument satisfactory to the Authority entered into or obtained in connection with the Bonds, such as a letter of credit, committed line of credit, insurance policy, surety bond or standby bond purchase agreement, or any combination of the foregoing, and issued by a bank or banks, insurance company, other financial institution or institutions, or any combination of the foregoing which provides for the payment of (i) the Purchase Price on Bonds tendered for purchase pursuant to the provisions hereof and the Bond Purchase Trust Agreement and/or (ii) principal of and interest on all Bonds coming due and payable during the term thereof.

“Support Facility Issuer” shall mean any bank or banks, or other financial institution or institutions which is the issuer of any Support Facility.

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“Tax Regulatory Agreement” shall mean the Tax Regulatory Agreement, dated the Closing Date, between the Authority and the Company, and any and all modifications, alterations, amendments and supplements thereto.

“Term Period Record Date” shall mean, with respect to each Interest Payment Date during a Term Rate Period, the fifteenth day of the month next preceding such Interest Payment Date.

“Term Rate” shall mean with respect to each Calculation Period during a Term Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket such Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such rate of interest shall not exceed the lesser of 110% of the Term Rate Index on and as of such date and the Maximum Allowed Rate.

“Term Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Term Rate Period, the average of the yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), having a term approximately equal to the Term Rate Period or which are subject to optional or mandatory tender by the owner thereof at the end of a term approximately equal to the Term Rate Period, the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in one of its two highest long-term debt rating categories, each Component Issuer must have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its two highest long-term debt rating categories (and the Bonds are not rated in one of the two highest such categories by the other Rating Agency), each Component Issuer must have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Term Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Term Rate Period” shall mean any period during which Bonds bear interest at a Term Rate which period shall commence with the effective date of the Change in the Interest Rate Mode to a Term Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of another Change in the Interest Rate Mode or (b) the Stated Maturity.

“Terminating Event” shall mean:

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(a) Any event or events under the terms of a Support Facility or any agreement providing for the issuance of such Support Facility which would cause the termination of such Support Facility but would specifically allow for the mandatory tender of Bonds pursuant to Section 5.09 with a draw on or borrowing or payment under such Support Facility prior to such termination; or

(b) Receipt by the Trustee of written notice from the financial institution providing any Direct-Pay Credit Facility following a draw on or borrowing or payment under such Direct-Pay Credit Facility for payment of interest on the Bonds that the amount so drawn, borrowed or paid has not been reinstated in the amount of such drawing.

“Treasury Rate” on any date, shall mean (i) the yield, calculated in accordance with prevailing industry convention, of the rate on the most recently auctioned direct obligations of the U.S. Government having a maturity at the time of issuance of 364 days or less with a remaining maturity closest to the length of such Auction Period, as quoted in The Wall Street Journal on such date for the Business Day next preceding such date; or (ii) in the event that any such rate is not published in The Wall Street Journal, then the bond equivalent yield, calculated in accordance with prevailing industry convention, as calculated by reference to the arithmetic average of the bid price quotations of the most recently auctioned direct obligation of the U.S. Government having a maturity at the time of issuance of 364 days or less with a remaining maturity closest to the length of such Auction Period, based on bid price quotations on such date obtained by the Auction Agent from a U.S. Government Securities Dealer. If any U.S. Government Securities Dealer does not quote a rate required to determine the Treasury Rate, the Treasury Rate shall be determined on the basis of the quotation or quotations furnished by the remaining U.S. Government Securities Dealer or Dealers and any Substitute U.S. Government Securities Dealer or Dealers selected by the Authority at the request of the Company to provide such rate or rates not being supplied by any U.S. Government Securities Dealer or U.S. Government Securities Dealers, as the case may be, or, if the Authority does not select any such Substitute U.S. Government Securities Dealer or Substitute U.S. Government Securities Dealers, by the remaining U.S. Government Securities Dealer or U.S. Government Securities Dealers.

“Trust Estate” shall mean the meaning assigned to such term in the first paragraph following the recitals herein.

“Trustee” shall mean the corporation having trust powers appointed by the Authority as Trustee hereunder and serving as such hereunder, and any surviving, resulting or transferee corporation as provided in Section 11.13. References to principal office of the Trustee shall mean the Principal Corporate Trust Office of the Trustee.

“U.S. Government” shall mean the Federal government of the United States of America.

“U.S. Government Securities Dealers” shall mean the Market Agents for any Auction Rate Bonds, or, in lieu of any thereof, their respective affiliates or successors, provided that any such entity is a U.S. Government securities dealer.

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“Weekly Period Record Date” shall mean, with respect to each Interest Payment Date during a Weekly Rate Period, the Business Day next preceding such Interest Payment Date.

“Weekly Rate” shall mean with respect to each Calculation Period during a Weekly Rate Period, a rate of interest equal to the rate of interest per annum established and certified to the Trustee (with a copy to the Authority, the Registrar and Paying Agent and the Company) by a Remarketing Agent no later than 12:00 noon (New York City time) on and as of the Determination Date as the minimum rate of interest per annum which, in the opinion of such Remarketing Agent, would be necessary on and as of such day to remarket Bonds in a secondary market transaction at a price equal to the principal amount thereof plus accrued interest thereon; provided that such rate of interest shall not exceed the lesser of 110% of the Weekly Rate Index on and as of such date and the Maximum Allowed Rate.

“Weekly Rate Index” shall mean with respect to the Determination Date of each Calculation Period during a Weekly Rate Period, the average of 30-day yield evaluations at par, determined by the Indexing Agent, of securities (whether or not actually issued), the interest on which is not included in gross income for Federal income tax purposes, of no fewer than ten Component Issuers selected by the Indexing Agent, including issuers of commercial paper, project notes, bond anticipation notes and tax anticipation notes, computed by the Indexing Agent on and as of such day. If the Bonds are rated by a Rating Agency in its highest note or commercial paper rating category or one of its two highest long-term debt rating categories, each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its highest note or commercial paper rating category or (b) not have outstanding notes or commercial paper rated by a Rating Agency but have outstanding securities rated by a Rating Agency in one of its two highest long-term debt rating categories. If the Bonds are rated by a Rating Agency in a rating category that is lower than its highest note or commercial paper rating category or its two highest long-term debt rating categories (and the Bonds are not rated in one of such categories by the other Rating Agency), each Component Issuer must (a) have outstanding securities rated by a Rating Agency in its note or commercial paper rating category which is the same or correlative, in the Indexing Agent’s judgment, to the note or commercial paper rating category or the long-term debt rating category of the Bonds or (b) have outstanding securities rated by a Rating Agency in the same long-term debt rating category as the Bonds are rated by that Rating Agency and not have any outstanding notes or commercial paper rated by such Rating Agency. The Indexing Agent may change the Component Issuers from time to time in its discretion, subject to the foregoing requirements. In addition, at the request of the Company and upon delivery to the Trustee of an Opinion of Bond Counsel that such action will not adversely affect the exclusion of interest on the Bonds from gross income of the owners thereof for Federal income tax purposes, the Authority, with the consent of the Company, may designate a new method of setting the Weekly Rate Index in the event any of the above-described methods are determined by the Authority to be unavailable, impracticable or unrealistic in the market place.

“Weekly Rate Period” shall mean any period during which the Bonds bear interest at a Weekly Rate; the first such period shall commence on the effective date of a Change in the Interest Rate Mode to a Weekly Rate and shall extend through the day immediately preceding the earlier of (a) the effective date of a successive Change in the Interest Rate Mode or (b) the Stated Maturity.

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“Winning Bid Rate” shall mean with respect to Auction Rate Bonds, Winning Bid Rate as defined in Section 3.08.

SECTION 1.02. Definitions of General Terms. Whenever in this Indenture any governmental unit including the Authority or any official, officer, director or department of a governmental unit, is defined or referred to, such definition or reference shall be deemed to include the governmental unit or official, officer, board, agency, commission, body or department succeeding to or in whom or in which is vested, the functions, rights, powers, duties and obligations of such governmental unit, official, officer, director or department, as the case may be, encompassed by this Indenture.

Unless the context shall clearly indicate otherwise or may otherwise require, in this Indenture words importing persons include firms, partnerships, associations, corporations (public and private), public bodies and natural persons, and also include executors, administrators, trustees, receivers or other representatives.

Unless the context shall clearly indicate otherwise or may otherwise require computation on other than an annual basis, in this Indenture whenever any interest rate or rate of interest is defined or referred to, such rate shall be a rate per annum.

Unless the context shall clearly indicate otherwise or may otherwise require, in this Indenture: (i) references to articles, sections and other subdivisions, whether by number or letter or otherwise, are to the respective or corresponding articles, sections and subdivisions of this Indenture, as such articles, sections or subdivisions may be amended from time to time; (ii) the terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms, refer to this Indenture and to this Indenture as a whole and not to any particular article, section or subdivision hereof; and (iii) the word “heretofore” means before the time of effectiveness of this Indenture; and the word “hereafter” means after the time of effectiveness of this Indenture.

ARTICLE II

AUTHORIZATION OF BONDS

SECTION 2.01. Limitation on Issuance of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with the provisions of this Article.

SECTION 2.02. Authorization of Bonds. 1. There is hereby created and established under this Indenture one issue of revenue bonds of the Authority, limited to \$146,975,000 in aggregate principal amount, of “Facilities Revenue Bonds, Series 2004B (Consolidated Edison Company of New York, Inc. Project)”. In order to distinguish between Bonds which are subject to different interest rate determination methods and other features and to distinguish the portion of the Bonds to be offered or remarketed by any particular underwriter or Remarketing Agent, the Bonds may be designated and redesignated from time to time by the Authority in such a way as to identify one or more subseries of the Bonds. Such subseries may be designated as subseries B-1, subseries B-2, or subseries B-3, as the case may be, or may be further redesignated as subseries B-1-1, subseries B-1-2, or subseries B-1-3, as the case may be, and so forth. Each Bond shall bear upon the face thereof such designation or redesignation, if any. In the event any Bonds are designated as one or more subseries, all references to a series of the Bonds in this Indenture shall refer to each such subseries unless the context otherwise requires. The Bonds, upon original issuance, shall be issued in five separate subseries designated as “2004B-1-1” in the principal amount of \$36,750,000 (the “Series 2004B-1-1 Bonds”), “2004B-1-2” in the principal amount of \$36,750,000 (the “Series 2004B-1-2 Bonds”), “2004B-1-3” in the principal amount of \$36,750,000 (the “Series 2004B-1-3 Bonds”), “2004B-1-4” in the principal amount of \$16,975,000 (the “Series 2004B-1-4 Bonds”) and “2004B-2” in the principal amount of \$19,750,000 (the “Series 2004B-2 Bonds”).

2. The Bonds shall be secured by the Trust Estate. The lien, pledge, charge and assignment of the Trust Estate created hereby shall be valid and binding from the time of the effectiveness of this Indenture, as set forth in Section 17.11, and the Note Payments made under the Note and the Participation Agreement shall be immediately subject thereto upon receipt by the Trustee.

3. The Bonds are limited obligations of the Authority payable solely from payments to be made by the Company pursuant to the Note and the Participation Agreement and the other monies, rights and properties pledged hereunder, hereafter obtained with respect thereto and secured by a pledge from the Authority to the Trustee of the Participation Agreement and the Note. The Bonds shall not be a debt of the State of New York, and the State of New York shall not be liable thereon.

4. The covenants and agreements herein set forth to be performed by the Authority shall be for the benefit, security and protection of any Holder of the Bonds and the Bond Insurer.

5. The Bonds shall be issued under this Indenture for the purpose of paying a portion of the redemption price of the Prior Bonds.

6. The Bonds bearing a Commercial Paper Rate, a Daily Rate, a Weekly Rate or a Monthly Rate shall be fully registered Bonds in the denomination of \$100,000 or any integral multiple thereof. The Bonds bearing an Auction Rate shall be fully registered Bonds in the denomination of \$25,000 or any integral multiple thereof. The Bonds bearing a Semi-annual Rate, a Term Rate or a Fixed Rate shall be fully registered Bonds in the denomination of \$5,000 or any integral multiple thereof.

7. The Bonds shall be numbered consecutively from “2004B- [insert “1-1, 1-2, 1-3, 1-4 or 2”, as appropriate]-1” upwards as issued, or as otherwise provided by the Registrar and Paying Agent. If the Bonds are redesignated to identify one or more additional subseries, the Bonds shall be numbered in accordance with their subseries designation. The Bonds shall mature on the Stated Maturity.

8. The Bonds shall be initially issued in fully registered form, without coupons, and dated their date of first authentication and delivery.

9. Upon any partial Change in the Interest Rate Mode for a subseries of Bonds from an Auction Rate for an Auction Rate Period, there shall be Outstanding an aggregate principal amount of not less than \$10,000,000 of Auction Rate Bonds for such subseries and in the applicable denominations set forth in Section 2.02.7.

10. Neither the Trustee nor any Holder of the Bonds shall be required to see that monies derived from such Bonds are applied to the purpose or purposes for which such Bonds are issued.

SECTION 2.03. Global Form; Securities Depository. 1. Except as otherwise provided in this Section 2.03, the Bonds in the form of one separate global bond for each subseries shall be registered in the name of the Securities Depository or its nominee and ownership thereof shall be

maintained in book entry form by the Securities Depository for the account of the Agent Members thereof.

Except as provided in Subsections (3) and (4) of this Section 2.03, the Bonds of any subseries may be transferred, in whole but not in part, only to the Securities Depository or a nominee of the Securities Depository, or to a successor Securities Depository selected or approved by the Authority, with the consent of the Company, the Trustee, the Auction Agent (if any) and the Remarketing Agent for such subseries, or to a nominee of such successor Securities Depository. Each global certificate for the Bonds shall bear a legend substantially to the following effect: "Except as otherwise provided in Section 2.03 of the Indenture, this global bond may be transferred, in whole but not in part, only to the Securities Depository as defined in the Indenture or a nominee of the Securities Depository or to a successor Securities Depository or to a nominee of a successor Securities Depository."

2. The Authority, the Company, the Trustee, the Registrar and Paying Agent, the Auction Agent (if any) and the applicable Remarketing Agent shall have no responsibility or obligation with respect to:

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- (a) the accuracy of the records of the Securities Depository or any Agent Member with respect to any beneficial ownership interest in the Bonds;
- (b) the delivery to any Agent Member, beneficial owner of the Bonds or other person, other than the Securities Depository or its nominee as registered owner, of any notice with respect to the Bonds;
- (c) the payment to any Agent Member, beneficial owner of the Bonds or other person, other than the Securities Depository or its nominee as registered owner, of any amount with respect to the principal or premium, if any, or interest on the Bonds;
- (d) its acceptance of any consent given by the Securities Depository or other action taken by the Securities Depository as registered owner; or
- (e) the selection by the Securities Depository or any Agent Members of any beneficial owners to receive payment in the event of a partial redemption of Bonds, except for the Trustee's obligations under Section 5.12.

So long as the certificates for the Bonds of any subseries issued under the Indenture are not issued pursuant to Subsection (4) of this Section 2.03, the Authority, the Company, the Trustee, the Auction Agent (if any), the applicable Remarketing Agent and the Registrar and Paying Agent may treat the Securities Depository as, and deem the Securities Depository to be, the absolute owner of such series or subseries of Bonds for all purposes whatsoever, including without limitation:

- (a) the payment of principal and premium, if any, and interest on such series or subseries of the Bonds;
- (b) giving notices of redemption and other matters with respect to such series or subseries of the Bonds; and
- (c) registering transfers with respect to such series or subseries of the Bonds.

Payment by the Trustee of principal or redemption price, if any, of and premium, if any, and interest on such Bonds to or upon the order of the Securities Depository or its nominee during any period when it is the registered owner of such Bonds shall be valid and effective to satisfy and discharge fully the Authority's obligation with respect to the amounts so paid.

3. (a) The Authority may discontinue the use of a Securities Depository for the Bonds at the time of a Change in the Interest Rate Mode.

(b) Registered ownership of the Bonds may be transferred on the registration books of the Authority maintained by the Registrar and Paying Agent and the Bonds may be delivered in physical form to the following: (i) any successor Securities Depository or its nominee; or (ii) any person, upon (A) the resignation of the Securities Depository or (B) the termination by the Authority of the use of the Securities Depository from its

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functions as depository as set forth in this section, or (C) upon any Change in the Interest Rate Mode to any Adjustable Rate other than an Auction Rate.

(c) Upon any Change in the Interest Rate Mode to an Auction Rate, the Registrar and Paying Agent shall register the Auction Rate Bonds in the name of the Securities Depository or its nominee and on the effective date of such change provide the Company with a list of the Existing Holders of the Auction Rate Bonds.

4. If at any time the Securities Depository notifies the Authority and the Company that it is unwilling or unable to continue as Securities Depository with respect to the Bonds or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act or other applicable statute or regulation and a successor Securities Depository is not appointed by the Authority with the consent of the Company, the Trustee, the Auction Agent (if any) and the applicable Remarketing Agent, within 90 days after the Authority and the Company receive notice or become aware of such condition, as the case may be, this Section shall no longer be applicable and the Authority shall execute and the Trustee shall authenticate and deliver certificates representing the Bonds of such series or subseries as provided below. In addition, the Authority may determine at any time, at the request of the applicable Remarketing Agent, that the Bonds shall no longer be represented by global bonds and that the provisions of Subsections (1) and (2) above shall no longer apply to such series or subseries of Bonds. In any such event the Authority shall execute and the Trustee shall authenticate and deliver certificates representing the Bonds of such series or subseries as provided below. Certificates for the Bonds of any series or subseries issued in exchange for a global bond pursuant to this Subsection shall be registered in such names in authorized denominations as the Securities Depository, pursuant to instructions from the Agent Members or otherwise, shall instruct the Authority and the Trustee. The Trustee shall deliver such certificates representing the Bonds of such series or subseries to the persons in whose names such Bonds are so registered on the Business Day immediately

preceding the first day of an Auction Period (with respect to Auction Rate Bonds during any Auction Rate Period), or the effective date of a Change in the Interest Rate Mode (with respect to any other Change in the Interest Rate Mode), as the case may be.

5. The Authority and the Trustee are hereby authorized to enter into any arrangements determined necessary or desirable with any Securities Depository in order to effectuate this Section and both of them shall act in accordance with this Indenture and any such agreement. Without limiting the generality of the foregoing, any such arrangements may alter the manner of effecting delivery of Bonds and the transfer of funds for the payment of Bonds to the Securities Depository.

SECTION 2.04. Limitations on Transfer. So long as the ownership of the Auction Rate Bonds is maintained in book-entry form by the Securities Depository, a beneficial owner or an Existing Holder may sell, transfer or otherwise dispose of Auction Rate Bonds only pursuant to a Bid or Sell Order placed in an Auction or to a Broker-Dealer, provided, however, that (a) sale, transfer or other disposition of Auction Rate Bonds from a customer of a Broker-Dealer who is listed on the records of that Broker-Dealer as the holder of such Auction Rate Bonds to that Broker-Dealer or another customer of that Broker-Dealer shall not be deemed to

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be a sale, transfer or other disposition for purposes of this Section 2.04 if such Broker-Dealer remains the Existing Holder of the Auction Rate Bonds so sold, transferred or disposed of immediately after such sale, transfer or disposition and (b) in the case of all transfers other than pursuant to Auctions such Broker-Dealer to whom such transfer is made shall advise the Auction Agent of such transfer.

SECTION 2.05. Application of Bond Proceeds. The proceeds of sale of the Bonds shall be deposited with the Trustee for deposit in the Project Fund to be paid out in accordance with Section 8.01.

SECTION 2.06. Delivery of the Bonds. The Bonds shall be executed by the Authority substantially in the form prescribed by Section 16.01 and in the manner herein set forth and shall be deposited with the Trustee for authentication, but before the Bonds shall initially be delivered by the Trustee, there shall be filed with the Trustee the following:

- (a) an order executed by an Authorized Officer directing the authentication and delivery of the Bonds to or upon the order of the Securities Depository or its nominee, upon payment to the Trustee of the purchase price therein set forth;
- (b) a fully executed counterpart of this Indenture;
- (c) a fully executed counterpart of the Participation Agreement;
- (d) a fully executed counterpart of each Market Agent Agreement;
- (e) the fully executed Policies;
- (f) the fully executed Note;
- (g) a fully executed counterpart of the Bond Purchase Trust Agreement;
- (h) a fully executed counterpart of the Tax Regulatory Agreement;
- (i) an opinion of counsel to the Company, addressed to the Underwriters (as defined in the Bond Purchase Agreement), with reliance letter addressed to the Authority, the Trustee and the Bond Insurer, substantially to the effect, and dated as, required by Section 7(d)(9)(ii) of the Bond Purchase Agreement;
- (j) opinion of counsel to the Bond Insurer, addressed to the Authority, the Company, and the Trustee, substantially to the effect required by Section 7(d)(9)(iv) of the Bond Purchase Agreement;
- (k) Opinion of Bond Counsel to the Authority and the Trustee (i) as to the validity of the Bonds and (ii) that all conditions precedent to the issuance of the Bonds have been met.

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When the documents mentioned in clauses (a) to (k), inclusive, of this Section shall have been filed with the Trustee, and when the Bonds shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver the Bonds to the Securities Depository, but only upon payment to the Trustee of the purchase price of the Bonds specified in said order.

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ARTICLE III

INTEREST ON BONDS

SECTION 3.01. Interest on Bonds-General.

1. Interest accruing on Bonds bearing interest at a Commercial Paper Rate, a Daily Rate, a Weekly Rate, a Monthly Rate or a Semi-annual Rate, shall be computed on the basis of a 365 or 366-day year, as applicable, for the number of days actually elapsed. Interest accruing on Bonds

bearing interest at a Term Rate or a Fixed Rate shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. Interest accruing on Bonds bearing interest at an Auction Rate during an Auction Period of 180 days or less shall be computed on the basis of a 360-day year for the number of days actually elapsed. Interest accruing on Bonds bearing interest at an Auction Rate during an Auction Period of over 180 days shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. Bonds shall bear interest from the date of issuance thereof payable in arrears on each Interest Payment Date. The Bonds issued upon registration of transfers or exchanges of Bonds shall bear interest from the Interest Payment Date next preceding their date of authentication, unless the date of authentication is an Interest Payment Date in which case such Bonds shall bear interest from such date, or unless the date of authentication is after the Record Date next preceding the next succeeding Interest Payment Date, in which case such Bonds shall bear interest from such next succeeding Interest Payment Date.

2. The Bonds shall initially bear interest at an Auction Rate as specified in Section 3.03.1. From and after any Change in the Interest Rate Mode pursuant to Section 4.01 or 4.02, the Bonds with respect to which such change is effective shall bear interest determined in accordance with the provisions of this Indenture pertaining to the new Adjustable Rate or the Fixed Rate, as the case may be. Bonds shall bear interest for each Calculation Period, Auction Period or Fixed Rate Period, as the case may be, at the rate of interest per annum for such Calculation Period, Auction Period or Fixed Rate Period established in accordance with this Indenture. Interest shall be payable on each Interest Payment Date by check mailed to the registered owner at his or her address as it appears on the registration books kept by the Registrar and Paying Agent pursuant to the Indenture at the close of business on the applicable Record Date; provided, that (i) while the Securities Depository is the registered owner of the Bonds, all payments of principal of, premium, if any, and interest on the Bonds shall be paid to the Securities Depository or its nominee by wire transfer, (ii) prior to and including a Fixed Rate Conversion Date, interest on the Bonds shall be payable to any registered owner of at least one million dollars (\$1,000,000) in aggregate principal amount of Bonds by wire transfer, upon written notice received by the Registrar and Paying Agent at least five days prior to the applicable Record Date, from such registered owner containing the wire transfer address (which shall be in the continental United States) to which such registered owner wishes to have such wire directed and (iii) during a Commercial Paper Rate Period, interest shall be payable on the Bonds only upon presentation and surrender thereof to the Registrar and Paying Agent upon purchase thereof pursuant to Section 5.03 and if such presentation and surrender is made by 2:00 p.m. (New York City time) such payment shall be by wire transfer. If and to the extent that there shall be a default in the payment of the interest due on any Interest Payment Date,

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such interest shall cease to be payable to the person in whose name each Bond of such series was registered on such applicable Record Date and shall be payable, when and if paid to the person in whose name each Bond of such series is registered at the close of business on the record date fixed therefor by the Trustee, which shall be the fifth Business Day next preceding the date of the proposed payment. Except as provided above, payment of the principal of and premium, if any, on all Bonds shall be made upon the presentation and surrender of such Bonds at the principal office of the Registrar and Paying Agent as the same shall become due and payable. The principal of and premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

3. Not less than one Business Day prior to each Computation Date and two Business Days prior to a Fixed Rate Conversion Date, the Indexing Agent shall establish and provide to the applicable Remarketing Agent the related rate index as set forth in the definition of such rate index in Section 1.01; provided that, for each Calculation Period during a Daily Rate Period, the Indexing Agent shall establish and provide the related rate index to the applicable Remarketing Agent on each Determination Date; and provided further that, for each Calculation Period during a Monthly Rate Period, the Indexing Agent shall establish and provide the related rate index to the applicable Remarketing Agent not later than each Computation Date. Notwithstanding the foregoing, in the event that the applicable Remarketing Agent, in its sole judgment, shall determine on a Determination Date that any Daily Rate Index, Weekly Rate Index or any Commercial Paper Rate Index so established is sufficiently non-representative of current market conditions that the Bonds may not be remarketed at par if such rate is set at a rate not greater than 110% of the applicable rate index, the applicable Remarketing Agent may establish a new rate index on a Determination Date in accordance with the procedures and standards described in the definition of such rate index and for purposes of such rate index so established, all references to Indexing Agent in this Indenture shall be deemed to refer to the applicable Remarketing Agent. On any date when any Weekly Rate Index or any Commercial Paper Rate Index is established by a Remarketing Agent pursuant to this paragraph, such rate index shall have the respective meaning set forth in Section 1.01 (except as otherwise provided in the preceding sentence); provided that for any Commercial Paper Rate Index, the applicable Remarketing Agent shall select securities (whether or not actually issued) having a term approximately equal to the applicable Commercial Paper Rate Period or which are subject to optional or mandatory tender by the owner thereof at the end of a term approximately equal to (or as close thereto as is practicably available) the applicable Commercial Paper Rate Period.

4. By 12:00 noon (New York City time) on each Determination Date or by 3:00 p.m. (New York City time) on each Auction Date, as the case may be, the applicable Remarketing Agent or the Auction Agent, as the case may be, shall make available to the Authority, the Trustee, the Registrar and Paying Agent, any issuer of a Support Facility, the Company, any Broker-Dealer or any registered owner of a Bond the interest rate or rates determined on such Determination Date or Auction Date.

5. If for any reason on any Determination Date (A) any rate of interest for a Calculation Period is not determined by the applicable Remarketing Agent, (B) no Remarketing Agent is serving as such hereunder or (C) the rate so determined is held to be invalid or

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unenforceable by a final judgment of a court of competent jurisdiction, (i) during any Daily Rate Period, the interest rate for the next succeeding Calculation Period shall be the last interest rate in effect, or, if a Daily Rate is not determined by the applicable Remarketing Agent hereunder for five or more consecutive Business Days on the next and each succeeding Determination Date, the Daily Rate shall be a rate per annum equal to 80% of the latest 30-day dealer taxable commercial paper rate published by the Federal Reserve Bank of New York on or immediately before such Determination Date, (ii) during any Weekly Rate Period, the interest rate for the next succeeding Calculation Period shall be the last interest rate in effect, or, if a Weekly Rate is not determined by the applicable Remarketing Agent for two or more consecutive Calculation Periods, the Weekly Rate shall be equal to 85% of the latest 30-day dealer taxable commercial paper rate published by the Federal Reserve Bank of New York on or before the day next preceding such Determination Date, (iii) during any Monthly Rate, Semi-annual Rate or Term Rate Period, the interest rate per annum for the next succeeding Calculation Period shall be equal to 85% of the rate listed in the table most recently circulated by the United States Treasury Department known as "Table [applicable dates shown on the most recent Table], Maximum Interest Rate Payable on United States Treasury Certificates of Indebtedness, Notes and Bonds-State and Local Government Series Subscribed for During Period [applicable dates shown on the most recent Table]" or any substantially equivalent table circulated by the United States Treasury Department for the maturity most closely approximating the Calculation Period, and (iv) during any Commercial Paper Rate Period, the next

succeeding Calculation Period shall be a Calculation Period which shall consist of the period from and including the prior Interest Payment Date to but excluding the first Business Day of the following calendar month and the Commercial Paper Rate shall be equal to 85% of the interest rate applicable to 90-day United States Treasury Bills determined on the basis of the average per annum discount rate at which such 90-day Treasury Bills shall have been sold at the most recent Treasury auction within the 30 days next preceding such Calculation Period, or if there shall have been no such auction within the 30 days next preceding such Calculation Period, the Commercial Paper Rate shall be equal to the rate of interest borne by such Bond during the next preceding Calculation Period for such Bond. The rate of interest or Calculation Period and related Commercial Paper Rate shall be established pursuant to this Subsection 5 until the applicable Remarketing Agent again determines the rates of interest or Calculation Periods and related Commercial Paper Rates in accordance with this Indenture. The Trustee shall, upon the direction of the Company, select any person otherwise meeting the qualifications of Section 11.14 to obtain, calculate and prepare any of the information required by this Subsection 5.

6. The determination of any rate of interest for a subseries of Bonds by a Remarketing Agent in accordance with this Indenture or by the Auction Agent in accordance with the Auction Procedures applicable to Auction Rate Bonds, or the establishment of Calculation Periods or Auction Periods by a Remarketing Agent as provided in this Indenture shall be conclusive and binding upon the Authority, the Company, the Trustee, the Registrar and Paying Agent, such Remarketing Agent, the Auction Agent, any issuer of a Support Facility, the Broker-Dealers for such subseries of Bonds and the registered or beneficial owners of such subseries of Bonds. Failure of such Remarketing Agent, the Trustee, the Registrar and Paying Agent, the Auction Agent or the Securities Depository or any Securities Depository

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participant to give any of the notices described in this Indenture, or any defect therein, shall not affect the interest rate to be borne by any of the Bonds nor the applicable Calculation Period or Auction Period nor in any way change the rights of the registered owners of the Bonds to tender their Bonds for purchase or to have them redeemed in accordance with this Indenture.

7. No transfer or exchange of Bonds shall be required to be made by the Registrar and Paying Agent after a Record Date until the next succeeding Interest Payment Date.

8. Except as otherwise provided in this Subsection 8, the Trustee shall calculate and notify the Registrar and Paying Agent of the amount of interest due and payable on each Interest Payment Date or date on which a Bond is subject to purchase by 10:00 a.m. on the Business Day next preceding such Interest Payment Date or date set for purchase, as the case may be, unless such date is a date on which the interest rate is determined, in which case the amount of interest due and payable shall be calculated by 12:15 p.m. on such date. In preparing such calculation the Trustee may conclusively rely on calculations or other services provided by the Auction Agent, the applicable Remarketing Agent, the Company or any person or persons selected by the Trustee in its discretion. During a Commercial Paper Rate Period, the applicable Remarketing Agent shall notify the Trustee, the Registrar and Paying Agent and the Company of the amount of interest due and payable on each Interest Payment Date by 10:00 a.m. on the Business Day next preceding such Interest Payment Date.

9. Anything herein to the contrary notwithstanding, in no event shall the interest rate borne by any Bond exceed the Maximum Allowed Rate.

10. Notwithstanding anything in this Indenture to the contrary, if Bonds have been in a Term Rate Period and there has been a failure to pay the Purchase Price of such Bonds on the Business Day immediately following a Calculation Period, such Bonds shall continue, to the extent permitted by applicable law, to bear interest at the then-existing Term Rate until such Purchase Price has been paid.

SECTION 3.02. Commercial Paper Rate.

1. During any Commercial Paper Rate Period, at or prior to 12:00 noon (New York City time) on each Determination Date, each Remarketing Agent shall establish Calculation Periods and related Commercial Paper Rates. In determining Calculation Periods, each Remarketing Agent shall take the following factors into account: (i) existing short-term taxable and tax-exempt market rates and indices of such short-term rates, (ii) the existing market supply and demand for short-term tax-exempt securities, (iii) existing yield curves for short-term and long-term tax-exempt securities or obligations having a credit rating that is comparable to the Bonds, (iv) general economic conditions, (v) economic and financial factors present in the securities industry that may affect or that may be relevant to the Bonds and (vi) any information available to such Remarketing Agent pertaining to the Company regarding any events or anticipated events which could have a direct impact on the marketability of or interest rates on the Bonds. Each Remarketing Agent shall select the Calculation Periods and the applicable Commercial Paper Rates that, together with all other Calculation Periods and related

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Commercial Paper Rates, in the sole judgment of the applicable Remarketing Agent, will result in the lowest overall borrowing cost on the Bonds or are otherwise in the best financial interests of the Company, as determined in consultation with the Company. Any Calculation Period established hereunder may not extend beyond the second Business Day next preceding the expiration date of the Support Facility or the day prior to the Stated Maturity.

2. The Authority, at the request of the Company, may place such limitations upon the establishment of Calculation Periods pursuant to Subsection 1 hereof as may be set forth in a written direction from the Authority, which direction must be received by the Trustee and the applicable Remarketing Agent prior to 10:00 a.m. (New York City time) on the day prior to any Determination Date to be effective on such date, but only if the Trustee receives an Opinion of Bond Counsel to the effect that such action is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Bonds from gross income for Federal income tax purposes.

SECTION 3.03. Auction Rate Period - Auction Rate: Auction Period - General.

1. During any Auction Rate Period, the Auction Rate Bonds shall bear interest at the Auction Rate determined as set forth in this Section 3.03 and Sections 3.04 through 3.10. The initial Auction Period for each subseries of the Bonds immediately after the Closing Date shall be a period from and including the Closing Date to and including the initial Auction Date for each such subseries. The initial Auction Date immediately after the Closing Date shall be March 3, 2004 for all subseries of the Bonds. The Auction Rate for the initial Auction Period immediately after the Closing Date shall be 0.85% in the case of the Series 2004B-1-1 Bonds, 0.75% in the case of the Series 2004 B-1-2 Bonds, 0.85% in the case of the Series 2004 B-1-3 Bonds,

0.85% in the case of the Series 2004 B-1-4 Bonds and 0.90% in the case of the Series 2004 B-2 Bonds. The initial Auction Period for each subseries of the Bonds immediately after any Change in the Interest Rate Mode to an Auction Rate, shall be a period from and including the effective date of such Change in the Interest Rate Mode to and including the initial Auction Date which shall be determined by the Authority, with notice to the Trustee, on or prior to the effective date of the Change in the Interest Rate Mode. The Auction Rate for any initial Auction Period immediately after any Change in the Interest Rate Mode to an Auction Rate for an Auction Rate Period, shall be the rate of interest per annum determined by the applicable Remarketing Agent, with notice to the Trustee, the Authority, the Registrar and Paying Agent and the Company, on a date not later than the effective date of such Change in the Interest Rate Mode as the minimum rate of interest which, in the opinion of such Remarketing Agent, would be necessary as of such date to market Auction Rate Bonds in a secondary market transaction at a price equal to the principal amount thereof; provided that such interest rate shall not exceed the Maximum Allowed Rate. For any other Auction Period, the Auction Rate shall be the rate of interest per annum that results from implementation of the Auction Procedures. If on any Auction Date the Auction Agent shall fail to determine, or for any reason fail to timely provide, a rate of interest pursuant to the Auction Procedures, the Auction Rate for the next succeeding Auction Period shall be extended at the same rate and such Auction Period and each succeeding Auction Period shall be a seven-day Auction Period until an Auction Period for which the Auction Agent shall determine and timely provide the

rate of interest pursuant to the Auction Procedures; provided, that, after three such periods during which such failure occurs, the Auction Rate shall become the Maximum Auction Rate until an Auction Period for which the Auction Agent shall determine and timely provide the rate of interest pursuant to the Auction Procedures. Determination of an Auction Rate pursuant to the Auction Procedures shall be suspended upon a Change in the Interest Rate Mode or the occurrence of a Payment Default. The Auction Rate for any Auction Period or remaining portion thereof following the occurrence of a Payment Default shall be equal to the Overdue Rate as determined on and as of the immediately preceding Auction Date. Upon the occurrence of a Payment Default that has not been waived or cured on or prior to any Auction Date, no Auction will be held, all Submitted Bids and Submitted Sell Orders shall be rejected, the existence of Sufficient Clearing Bids shall be of no effect and the Auction Rate for the next succeeding Auction Period shall equal the Overdue Rate on and as of such Auction Date. In the event of the suspension of the Auction Procedures due to a Payment Default, the Auction Procedures shall resume two Business Days after the date on which the Auction Agent receives notice from the Trustee that the Payment Default has been cured, with the next Auction to occur on the next regularly scheduled Auction Date occurring thereafter. The Overdue Rate shall be determined by the Trustee on each succeeding Auction Date.

2. Auction Periods may be established pursuant to Section 3.04 at any time unless a Payment Default has occurred and has not been cured. Each Auction Period shall be a Standard Auction Period unless a different Auction Period is established pursuant to Section 3.04 and each Auction Period which immediately succeeds a non-Standard Auction Period shall be a Standard Auction Period unless a different Auction Period is established pursuant to Section 3.04.

SECTION 3.04. Auction Rate Period - Auction Rate Bonds: Change of Auction Period by Authority.

1. During an Auction Rate Period, the Authority, at the request of the Company, may change the length of a single Auction Period or the Standard Auction Period by means of a written notice delivered at least 10 days prior to the Auction Date for such Auction Period to the Trustee, the applicable Market Agents, the Auction Agent, the Bond Insurer and the Company in substantially the form furnished to the Trustee and the Auction Agent at the time of a Change in the Interest Rate Mode to an Auction Rate. Any Auction Period or Standard Auction Period established by the Authority pursuant to this Section 3.04 may not exceed 365 days in duration. If such Auction Period will be of less than 28 days, such notice shall be effective only if it is accompanied by a written statement of the Registrar and Paying Agent, the Trustee, the applicable Market Agents and the Auction Agent to the effect that they are capable of performing their duties hereunder and under the related Market Agent Agreements and the Auction Agency Agreement with respect to such Auction Period. If such notice specifies a change in the length of the Standard Auction Period, such notice shall be effective only if it is accompanied by the written consent of such Market Agents to such change. The length of an Auction Period or the Standard Auction Period may not be changed pursuant to this Section 3.04 unless Sufficient Clearing Bids existed at both the Auction immediately preceding the date the notice of such change was given and the Auction

immediately preceding such changed Auction Period or Standard Auction Period or if a Payment Default has occurred and has not been cured.

2. The change in length of an Auction Period or the Standard Auction Period by the Authority at the request of the Company shall take effect only if (A) the Trustee, the Credit Facility Issuer and the Auction Agent receive, by 11:00 a.m. (New York City time) on the Business Day immediately preceding the Auction Date for such Auction Period, a certificate from the Authority, on behalf of the Company, by telecopy or similar means in substantially the form furnished to the Trustee and the Auction Agent at the time of a Change in the Interest Rate Mode to an Auction Rate authorizing establishment of and specifying the length of the new Auction Period or the Standard Auction Period, which shall be specified in such certificate, and confirming that Bond Counsel expects to be able to give an Opinion of Bond Counsel on the first day of the Auction Period for which such change is being required, (B) the Trustee shall not have delivered to the Auction Agent by 12:00 noon (New York City time) on the Auction Date for such Auction Period notice that a Payment Default has occurred, (C) Sufficient Clearing Bids exist at the Auction on the Auction Date for such Auction Period, and (D) the Trustee, the Credit Facility Issuer and the Auction Agent receive by 9:30 a.m. (New York City time) on the first day of such Auction Period, an Opinion of Bond Counsel to the effect that the change in the Auction Period or the Standard Auction Period is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes. If the condition referred to in (A) above is not met, the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures and the next succeeding Auction Period shall be a Standard Auction Period. If any of the conditions referred to in (B), (C) or (D) above is not met, the Auction Rate for the next succeeding Auction Period shall equal the Maximum Auction Rate as determined as of such Auction Date and the next succeeding Auction Period shall be a seven-day Auction Period.

3. On the Auction Date immediately preceding the effective date of any change in the length of an Auction Period or the Standard Auction Period, any Bonds which are not the subject of a specific Order shall be deemed to be subject to a Sell Order.

4. In the event of a Change in the Interest Rate Mode to an Auction Rate, the Authority, at the request of the Company, shall determine the length of the initial Auction Period and may change the length of a single or the Standard Auction Period by means of a written notice delivered on or prior to the effective date of such Change in the Interest Rate Mode to an Auction Rate to the Trustee, the applicable Market Agents, the

Auction Agent and the Credit Facility Issuer. Notwithstanding anything to the contrary in paragraphs 1 and 2 of this Section 3.04, the determination of the initial Auction Period shall take effect on the effective date of such Change in the Interest Rate Mode to an Auction Rate. Notwithstanding anything to the contrary in paragraphs 1 and 2 of this Section 3.04, the change in the length of a single Auction Period or the Standard Auction Period shall take effect only if the Trustee, the Credit Facility Issuer and the Auction Agent receive on the effective date of such Change in the Interest Rate Mode to an Auction Rate, an Opinion of Bond Counsel to the effect that the change in the Auction Period or the Standard Auction Period is authorized by this Indenture, is

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permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes.

SECTION 3.05. Auction Rate Period - Auction Rate Bonds: Change of Auction Date by Market Agents. During an Auction Rate Period the Market Agent for a subseries of Bonds, with the written consent of the Company, may change, in order to conform with then-current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date, the Auction Date for all future Auction Periods relating to the applicable subseries of Bonds to a different day, so long as the first such Auction Date will be a Business Day in the calendar week in which the next succeeding Auction Date is then scheduled to occur. If a change in an Auction Date is undertaken in conjunction with a change in an Auction Period and the conditions for the establishment of such change in Auction Period are not met, the Auction Date may be, and the next succeeding Auction Period may be adjusted to end on, a Business Day in the calendar week in which such Auction Date was scheduled to occur and such Auction Period was scheduled to end to accommodate the change in the Auction Date. Such Market Agent shall communicate its determination to change an Auction Date by means of a written notice delivered at least 10 days prior to the Auction Date immediately preceding such Auction Date, or with respect to a Change in the Interest Rate Mode to an Auction Rate on or prior to the effective date of such Change in the Interest Rate Mode, to the Authority, the Trustee, the Bond Insurer, the Auction Agent and the Company which shall state (i) the determination of such Market Agent to change the Auction Date, (ii) the new Auction Date and (iii) the date on which such Auction Date shall be changed. If as a result of any proposed change in the Auction Date any Auction Period would be less than 28 days in duration, such notice shall be effective only if it is accompanied by a written statement of the Auction Agent, the Registrar and Paying Agent and the Trustee to the effect that they are capable of performing their duties hereunder and under the Auction Agency Agreement with respect to any such Auction Period.

SECTION 3.06. Auction Rate Period - Auction Rate Bonds: Orders by Existing Holders and Potential Holders. (a) Prior to the Submission Deadline on each Auction Date during the Auction Rate Period, the following orders may be submitted:

- (i) each Existing Holder may submit to the Broker-Dealer by telephone or otherwise information as to:
 - (A) the principal amount of Auction Rate Bonds, if any, held by such Existing Holder which such Existing Holder desires to continue to hold without regard to the Auction Rate for the next succeeding Auction Period;
 - (B) the principal amount of Auction Rate Bonds, if any, held by such Existing Holder which such Existing Holder offers to sell if the Auction Rate for the next succeeding Auction Period shall be less than the rate per annum specified by such Existing Holder; and/or

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- (C) the principal amount of Auction Rate Bonds, if any, held by such Existing Holder which such Existing Holder offers to sell without regard to the Auction Rate for the next succeeding Auction Period;

- (ii) one or more Broker-Dealers may contact Potential Holders by telephone or otherwise to determine the principal amount of Auction Rate Bonds which each such Potential Holder offers to purchase if the Auction Rate for the next succeeding Auction Period shall not be less than the interest rate per annum specified by such Potential Holder.

For the purposes hereof, the communication to a Broker-Dealer of information referred to in clause (i)(A), (i)(B) or (i)(C) or clause (ii) above is hereinafter referred to as an "Order" and collectively as "Orders" and each Existing Holder and each Potential Holder placing an Order is hereinafter referred to as a "Bidder" and collectively as "Bidders"; an Order containing the information referred to in clause (i)(A) above is hereinafter referred to as a "Hold Order" and collectively as "Hold Orders"; an Order containing the information referred to in clause (i)(B) or clause (ii) above is hereinafter referred to as a "Bid" and collectively as "Bids"; and an Order containing the information referred to in clause (i)(C) above is hereinafter referred to as a "Sell Order" and collectively as "Sell Orders". The submission by a Broker-Dealer of an Order to the Auction Agent shall likewise be referred to herein as an "Order" and collectively as "Orders".

Orders may be submitted only in principal amounts of \$25,000 or any integral multiple thereof.

- (b)(i) Subject to the provisions of Section 3.07, a Bid by an Existing Holder shall constitute an irrevocable offer to sell:
 - (A) the principal amount of Auction Rate Bonds specified in such Bid if the Auction Rate determined on such Auction Date shall be less than the interest rate per annum specified therein; or
 - (B) such principal amount or a lesser principal amount of Auction Rate Bonds to be determined as set forth in Subsection (a) (iv) of Section 3.09 if the Auction Rate determined on such Auction Date shall be equal to the interest rate per annum specified therein; or
 - (C) such principal amount or a lesser principal amount of Auction Rate Bonds to be determined as set forth in Subsection (b) (iii) of Section 3.09 if such specified rate shall be higher than the Maximum Auction Rate and Sufficient Clearing Bids do not exist.
- (ii) Subject to the provisions of Section 3.07, a Sell Order by an Existing Holder shall constitute an irrevocable offer to sell:
 - (A) the principal amount of Auction Rate Bonds specified in such Sell Order; or

(B) such principal amount or a lesser principal amount of Auction Rate Bonds as set forth in Subsection (b)(iii) of Section 3.09 if Sufficient Clearing Bids do not exist.

(iii) Subject to the provisions of Section 3.07, a Bid by a Potential Holder shall constitute an irrevocable offer to purchase:

(A) the principal amount of Auction Rate Bonds specified in such Bid if the Auction Rate determined on such Auction Date shall be higher than the rate specified therein; or

(B) such principal amount or a lesser principal amount of Auction Rate Bonds as set forth in Subsection (a)(v) of Section 3.09 if the Auction Rate determined on such Auction Date shall be equal to such specified rate.

SECTION 3.07. Auction Rate Period - Auction Rate Bonds: Submission of Orders by Broker-Dealers to Auction Agent. (a) During an Auction Rate Period each Broker-Dealer shall submit in writing to the Auction Agent prior to the Submission Deadline on each Auction Date, all Orders obtained by such Broker-Dealer, and shall specify with respect to each such Order:

(i) the name of the Bidder placing such Order;

(ii) the aggregate principal amount of Auction Rate Bonds that are subject to such Order;

(iii) to the extent that such Bidder is an Existing Holder:

(A) the principal amount of Auction Rate Bonds, if any, subject to any Hold Order placed by such Existing Holder;

(B) the principal amount of Auction Rate Bonds, if any, subject to any Bid placed by such Existing Holder and the rate specified in such Bid; and

(C) the principal amount of Auction Rate Bonds, if any, subject to any Sell Order placed by such Existing Holder; and

(iv) to the extent such Bidder is a Potential Holder, the principal amount of Auction Rate Bonds subject to any Bid placed by such Potential Holder and the rate specified in such Bid.

(b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth (.001) of 1%.

(c) If an Order or Orders covering all Auction Rate Bonds held by an Existing Holder is not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Holder covering the principal amount of Auction Rate Bonds held by such Existing Holder and not subject to Orders submitted to the Auction Agent; provided, however, that if there is a change in the length of the Auction Period or the Standard Auction Period in accordance with Section 3.04 hereof or an amendment or modification to the Indenture or the Participation Agreement in accordance with Section 14.02 or 14.07 hereof, as the case may be, and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of Auction Rate Bonds that are subject to such change in the length of the Auction Period or the Standard Auction Period or amendment or modification, as the case may be, the Auction Agent shall deem a Sell Order to have been submitted on behalf of such Existing Holder covering the principal amount of Auction Rate Bonds subject to such change or modification or amendment and not subject to Orders submitted to the Auction Agent.

(d) Neither the Authority, the Company, the Trustee nor the Auction Agent shall be responsible for any failure of a Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Holder or Potential Holder.

(e) If any Existing Holder submits through a Broker-Dealer to the Auction Agent one or more Orders covering in the aggregate more than the principal amount of Auction Rate Bonds held by such Existing Holder, such Orders shall be considered valid as follows and in the following order of priority:

(i) all Hold Orders shall be considered valid, but only up to and including the principal amount of Auction Rate Bonds held by such Existing Holder, and, if the aggregate principal amount of Auction Rate Bonds subject to such Hold Orders exceeds the aggregate principal amount of Auction Rate Bonds held by such Existing Holder, the aggregate principal amount of Auction Rate Bonds subject to each such Hold Order shall be reduced pro rata to cover the aggregate principal amount of Auction Rate Bonds held by such Existing Holder;

(ii) (A) any Bid shall be considered valid up to and including the excess of the principal amount of Auction Rate Bonds held by such Existing Holder over the aggregate principal amount of Auction Rate Bonds subject to any Hold Orders referred to in paragraph (i) above;

(B) subject to clause (A) above, if more than one Bid with the same rate is submitted on behalf of such Existing Holder and the aggregate principal amount of Auction Rate Bonds subject to such Bids is greater than such excess, such Bids shall be considered valid up to and including the amount of such excess, and, the principal amount of Auction Rate Bonds subject to each Bid with the same rate shall be reduced pro rata to cover the principal amount of Auction Rate Bonds equal to such excess;

(C) subject to clauses (A) and (B) above, if more than one Bid with different rates is submitted on behalf of such Existing Holder, such Bids shall be considered valid in the ascending order of their respective rates until the highest rate is reached at which such excess exists and then at such rate up to and including the amount of such excess; and

(D) in any such event, the aggregate principal amount of Auction Rate Bonds, if any, subject to any portion of Bids not valid under this paragraph (ii) shall be treated as the subject of a Bid by a Potential Holder at the rate therein specified; and

(iii) all Sell Orders shall be considered valid up to and including the excess of the principal amount of Auction Rate Bonds held by such Existing Holder over the aggregate principal amount of Auction Rate Bonds subject to valid Hold Orders referred to in paragraph (i) of this Subsection (e) and valid Bids referred to in paragraph (ii) of this Subsection (e).

(f) If more than one Bid for Auction Rate Bonds is submitted on behalf of any Potential Holder, each Bid submitted shall be a separate Bid for Auction Rate Bonds with the rate and principal amount therein specified.

(g) Any Bid or Sell Order submitted by an Existing Holder covering an aggregate principal amount of Auction Rate Bonds not equal to \$25,000 or an integral multiple thereof shall be rejected and shall be deemed a Hold Order. Any Bid submitted by a Potential Holder covering an aggregate principal amount of Auction Rate Bonds not equal to \$25,000 or an integral multiple thereof shall be rejected.

SECTION 3.08. Auction Rate Period - Auction Rate Bonds: Determination of Sufficient Clearing Bids, Winning Bid Rate and Auction Rate. (a) During an Auction Rate Period not earlier than the Submission Deadline on each Auction Date, the Auction Agent shall assemble all valid Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a "Submitted Hold Order," a "Submitted Bid" or a "Submitted Sell Order," as the case may be, or as a "Submitted Order") and shall determine:

(i) the excess of the total principal amount of Auction Rate Bonds over the aggregate principal amount of Auction Rate Bonds subject to Submitted Hold Orders (such excess being hereinafter referred to as the "Available Auction Rate Bonds"); and

(ii) from the Submitted Orders whether the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids by Potential Holders specifying one or more rates equal to or lower than the Maximum Auction Rate exceeds or is equal to the sum of:

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(A) the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids by Existing Holders specifying one or more rates higher than the Maximum Auction Rate; and

(B) the aggregate principal amount of Auction Rate Bonds subject to Submitted Sell Orders

(in the event of such excess or such equality (other than because the sum of the principal amounts of Auction Rate Bonds in clauses (A) and (B) above is zero because all of the Auction Rate Bonds are subject to Submitted Hold Orders), such Submitted Bids by Potential Holders are hereinafter referred to collectively as "Sufficient Clearing Bids"); and

(iii) if Sufficient Clearing Bids exist, the lowest rate specified in the Submitted Bids (the "Winning Bid Rate") which if:

(A)(I) each Submitted Bid from Existing Holders specifying such lowest rate and (II) all other Submitted Bids from Existing Holders specifying lower rates were rejected, thus requiring such Existing Holders to continue to hold the principal amount of Auction Rate Bonds that are the subject of such Submitted Bids; and

(B)(I) each Submitted Bid from Potential Holders specifying such lowest rate and (II) all other Submitted Bids from Potential Holders specifying lower rates were accepted,

would result in such Existing Holders described in clause (A) above continuing to hold an aggregate principal amount of Auction Rate Bonds which, when added to the aggregate principal amount of Auction Rate Bonds to be purchased by such Potential Holders described in clause (B) above, would equal not less than the Available Auction Rate Bonds.

(b) Promptly after the Auction Agent has made the determinations pursuant to Subsection (a) of this Section 3.08, the Auction Agent, by teletype confirmed in writing, shall advise the Company, the Trustee and the Broker-Dealers of the Maximum Auction Rate and the components thereof on the Auction Date and, based on such determinations, the Auction Rate for the next succeeding Auction Period as follows:

(i) if Sufficient Clearing Bids exist, the Auction Rate for the next succeeding Auction Period therefor shall be equal to the Winning Bid Rate so determined;

(ii) if Sufficient Clearing Bids do not exist (other than because all of the Auction Rate Bonds are the subject of Submitted Hold Orders), the Auction Rate for the next succeeding Auction Period therefor shall be equal to the Maximum Auction Rate; and

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(iii) if all of the Auction Rate Bonds are subject to Submitted Hold Orders, the Auction Rate for the next succeeding Auction Period therefor shall be equal to the All Hold Rate.

SECTION 3.09. Auction Rate Period - Auction Rate Bonds: Acceptance and Rejection of Submitted Bids and Submitted Sell Orders and Allocation of Auction Rate Bonds. During an Auction Rate Period Existing Holders shall continue to hold the principal amounts of Auction Rate Bonds that are subject to Submitted Hold Orders, and, based on the determinations made pursuant to Subsection (a) of this Section 3.09, the Submitted Bids and Submitted Sell Orders shall be accepted or rejected, and the Auction Agent shall take such other actions as are set forth below:

(a) If Sufficient Clearing Bids exist, all Submitted Sell Orders shall be accepted and, subject to the provisions of paragraphs (e) and (f) of this Section 3.09, Submitted Bids shall be accepted or rejected as follows in the following order of priority:

(i) Existing Holders' Submitted Bids specifying any rate that is higher than the Winning Bid Rate shall be accepted, thus requiring each such Existing Holder to sell the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(ii) Existing Holders' Submitted Bids specifying any rate that is lower than the Winning Bid Rate shall be rejected, thus requiring each such Existing Holder to continue to hold the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(iii) Potential Holders' Submitted Bids specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Holder to purchase the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(iv) each Existing Holder's Submitted Bid specifying a rate that is equal to the Winning Bid Rate shall be rejected, thus requiring such Existing Holder to continue to hold the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bid, unless the aggregate principal amount of Auction Rate Bonds subject to all such Submitted Bids shall be greater than the principal amount of Auction Rate Bonds (the "remaining principal amount") equal to the excess of Available Auction Rate Bonds over the aggregate principal amount of the Auction Rate Bonds subject to Submitted Bids described in paragraphs (ii) and (iii) of this Subsection (a), in which event such Submitted Bid of such Existing Holder shall be rejected in part, and such Existing Holder shall be entitled to continue to hold the principal amount of Auction Rate Bonds subject to such Submitted Bid, but only in an amount equal to the principal amount of Auction Rate Bonds obtained by multiplying the remaining principal amount by a fraction, the numerator of which shall be the principal amount of Auction Rate Bonds held by such Existing Holder subject to such Submitted Bid and the

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denominator of which shall be the sum of the principal amounts of Auction Rate Bonds subject to such Submitted Bids made by all such Existing Holders that specified a rate equal to the Winning Bid Rate; and

(v) each Potential Holder's Submitted Bid specifying a rate that is equal to the Winning Bid Rate shall be accepted but only in an amount equal to the principal amount of Auction Rate Bonds obtained by multiplying the excess of the Available Auction Rate Bonds over the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids described in paragraphs (ii), (iii) and (iv) of this Subsection (a) by a fraction the numerator of which shall be the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bid of such Potential Holder and the denominator of which shall be the sum of the principal amount of Auction Rate Bonds subject to Submitted Bids made by all such Potential Holders that specified a rate equal to the Winning Bid Rate.

(b) If Sufficient Clearing Bids do not exist (other than because all of the Auction Rate Bonds are subject to Submitted Hold Orders), subject to the provisions of Subsection (e) of this Section 3.09, Submitted Orders shall be accepted or rejected as follows in the following order of priority:

(i) Existing Holders' Submitted Bids specifying any rate that is equal to or lower than the Maximum Auction Rate shall be rejected, thus requiring each such Existing Holder to continue to hold the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids;

(ii) Potential Holders' Submitted Bids specifying any rate that is equal to or lower than the Maximum Auction Rate shall be accepted, thus requiring each such Potential Holder to purchase the aggregate principal amount of Auction Rate Bonds subject to such Submitted Bids; and

(iii) each Existing Holder's Submitted Bid specifying any rate that is higher than the Maximum Auction Rate and the Submitted Sell Order of each Existing Holder shall be accepted, thus requiring each Existing Holder that submitted any such Submitted Bid or Submitted Sell Order to sell the Auction Rate Bonds subject to such Submitted Bid or Submitted Sell Order, but in both cases only in an amount equal to the aggregate principal amount of Auction Rate Bonds obtained by multiplying the aggregate principal amount of Auction Rate Bonds subject to Submitted Bids described in paragraph (ii) of this Subsection (b) by a fraction, the numerator of which shall be the aggregate principal amount of Auction Rate Bonds held by such Existing Holder subject to such Submitted Bid or Submitted Sell Order and the denominator of which shall be the aggregate principal amount of Auction Rate Bonds subject to all such Submitted Bids and Submitted Sell Orders.

(c) If all Auction Rate Bonds are subject to Submitted Hold Orders, all Submitted Bids shall be rejected.

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(d) If (i) the Auction Agent shall fail to determine, or for any reason fail to timely provide, an interest rate pursuant to the Auction Procedures or (ii) the conditions set forth in Subsection 2 of Section 3.04 to effect a change in the Auction Period are not met, all Submitted Bids and Submitted Sell Orders shall be rejected and the existence of Sufficient Clearing Bids shall be of no effect.

(e) If, as a result of the procedures described in Subsection (a) or (b) of this Section 3.09, any Existing Holder would be required to sell, or any Potential Holder would be required to purchase, a principal amount of Auction Rate Bonds that is not equal to \$25,000 or an integral multiple thereof, the Auction Agent shall, in such manner as, in its sole discretion, it shall determine, round up or down the principal amount of such

Auction Rate Bonds to be purchased or sold by any Existing Holder or Potential Holder so that the principal amount purchased or sold by each Existing Holder or Potential Holder shall be equal to \$25,000 or an integral multiple thereof.

(f) If, as a result of the procedures described in Subsection (a) of this Section 3.09, any Potential Holder would be entitled or required to purchase less than \$25,000 in aggregate principal amount of Auction Rate Bonds, the Auction Agent shall, in such manner as, in its sole discretion, it shall determine, allocate Auction Rate Bonds for purchase among Potential Holders so that only Auction Rate Bonds in principal amounts of \$25,000 or an integral multiple thereof are purchased by any Potential Holder, even if such allocation results in one or more of such Potential Holders not purchasing any Auction Rate Bonds.

(g) Based on the results of each Auction, the Auction Agent shall determine the aggregate principal amounts of Auction Rate Bonds to be purchased and the aggregate principal amounts of Auction Rate Bonds to be sold by Potential Holders and Existing Holders on whose behalf each Broker-Dealer submitted Bids or Sell Orders and, with respect to each Broker-Dealer, to the extent that such aggregate principal amount of Auction Rate Bonds to be sold differs from such aggregate principal amount of Auction Rate Bonds to be purchased, determine to which other Broker-Dealer or Broker-Dealers acting for one or more purchasers or Auction Rate Bonds such Broker-Dealer shall deliver, or from which other Broker-Dealer or Broker-Dealers acting for one or more sellers of Auction Rate Bonds such Broker-Dealer shall receive, as the case may be, Auction Rate Bonds.

(h) None of the Authority, the Company or any Affiliate thereof may submit an Order in any Auction except as set forth in the next sentence. Any Broker-Dealer that is an Affiliate of the Company may submit Orders in an Auction but only if such Orders are not for its own account, except that if such affiliated Broker-Dealer holds Auction Rate Bonds for its own account, it must submit a Sell Order on the next Auction Date with respect to such Auction Rate Bonds.

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SECTION 3.10. Auction Rate Period - Auction Rate Bonds: Adjustment in Percentage.

1. During an Auction Rate Period, the Market Agent for a subseries of Bonds may adjust the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate for such subseries of Bonds if any such adjustment is necessary, in the judgment of such Market Agent, to reflect any Change of Preference Law such that the All Hold Rate and Maximum Auction Rate shall have substantially equal market values before and after such Change of Preference Law. In making any such adjustment, such Market Agent shall take the following factors, as in existence both before and after such Change of Preference Law, into account: (i) short-term taxable and tax-exempt market rates and indices of such short-term rates, (ii) the market supply and demand for short-term tax-exempt securities, (iii) yield curves for short-term and long-term tax-exempt securities or obligations having a credit rating that is comparable to the Bonds, (iv) general economic conditions and (v) economic and financial factors present in the securities industry that may affect or that may be relevant to the Bonds.

2. A Market Agent shall communicate its determination to adjust the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate pursuant to Subsection 1 hereof by means of a written notice delivered at least ten days prior to the Auction Date on which such Market Agent desires to effect the change to the Authority, the Bond Insurer, the Trustee, the Auction Agent and the Company. Such notice is required to state the determination of such Market Agent to change such percentage and the date such adjustment is proposed to take effect (which date shall be an Auction Date). Such notice shall be effective only if it is accompanied by the form of opinion that Bond Counsel expects to be able to give on such Auction Date to the effect that such adjustment is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Auction Rate Bonds from gross income for Federal income tax purposes. The Auction Agent is required to mail notice thereof to the Existing Holders within two Business Days of receipt thereof.

3. An adjustment in the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate shall take effect on an Auction Date only if (A) the Trustee, the Credit Facility Issuer and the Auction Agent receive, by 11:00 a.m. (New York City time) on the Business Day immediately preceding such Auction Date, a certificate from the applicable Market Agent by telecopy or similar means, (i) authorizing the adjustment of the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate which shall be specified in such authorization, and (ii) confirming that Bond Counsel expects to be able to give an opinion on such Auction Date to the effect that the adjustment in the percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Auction Rate Bonds from gross income for Federal income tax purposes, and (B) the Trustee, the Credit Facility Issuer and the Auction Agent receive by 9:30 a.m. (New York City time) on such Auction Date, an Opinion of Bond Counsel to the effect that the adjustment in the percentage used in

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determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Auction Rate Bonds from gross income for Federal income tax purposes. If the condition referred to in (A) above is not met, the existing percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate shall remain in effect and the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures. If the condition referred to in (B) above is not met, the existing percentage used in determining the All Hold Rate and the Applicable Percentages used in determining the Maximum Auction Rate shall remain in effect and the Auction Rate for the next succeeding Auction Period shall equal the Maximum Auction Rate as determined on such Auction Date and the Auction Period shall be a seven-day Auction Period.

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ARTICLE IV

CHANGES IN THE INTEREST RATE MODE

SECTION 4.01. Optional Conversion to an Adjustable Rate by Authority.

1. (A) At the times specified below, the Bonds, in whole or in part, shall cease to bear interest at the Adjustable Rate or the Fixed Rate then borne by the Bonds and shall bear interest at an Adjustable Rate to be specified as hereinafter provided by the Authority, at the written request of the Company, in a written notice delivered at least 30 days prior to the proposed effective date of the Change in the Interest Rate Mode to the Trustee, the applicable Remarketing Agent, the Bond Insurer, the Registrar and Paying Agent, and the Company (and to the Auction Agent and the Securities Depository if such Change in the Interest Rate Mode is to or from an Auction Rate), in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit A** hereto. The written notice of the Authority must further state that the Indenture provides that the conversion is conditioned on the Bonds being rated no less than “A” by S&P, “A2” by Moody’s or “A” by Fitch as of the effective date of the Change in the Interest Rate Mode. A Change in the Interest Rate Mode may only be effected on a day on which the affected Bonds may be redeemed at the option of the Authority.

(B) [Intentionally Omitted]

(C) In the case of any Change in the Interest Rate Mode to a Term Rate, at least 15 days prior to the proposed effective date of the Change in Interest Rate Mode, the Authority, at the written request of the Company, shall notify the Trustee of the length of the Calculation Period and, unless otherwise specified, such Calculation Period shall thereafter apply to the Bonds until a Change in the Interest Rate Mode effected pursuant to this Section 4.01 or Section 4.02. Notwithstanding the foregoing, no Calculation Period shall be established during a Term Rate Period unless the Trustee shall receive by 2:00 p.m., New York City time, on the first day of such Calculation Period, evidence satisfactory to it that the Bonds shall be rated at least “A” by S&P or “A2” by Moody’s or “A” by Fitch or an equivalent rating by any nationally recognized rating agency on such date. Any change in the Calculation Period during a Term Rate Period shall be deemed an optional conversion pursuant to this Section 4.01 and may not be made unless all the requirements of a conversion pursuant to this Section 4.01 are met.

2. The Trustee shall mail, or cause the Registrar and Paying Agent to mail, the notice received pursuant to clause (A) of this Section 4.01.1 to the Holders at least 15 days prior to the proposed effective date of the Change in the Interest Rate Mode.

3. A Change in the Interest Rate Mode to an Adjustable Rate shall be effective pursuant to Subsection 1 of this Section 4.01 only if

(A) with respect to any Change in the Interest Rate Mode from an Auction Rate or from a Fixed Rate to an Adjustable Rate, the Trustee and the Auction Agent (if any) shall receive:

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(i) a certificate of an Authorized Company Representative by no later than the tenth day prior to the effective date of such Change in the Interest Rate Mode stating that a written agreement between the Company and the applicable Remarketing Agent to remarket the Bonds on such effective date at a price of 100% of the principal amount thereof has been entered into, which agreement (i) may be subject to such reasonable terms and conditions imposed by such Remarketing Agent which in the judgment of that Remarketing Agent reflect the current market standards regarding investment banking risk and (ii) must include a provision requiring payment by such Remarketing Agent in same-day funds for any Bond tendered or deemed tendered; and, if a Liquidity Facility is required by Section 4.01.3(D), a Liquidity Facility, meeting the requirements of this Indenture, including Section 6.02.3, and the Participation Agreement, has or will be obtained by the Company and, by its terms, be in effect on or prior to the effective date of such Change in the Interest Rate Mode;

(ii) by 11:00 a.m. (New York City time) on the second Business Day prior to the effective date of such Change in the Interest Rate Mode, by telecopy or other similar means, a certificate in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit B** hereto, from the Authority on behalf of the Company (y) authorizing the establishment of the new Adjustable Rate and (z) confirming that Bond Counsel has advised the Authority that it expects to be able to give an opinion on the effective date of such Change in the Interest Rate Mode to the effect that such Change in the Interest Rate Mode is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the affected Bonds from gross income for Federal income tax purposes; and

(iii) by 4:00 p.m. (New York City time) on the effective date of such Change in the Interest Rate Mode, a certificate from an Authorized Company Representative to the effect that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement and that premium, if any, and any accrued and unpaid interest on such Bonds has been paid from funds deposited with the Trustee or the Registrar and Paying Agent; and

(B) with respect to any Change in the Interest Rate Mode, the Trustee (and the Auction Agent in the case of any Change in the Interest Rate Mode to an Auction Rate), shall receive by 4:00 p.m., New York City time, on the effective date of such Change in the Interest Rate Mode, a certificate in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit C** hereto, from an Authorized Company Representative that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof plus premium, if any, plus any accrued and unpaid interest with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement, from the proceeds of a Support Facility, or from funds deposited with the Trustee or the Registrar and Paying Agent; provided that in case of a Change in the Interest Rate Mode from an

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Auction Rate, receipt of such certificate shall not override the requirements of Section 4.01(3)(A)(iii) herein;

(C) with respect to any Change in the Interest Rate Mode, the Trustee (and the Auction Agent in the case of any Change in the Interest Rate Mode to or from an Auction Rate) shall receive, by 9:30 a.m. (New York City time) on the effective date of such Change in the Interest Rate Mode, an Opinion of Bond Counsel to the effect that such Change in the Interest Rate Mode is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes;

(D) with respect to any Change in the Interest Rate Mode to an Adjustable Rate (other than to an Auction Rate or a Term Rate for a Calculation Period of five years or more), the Trustee shall receive a Liquidity Facility meeting the requirements of this Indenture, including Section 6.02.3, and the Participation Agreement on or prior to the effective date of such Change in the Interest Rate Mode which is, by its terms, in effect on or prior to such effective date; and

(E) with respect to any Change in the Interest Rate Mode to an Adjustable Rate, the Trustee shall receive by 2:00 p.m., New York City time, on the effective date of such Change in the Interest Rate Mode, evidence satisfactory to it that the Bonds shall be rated at least "A" by S&P or "A2" by Moody's or "A" by Fitch or an equivalent rating by any nationally recognized rating agency on the effective date of such Change in the Interest Rate Mode.

If any of the conditions referred to in (A)(i) or (ii) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate, the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures applicable to the Auction Rate Bonds. If any of the conditions referred to in (A)(iii), (B), (C), (D) or (E) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate, the Auction Rate for the next succeeding Auction Period shall equal the Maximum Auction Rate as determined on such Auction Date and the Auction Period shall be a seven-day Auction Period. If any of the conditions referred to in (A)(iii), (B), (C), (D) or (E) above is not met with respect to any Change in the Interest Rate Mode from a Term Rate or a Fixed Rate, the Bonds shall continue to bear interest at the current Term Rate or Fixed Rate, as the case may be, and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such current Term Rate or Fixed Rate, as the case may be. If any of the conditions referred to in (A)(iii), (B), (C) or (D) above is not met with respect to any Change in the Interest Rate Mode from an Adjustable Rate (other than an Auction Rate or a Term Rate), the Bonds shall continue to bear interest at the Current Adjustable Rate and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such Current Adjustable Rate; provided, however, that notwithstanding the failure to meet such conditions, the Bonds shall remain subject to mandatory tender for purchase on the date that would have been the effective date of the new interest rate mode if all of such conditions were met on such date. If any of the foregoing conditions for a Change in the Interest Rate Mode from a Term Rate or a Fixed Rate is not met, the Trustee shall mail, or cause the Registrar and Paying Agent to mail to the Authority, the Company and the Holders notice thereof in substantially the form attached hereto as, or

containing substantially the information contained in, **Exhibit D** hereto within 3 Business Days after the failure to meet any of such conditions.

4. Notwithstanding anything herein to the contrary, any Change in the Interest Rate Mode to an Adjustable Rate (other than to an Auction Rate or a Term Rate for a Calculation Period of five years or more) shall be effective only if the Trustee shall receive a Liquidity Facility meeting the requirements of this Indenture, including Section 6.02.3, and the Participation Agreement on or prior to the effective date of such Change in the Interest Rate Mode which is, by its terms, in effect on or prior to such effective date.

SECTION 4.02. Optional Conversion to a Fixed Rate.

1. The Authority reserves the right, at the request of the Company, to fix the rate of interest per annum which Bonds will bear, in whole or in part, for the balance of the term thereof or until the effective date of a Change in the Interest Rate Mode; provided however, that the Authority shall not exercise such right and the Company shall not request the Authority to exercise such right except on a day on which the affected Bonds may be redeemed at the option of the Authority. In the event the Authority, at the request of the Company, as herein provided, exercises its Option to Convert, the Bonds so converted shall cease to bear interest at the Adjustable Rate then borne by the Bonds and shall bear interest at a Fixed Rate until maturity or until the effective date of a Change in the Interest Rate Mode, subject to the terms and conditions hereof (the date on which a Fixed Rate shall take effect being herein called a "Fixed Rate Conversion Date"). The Option to Convert may be exercised at any time through a written notice given by the Authority, at the written direction of the Company. Such written notice of the Authority must be delivered not less than 30 nor more than 45 days prior to the proposed Fixed Rate Conversion Date to the Trustee, the Bond Insurer, the Registrar and Paying Agent and the applicable Remarketing Agent (and the Auction Agent and the Securities Depository in the case of any change to a Fixed Rate from an Auction Rate), in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit A** hereto. A notice of conversion to a Fixed Rate shall note that the Indenture provides that a proposed conversion to a Fixed Rate is conditioned on the Bonds being rated no less than "A" by S&P, "A2" by Moody's or "A" by Fitch as of the effective date of such Change in the Interest Rate Mode.

2. The Trustee shall mail, or cause the Registrar and Paying Agent to mail, the notice received pursuant to Subsection 1 of this Section 4.02 to the Holders at least 15 days prior to the proposed effective date of the Change in the Interest Rate Mode.

3. A Fixed Rate shall take effect only if

(A) with respect to a change to a Fixed Rate from an Auction Rate, the Trustee and the Auction Agent shall receive:

(i) a certificate of an Authorized Company Representative by no later than the tenth day prior to a Fixed Rate Conversion Date stating that a written

agreement has been entered into by the Company and the applicable Remarketing Agent to remarket the Bonds affected on a Fixed Rate Conversion Date at a price of 100% of the principal amount thereof, which written agreement (i) may be subject to reasonable terms and conditions imposed by such Remarketing Agent which in the judgment of that Remarketing Agent reflect current market standards regarding investment banking risk; and (ii) must include a provision requiring payment by such Remarketing Agent in same-day funds for any Auction Rate Bonds tendered or deemed tendered; and

(ii) by 11:00 a.m. (New York City time) on the second Business Day prior to a Fixed Rate Conversion Date, by telecopy or other similar means, a certificate on behalf of the Company in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit B** hereto, from the Authority (y) authorizing the establishment of a Fixed Rate and (z) confirming that Bond Counsel has advised the Authority that it expects to be able to give an opinion on a Fixed Rate Conversion Date to the effect that the

change to a Fixed Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on the Bonds from gross income for Federal income tax purposes; and

(iii) by 4:00 p.m. (New York City time) on the effective date of such Change in the Interest Rate Mode, a certificate from an Authorized Company Representative to the effect that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement and that any accrued and unpaid interest on such Bonds has been paid from funds deposited with the Trustee or the Registrar and Paying Agent;

(B) with respect to any change to a Fixed Rate the Trustee (and the Auction Agent in the case of any change to a Fixed Rate from an Auction Rate) receives on a Fixed Rate Conversion Date:

(i) by 9:30 a.m. (New York City time) an Opinion of Bond Counsel to the effect that the conversion to a Fixed Rate is authorized by this Indenture, is permitted under the Act and will not have an adverse effect on the exclusion of interest on such Bonds from gross income for Federal income tax purposes;

(ii) by 4:00 p.m. (New York City time) a certificate in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit C** hereto, from an Authorized Company Representative that all of the Bonds tendered or deemed tendered have been purchased at a price equal to the principal amount thereof plus premium, if any, plus any accrued and unpaid interest with funds provided from the remarketing of such Bonds in accordance with the Remarketing Agreement, from the proceeds of a Support Facility, or from funds deposited with the Trustee or the Registrar and Paying Agent;

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provided that receipt of such certificate shall not override the requirements of Section 4.02(3)(A)(iii) herein; and

(iii) by 2:00 p.m. (New York City time) evidence satisfactory to it that the Bonds shall be rated at least "A" by S&P or "A2" by Moody's or "A" by Fitch or an equivalent rating by any nationally recognized rating agency on the Fixed Rate Conversion Date.

If any of the conditions referred to in (A)(i) or (A)(ii) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate to a Fixed Rate, the Auction Rate for the next succeeding Auction Period shall be determined pursuant to the Auction Procedures applicable to the Auction Rate Bonds. If any of the conditions referred to in (A)(iii) or (B) above is not met with respect to any Change in the Interest Rate Mode from an Auction Rate to a Fixed Rate, the Auction Rate for the next succeeding Auction Period shall be equal to the Maximum Auction Rate as determined as of such Auction Date and the Auction Period shall be a seven-day Auction Period. If any of the conditions referred to in (B) above is not met with respect to any Change in the Interest Rate Mode from a Term Rate to a Fixed Rate, the Bonds shall continue to bear interest at the current Term Rate and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such current Term Rate. If any of the conditions referred to in (B) above is not met with respect to any other Change in the Interest Rate Mode from an Adjustable Rate (other than an Auction Rate or a Term Rate) to a Fixed Rate, the Bonds shall continue to bear interest at the Current Adjustable Rate and be subject to the provisions of this Indenture applicable thereto while the Bonds bear interest at such Current Adjustable Rate; provided, however, that notwithstanding the failure to meet such conditions, the Bonds shall remain subject to mandatory tender for purchase on the date that would have been the effective date of the Fixed Rate if all of such conditions were met on such date. If any of the foregoing conditions for a Change in the Interest Rate Mode from a Term Rate to a Fixed Rate is not met, the Trustee shall mail, or cause the Registrar and Paying Agent to mail to the Authority, the Company and the Holders notice thereof in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit D** hereto within 3 Business Days after the failure to meet any of such conditions.

SECTION 4.03. Conversion Generally. 1. In the event of a Change in the Interest Rate Mode on less than all the Bonds of a series or subseries to or from an Auction Rate, the minimum aggregate principal amount of Bonds of a subseries that continue to bear, or are adjusted to bear interest at an Auction Rate for an Auction Rate Period, shall not be less than \$10,000,000 for such Auction Rate Bonds.

2. Upon any Change in the Interest Rate Mode to an Auction Rate, the Authority and the Trustee, shall take all steps necessary to comply with any agreement entered into with a Securities Depository or its nominee pursuant to Section 2.03(5) with respect to such Change in the Interest Rate Mode, including, without limitation, the purchase and designation of sufficient CUSIP numbers to comply with the requirements of such Securities Depository following any such Change in the Interest Rate Mode.

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3. If the interest rate on less than all Bonds of a subseries is to be converted to a new Adjustable Rate pursuant to Section 4.01 or to a Fixed Rate pursuant to Section 4.02, the particular Bonds to be converted shall be chosen by the Trustee by lot, or the Trustee shall direct the Registrar and Paying Agent to so choose, by lot; provided, however, that the portion of any Bond to be converted shall be in the principal amount of \$100,000 or any integral multiple of such amount during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 or any integral multiple thereof during an Auction Rate Period, or \$5,000 or any integral multiple thereof at any other time and that, in selecting Bonds for conversion, the Trustee or Registrar and Paying Agent shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such registered Bond in excess of \$100,000 by \$100,000 during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 during an Auction Rate Period, and \$5,000 at any other time (such amounts being hereinafter referred to as the "applicable units of principal amount"). If it is determined that one or more, but not all of the \$100,000, \$25,000 or \$5,000 units of principal amount represented by any such Bond is to be converted, then upon notice of intention to convert such \$100,000, \$25,000 or \$5,000 unit or units pursuant to Sections 4.01 or 4.02, as the case may be, the Holders of such Bonds shall forthwith surrender such Bonds to the Registrar and Paying Agent for (1) payment of the purchase price (including the premium, if any, and accrued and unpaid interest to the date fixed for conversion) of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount called for conversion and (2) exchange for a new Bond or Bonds in the aggregate principal amount of the balance of the principal of such Bonds not subject to conversion. If the Holders of any such Bond of a denomination greater than \$100,000, \$25,000 or \$5,000 shall fail to present such Bond to the Registrar and Paying Agent, for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for conversion to the extent of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount subject to such conversion (and to that extent only).

4. Notwithstanding anything in this Article IV to the contrary, the Authority may not effect a Change in the Interest Rate Mode pursuant to Section 4.01 and the Authority may not exercise its option to convert to a Fixed Rate pursuant to Section 4.02 if such action would require the payment of a premium upon purchase of Bonds pursuant to Section 5.04 unless there shall have been deposited the full amount of such premium in trust with the Trustee prior to any notification of a change pursuant to Section 4.01 or 4.02.

ARTICLE V

REDEMPTION AND PURCHASE OF BONDS

SECTION 5.01. Optional Redemption. The Bonds shall be subject to redemption, in whole or in part, at the option of the Authority upon the request of the Company, from related payments made by the Company pursuant to Section 6.02 of the Participation Agreement and any other monies held by the Trustee and available to be applied to the redemption of Bonds as provided in this Section 5.01 and Section 9.03 hereof:

(a) During any Commercial Paper Rate Period, such Bonds shall be subject to redemption on each Interest Payment Date, as a whole or in part, at the principal amount thereof, at a redemption price equal to 100% of the principal amount.

(b) During any Auction Rate Period, Auction Rate Bonds shall be subject to redemption on the Business Day immediately succeeding each Auction Date, as a whole or in part, at a redemption price equal to 100% of the principal amount thereof plus accrued and unpaid interest to the date fixed for redemption.

(c) During any Daily Rate Period, such Bonds shall be subject to redemption on any Business Day, as a whole or in part, at the principal amount thereof, plus accrued and unpaid interest to the date fixed for redemption, if any.

(d) During any Weekly Rate Period, such Bonds shall be subject to redemption on any Business Day, as a whole or in part, at the principal amount thereof, plus accrued and unpaid interest to the date fixed for redemption, if any.

(e) During any Monthly Rate Period, such Bonds shall be subject to redemption on each Interest Payment Date, as a whole or in part, at the principal amount thereof.

(f) During any Semi-annual Rate Period, such Bonds shall be subject to redemption on each Interest Payment Date, as a whole or in part, at the principal amount thereof.

(g) During any Term Rate or Fixed Rate Period, such Bonds shall be subject to redemption in whole or in part at any time as follows: after the No-Call Period shown below, which shall begin on the first day of the Calculation Period applicable to such Bonds or on a Fixed Rate Conversion Date, as the case may be, and end on the enumerated anniversary thereof, at a redemption price equal, initially, to the principal amount thereof, plus a premium equal to the percentage of the principal amount to be redeemed shown in the Initial Premium column, plus accrued and unpaid interest if paid on a Business Day other than an Interest Payment Date. The premium percentage, if any, shall decline by the percentage shown in the Reduction in Premium column on each anniversary of the date on which such Bonds are first redeemable until the Bonds shall be redeemable without premium.

Calculation Period or Period to Maturity
Applicable to Subject Bonds

| <u>Equal to or Greater Than</u> | <u>But Less Than</u> | <u>No Call Period</u> | <u>Initial Premium</u> | <u>Reduction in Premium</u> |
|---------------------------------|----------------------|-----------------------|------------------------|-----------------------------|
| 18 years | N/A | 8 Years | 1½% | ½% |
| 12 years | 18 Years | 6 Years | 1 | ½ |
| 7 Years | 12 Years | 3 Years | 0 | 0 |
| 5 Years | 7 Years | 2 Years | 0 | 0 |
| 4 Years | 5 Years | 2 Years | 0 | 0 |
| 3 Years | 4 Years | 2 Years | 0 | 0 |
| 0 Years | 3 Years | Not callable | | |

If upon establishment of a Term Rate Period or a Fixed Rate Period, as the case may be, the applicable Remarketing Agent certifies to the Trustee, Bond Counsel and the Authority in writing that the foregoing schedule is not consistent with then-prevailing market conditions, the Authority at the request of the Company may revise the foregoing Initial Premium, Reductions in Premium and No-Call Periods with respect to Bonds for which a Term Rate Period or Fixed Rate Period is then being established without the approval of the Holders to reflect then-prevailing market conditions, upon receipt of an Opinion of Bond Counsel to the effect that any revisions pursuant to this paragraph, either by itself or in conjunction with the establishment of a Calculation Period or a Fixed Rate, as the case may be, are made in accordance with this Indenture, is permitted under the Act and will not adversely affect the exclusion of interest on the Bonds from gross income for Federal income tax purposes.

SECTION 5.02. [Reserved]

SECTION 5.03. Tender for and Purchase upon Election of Holder.

1. During any Daily Rate Period or Weekly Rate Period, any Bond or portion thereof in a principal amount equal to an authorized denomination (so long as the principal amount not purchased is an authorized denomination) shall be purchased on the demand of the Holder thereof on any Business Day at a price equal to the principal amount thereof plus accrued and unpaid interest, if any, to the date of purchase, upon delivery to the Registrar

and Paying Agent and the applicable Remarketing Agent at their respective principal offices, by the close of business on any Business Day of a Notice of Election to Tender in substantially the form attached hereto as, or containing substantially the information contained in, **Exhibit E** hereto; provided, however, that the substance of such Notice of Election to Tender must also be given telephonically to the applicable Remarketing Agent prior to or simultaneously with delivery of such written Notice of Election to Tender to such Remarketing Agent. The date on which such Bond shall be purchased shall, at the request of the Holder thereof (i) if the Bond then bears interest at a Daily Rate, be the date of delivery of such Notice of Election to Tender if such Notice of Election to Tender is delivered to the Registrar and Paying Agent and the applicable Remarketing Agent by 10:00 a.m. (New York City time) on such date or may be any Business Day thereafter, and (ii) if the Bond then bears interest at a Weekly Rate, shall be a Business Day not prior to the 7th day next succeeding the date on which, by 10:00 a.m., such

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Notice of Election to Tender is delivered to the Registrar and Paying Agent and the Remarketing Agent.

2. During any Monthly Rate Period or Semi-annual Rate Period, any Bond or portion thereof in a principal amount equal to an authorized denomination (so long as the principal amount not purchased is an authorized denomination) shall be purchased on the demand of the Holder thereof on the first Business Day following each Calculation Period at a price equal to the principal amount thereof, upon delivery to the Registrar and Paying Agent and the applicable Remarketing Agent, at their respective principal offices of a Notice of Election to Tender in substantially the form attached hereto as or containing substantially the information contained in **Exhibit E** on or prior to a Business Day which is not less than 10 days, in the case of Bonds bearing interest at a Semi-annual Rate, or 7 days, in the case of Bonds bearing interest at a Monthly Rate, prior to the proposed date of purchase; provided, however, that the substance of such Notice of Election to Tender must also be given telephonically to the applicable Remarketing Agent prior to or simultaneously with delivery of such written Notice of Election to Tender to such Remarketing Agent.

3. Immediately upon receipt of a Notice of Election to Tender delivered pursuant to the provisions of this Section 5.03, the Registrar and Paying Agent shall notify, or cause to be notified, the Trustee, the Company, the Authority and the applicable Remarketing Agent, by telephone, promptly confirmed in writing, of such receipt, specifying the contents thereof.

4. Any Notice of Election to Tender shall be irrevocable. If a Holder fails to deliver the Bonds referred to in such notice to the Registrar and Paying Agent, such Bonds shall nevertheless be deemed to have been purchased on the date established for the purchase thereof, no interest shall accrue on such Bonds from and after the date of purchase and such Holder shall have no rights hereunder thereafter as the owner of such Bonds except the right to receive the purchase price of such Bonds.

5. A Holder may not tender a Bond to the Registrar and Paying Agent pursuant to this Section while such Bond bears interest at an Auction Rate, Commercial Paper Rate, Term Rate or Fixed Rate.

SECTION 5.04. Mandatory Tender for Purchase upon Change in the Interest Rate Mode or on Business Day Following Certain Calculation Periods.

1. Upon a Change in the Interest Rate Mode, the Bonds shall be subject to mandatory tender for purchase in accordance with the terms hereof, on the effective date of such Change in the Interest Rate Mode at the Purchase Price.

2. During any Term Rate Period or Commercial Paper Rate Period, the Bonds shall be subject to mandatory tender for purchase in accordance with the terms hereof on the Business Day immediately following each Calculation Period, each at a price equal to the Purchase Price.

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3. Notice of mandatory tender for purchase upon a Change in the Interest Rate Mode shall be in substantially the form attached hereto as, or contain substantially the information contained in, **Exhibit A** hereto.

4. Any such notice of mandatory tender for purchase required by this Section 5.04 shall be given by the Trustee, in the name of the Authority, or the Trustee shall cause the Registrar and Paying Agent to give such notice (with copies thereof to be given to the Remarketing Agent, the Registrar and Paying Agent, the Company, and in the case of Auction Rate Bonds, the Auction Agent and the Authority) by first-class mail to the Holders of the Bonds subject to purchase at their addresses shown on the books of registry.

5. Bonds held by or for the account of the Company or the issuer of a Support Facility are not subject to mandatory tender for purchase pursuant to this Section 5.04.

SECTION 5.05. Extraordinary Optional Redemption. During any Term Rate Period or Fixed Rate Period, the Bonds are also subject to redemption prior to maturity in whole at any time at the option of the Authority, exercised at the direction of the Company, upon notice given as provided in the Indenture, at a redemption price equal to the principal amount thereof, together with unpaid interest accrued thereon to the date fixed for redemption, in any of the following events:

(i) All or substantially all of the Project shall have been damaged or destroyed or title to, or the temporary use of, all or a substantial portion of the Project shall have been taken under the exercise of the power of eminent domain by any governmental authority, or person, firm or corporation acting under governmental authority, as in each case renders the Project unsatisfactory to the Company for its intended use;

(ii) Unreasonable burdens or excessive liabilities shall have been imposed upon the Authority or the Company with respect to all or substantially all of the Project, including without limitation the imposition of Federal, State or other ad valorem property, income or other taxes other than ad valorem taxes in effect on the date of original issuance of the Bonds levied upon privately owned property used for the same general purpose as the Project; or

(iii) Any court or regulatory or administrative body shall enter or adopt, or fail to enter or adopt, a judgment, order, approval, decree, rule or regulation, as a result of which the Company elects to cease operation of all or substantially all of the Project.

SECTION 5.06. Special Tax Redemption Provisions.

1. During any Semi-annual Rate Period, Term Rate Period or Fixed Rate Period, the Bonds shall be subject to mandatory redemption as a whole (provided, however, that the Bonds shall be redeemed in part if the Company obtains an Opinion of Bond Counsel to the effect that, by redeeming such portion of the Bonds, the interest on the remaining Bonds will

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not be included for Federal income tax purposes in the gross income of any owner of the Bonds (other than an owner who is a “substantial user” of the Project or a “related person” within the meaning of Section 147(a)(1) of the Code)) at any time at a redemption price equal to 100% of the principal amount thereof, together with unpaid interest accrued thereon to the redemption date, if, in a published or private ruling of the Internal Revenue Service or in a final, nonappealable judicial decision by a court of competent jurisdiction (provided that the Company has been afforded the opportunity to participate at its own expense in the proceeding resulting in such ruling or in the litigation resulting in such decision, as the case may be), it is determined that, as a result of a failure by the Company to observe any covenant, agreement or representation in the Participation Agreement or the Tax Regulatory Agreement, interest on the Bonds is included for Federal income tax purposes in the gross income (as defined in Section 61 of the Code) of any owner of a Bond (other than a “substantial user” of the Project or a “related person” within the meaning of Section 147(a)(1) of the Code), and, in such event, the Bonds shall be subject to such mandatory redemption not more than one hundred eighty (180) days after receipt by the Trustee of notice of such published or private ruling or judicial decision and a demand for redemption of the Bonds. The occurrence of an event requiring the redemption of the Bonds under this paragraph does not constitute an event of default under any Note or under the Indenture and the sole obligation in such event shall be for the Company to prepay the Note in an amount sufficient to redeem the Bonds to the extent required by this paragraph.

2. During any Semi-annual Rate Period, Term Rate Period or Fixed Rate Period, the Bonds may be redeemed in whole or in part at any time at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest thereon to the redemption date, if the Company has determined, on the basis of the advice of Bond Counsel that, as a result of any action taken or expected to be taken, or failure to take action, a reasonable risk exists that interest on the bonds will not be excludable from gross income for Federal tax purposes. Such conclusion and certification shall be evidenced by delivery to the Trustee of a written certificate of an Authorized Company Representative to the effect that the Company has reached such conclusion, together with a copy of such advice of Bond Counsel. The occurrence of an event permitting the redemption of the Bonds under this paragraph does not constitute an event of default under any Note or under the Indenture and the sole obligation in such event shall be for the Company to prepay the Note in an amount sufficient to redeem the Bonds to the extent required by this paragraph.

3. During any Semi-annual Rate Period, Term Rate Period or Fixed Rate Period, the Bonds will also be subject to mandatory redemption at a redemption price equal to one hundred three percent (103%) of the principal amount thereof plus unpaid interest accrued thereon to the redemption date if the Company reasonably concludes and certifies to the Trustee that the business, properties, condition (financial or otherwise), operations or business prospects of the Company will be materially and adversely affected unless the Company takes or omits to take a specified action and that the Company has been advised in writing by Bond Counsel that the specified action or omission would cause the use of the Project to be such that, pursuant to Section 150 of the Code, the Company would not be entitled to deduct the interest on the Bonds for purposes of determining the Company’s Federal taxable income, for a period of not less than ninety (90) consecutive or nonconsecutive days during a twelve-month period. Such

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conclusion and certification shall be evidenced by delivery to the Trustee of a written certificate of an Authorized Company Representative to the effect that the Company has reached such conclusion, together with a certified copy of a resolution of the Board of Trustees of the Company authorizing such certificate and a copy of such advice of Bond Counsel. In the event that the Bonds become subject to redemption as provided in this paragraph, the Bonds will be redeemed in whole unless redemption of a portion of the Bonds outstanding would, in the Opinion of Bond Counsel, have the result that interest payable on the Bonds remaining outstanding after such redemption would be deductible for purposes of determining the Federal taxable income of the Company, and, in such event, the Bonds to be redeemed shall be selected (in the principal amount of \$5,000 or any integral multiple thereof) by lot, in such amount as is necessary to accomplish that result. The occurrence of an event requiring the redemption of the Bonds under this paragraph does not constitute an event of default under any Note or under the Indenture and the sole obligation in such event shall be for the Company to prepay the Note in an amount sufficient to redeem the Bonds to the extent required by this paragraph.

SECTION 5.07. Redemption at Demand of the State of New York. In accordance with the provisions of Section 1864 of the Act, the State of New York may, upon furnishing sufficient funds therefor, require the Authority to redeem prior to maturity, as a whole, the Bonds on any Interest Payment Date not less than twenty years after the Closing Date. Any such redemption shall be at a redemption price equal to the optional redemption price, if any, applicable on such date set forth in Section 5.01 or if no such optional redemption price is applicable at a redemption price equal to the principal amount thereof, in either case, together with accrued and unpaid interest, if any, to the date fixed for redemption, all in the manner provided in this Article V. The Authority shall deposit any such funds received by it with the Trustee. During any period during which no Direct-Pay Credit Facility is in effect, the Trustee shall deposit any such funds in the Bond Fund and, upon notice published in the manner provided in Section 1864 of the Act, shall apply such funds to the redemption of the Bonds. During any period in which a Direct-Pay Credit Facility is in effect, the Trustee shall deposit any such funds received by it in a segregated sub-account in the Bond Fund, and upon notice published in the manner provided in Section 1864 of the Act, shall draw monies under the related Credit Facility pursuant to Article IX and apply such payment to the redemption of the Bonds at the price and in the manner specified in the preceding sentence. Upon the application of such Credit Facility payments, the Trustee shall pay the funds furnished by the State of New York to the issuer of the Credit Facility with instructions to apply such funds to the reimbursement of the issuer of the Credit Facility for such Credit Facility payment. Upon such redemption and notwithstanding anything to the contrary in this Indenture, the Trustee shall assign the Note relating to the Bonds to or as directed by the Authority.

SECTION 5.08. Mandatory Tender for Purchase Upon Expiration of any Support Facility or Upon Delivery of an Alternate Support Facility.

1. Except as otherwise set forth in the last sentence of this Subsection 1, on the second Business Day next preceding the date of expiration of any Support Facility, the Bonds shall be subject to mandatory purchase at the Purchase Price, unless on or prior to the 35th day prior to such date of expiration the Company on behalf of the Authority has furnished to the Trustee an extension of such Support Facility. The Bonds shall also be subject to

mandatory purchase at the Purchase Price, on the date there is delivered an Alternate Support Facility meeting the requirements of Section 6.02. No tender for purchase of any Bonds shall be required pursuant to this Section 5.08 during an Auction Rate Period or a Fixed Rate Period.

2. Notice of the mandatory tender for purchase pursuant to this Section 5.08 shall be given on or prior to the 30th day before the expiration date of the expiring Support Facility or on or prior to the 30th day before the delivery of any Alternate Support Facility, as the case may be, by the Trustee in the name of the Authority (with copies thereof given to the Authority, the Remarketing Agent, the issuer of a Support Facility, the Company and the Registrar and Paying Agent) by first-class mail to the Holders of the Bonds subject to mandatory tender for purchase at their addresses shown on the books of registry. Such notice shall be in substantially the form attached hereto as, or contain substantially the information contained in, **Exhibit F** hereto.

3. Bonds held by or for the account of the Company or the issuer of a Liquidity Facility are not subject to mandatory tender for purchase pursuant to this Section 5.08.

SECTION 5.09. Mandatory Tender Upon Occurrence of any Terminating Event.

1. Except as otherwise set forth in the last sentence of this Subsection 1, upon the occurrence of any Terminating Event, the Bonds shall be subject to mandatory tender for purchase at the Purchase Price on a Business Day selected by the Trustee; provided, however, that (i) such mandatory tender shall not occur later than the 5th day after receipt of notice of the Terminating Event by the Trustee and (ii) such mandatory tender date shall be a Business Day. The Bonds will not be subject to mandatory tender for purchase pursuant to this Section 5.09 during any Auction Rate Period or any Fixed Rate Period.

2. Notice of the mandatory tender for purchase required by this Section 5.09 shall be in substantially the form attached hereto as, or contain substantially the information contained in, **Exhibit F** hereto and shall be given to the Holders of the Bonds subject to mandatory tender for purchase at their addresses shown on the books of registry on or before the first Business Day after receipt of notice of a Terminating Event from the issuer of the Support Facility by the Trustee, in the name of the Authority, or the Trustee shall cause the Registrar and Paying Agent to give such notice, by first-class mail to the Holders of the Bonds subject to purchase at their address shown on the books of registry (with copies thereof given to the Authority, the Remarketing Agent, the Company and the Registrar and Paying Agent).

3. Bonds held by or for the account of the Company or the issuer of a Liquidity Facility are not subject to mandatory tender for purchase pursuant to this Section 5.09.

SECTION 5.10. General Provisions Applicable to Mandatory and Optional Tenders for Purchase of Bonds.

1. If interest has been paid on the Bonds, or an amount sufficient to pay interest thereon has been deposited in the Bond Fund, or an amount sufficient to pay accrued interest thereon, if any, has been set aside in the Bond Purchase Fund held under the Bond Purchase Trust Agreement, and the Purchase Price shall be available in the Bond Purchase Fund for payment of Bonds subject to tender for purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09, and if any Holder fails to deliver or does not properly deliver the Bonds to the Registrar and Paying Agent for which a Notice of Election to Tender has been properly filed or which are subject to mandatory tender for purchase on the purchase date therefor, such Bonds shall nevertheless be deemed tendered and purchased on the date established for the purchase thereof, no interest shall accrue on such Bonds from and after the date of purchase and such former Holders shall have no rights hereunder as the registered owners of such Bonds, except the right to receive the Purchase Price of and interest to the purchase date, if any, on such Bonds upon delivery thereof to the Registrar and Paying Agent in accordance with the provisions hereof. The purchaser of any such Bonds remarketed by the Remarketing Agent, or the issuer of any Support Facility, to the extent Bonds are purchased with the proceeds of a draw on, or borrowing or payment under, the Support Facility available therefor, shall be treated as the registered owner thereof for all purposes of the Indenture. The payment of Bonds pursuant to Section 5.03 shall be subject to delivery of such Bonds duly endorsed in blank for transfer or accompanied by an instrument of transfer thereof in form satisfactory to the Registrar and Paying Agent executed in blank for transfer at the principal office of the Registrar and Paying Agent at or prior to 10:00 a.m. (11:30 a.m. for Bonds bearing interest at the Weekly Rate and 12:00 noon, for Bonds bearing interest at the Daily Rate) (New York City time), on a specified purchase date. The Registrar and Paying Agent may refuse to make payment with respect to any Bonds tendered for purchase pursuant to Sections 5.03, 5.04, 5.08 or 5.09 not endorsed in blank or for which an instrument of transfer satisfactory to the Registrar and Paying Agent has not been provided.

2. The Purchase Price of Bonds subject to tender for purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09 in an aggregate principal amount of at least one million dollars (\$1,000,000) shall be payable in immediately available funds or by wire transfer upon written notice from the Holder thereof containing the wire transfer address (which shall be in the continental United States) to which such Holder wishes to have such wire directed, if such written notice is received by the Registrar and Paying Agent not less than five days prior to the related purchase date.

3. Bonds subject to mandatory tender for purchase pursuant to Sections 5.08 or 5.09 shall not be remarketed unless and until an Alternate Support Facility meeting the requirements of Section 6.02 of the Indenture is in full force and effect; provided, however, that Bonds may be remarketed and no such Alternate Support Facility is required to be in effect if, at the time the Bonds are sought to be remarketed, the Bonds bear interest at an Auction Rate or a Fixed Rate.

4. In the event Bonds tendered for purchase pursuant to Section 5.03 or 5.04 shall be paid from a drawing under a Liquidity Facility, such Bonds shall not be remarketed unless and until the Trustee or the Registrar and Paying Agent has been notified by the Liquidity Facility Issuer and, upon receipt of such notice, the Trustee or the Registrar and Paying Agent has notified the applicable Remarketing Agent that the amount available for a drawing under such Liquidity Facility has been restored.

SECTION 5.11. Selection of Bonds to be Redeemed. A redemption of Bonds shall be a redemption of the whole or of any part of the Bonds from any funds available for that purpose in a principal amount equal to an authorized denomination (so long as the principal amount not redeemed is an authorized denomination). If less than all Bonds shall be redeemed, the particular Bonds to be redeemed shall be chosen by the Trustee, or the Trustee shall direct the Registrar and Paying Agent to so choose, as hereinafter provided. If less than all the Bonds shall be called for redemption under any provision of this Indenture permitting such partial redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected (a) first, from Bonds held or owned by or for the issuer of a Support Facility pursuant to any Support Facility, (b) second, from Bonds for which the Registrar and Paying Agent has received, prior to such selection, a Notice of Election to Tender requiring the Registrar and Paying Agent to purchase such Bonds on the date on which the Bonds being selected are to be redeemed and (c) third, from all other Bonds then Outstanding, by lot or on a pro rata basis by the Trustee or, upon direction of the Trustee, by lot by the Registrar and Paying Agent; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$100,000 or any integral multiple thereof during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 or any integral multiple thereof during an Auction Rate Period, or \$5,000 or any integral multiple thereof at any other time and that, in selecting Bonds for redemption, the Trustee or Registrar and Paying Agent shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such registered Bond in excess of \$100,000 by \$100,000 during a Commercial Paper Rate Period, a Daily Rate Period, a Weekly Rate Period or a Monthly Rate Period, \$25,000 during an Auction Rate Period, and \$5,000 at any other time (such amounts being hereinafter referred to as the "applicable units of principal amount"). If it is determined that one or more, but not all of the \$100,000, \$25,000 or \$5,000 units of principal amount represented by any such Bond is to be called for redemption, then upon notice of intention to redeem such \$100,000, \$25,000 or \$5,000 unit or units, the Holders of such Bonds shall forthwith surrender such Bonds to the Registrar and Paying Agent for (1) payment of the redemption price (including the redemption premium, if any, and accrued interest to the date fixed for redemption) of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount called for redemption and (2) exchange for a new Bond or Bonds of the aggregate principal amount of the unredeemed balance of the principal of such Bonds. If the Holders of any such Bond of a denomination greater than \$100,000, \$25,000 or \$5,000 shall fail to present such Bond to the Registrar and Paying Agent, for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the \$100,000, \$25,000 or \$5,000 unit or units of principal amount called for redemption (and to that extent only).

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SECTION 5.12. Notice of Redemption.

1. Notice of redemption shall be given by the Trustee by mailing a copy of the redemption notice by first-class mail at least 30 days prior to the date fixed for redemption to the Holders of the Bonds to be redeemed at the addresses shown on the registration books maintained by the Registrar and Paying Agent. A copy of such notice of redemption shall be given by the Trustee to the Bond Insurer and the Auction Agent at least 30 days prior to the date fixed for redemption. Any redemption may be conditioned on the receipt of moneys by the Registrar and Paying Agent sufficient to pay the redemption price on the Redemption Date of Bonds called for redemption, if the notice of redemption so states.

2. The Registrar and Paying Agent shall not be required to transfer or exchange Bonds during any period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption and ending at the close of business on the day fixed for redemption; provided, however, that the foregoing shall not apply during a Daily Rate Period, a Weekly Rate Period, a Commercial Paper Rate Period or an Auction Rate Period.

3. Each notice of redemption shall state: (i) the full title of the Bonds, the redemption date, the place of redemption and the redemption price payable upon such redemption; (ii) that the interest on the Bonds, or on the principal amount thereof to be redeemed, shall cease to accrue from and after such redemption date and (iii) that on said date there will become due and payable on the Bonds the principal amount thereof to be redeemed and the interest accrued on such principal amount to the redemption date, if any, and the premium, if any, thereon. Each notice of redemption mailed to the Holder of the Bonds shall, if less than the entire principal sum thereof is to be redeemed, also state the principal amount thereof and the distinctive numbers of the Bonds to be redeemed and that such Bonds must be surrendered to the Trustee in exchange for the payment of the principal amount thereof to be redeemed and the issuance of a new Bond equaling in principal amount that portion of the principal sum not to be redeemed of the Bonds to be surrendered. The failure to give notice to any Holder of a Bond or any defects in such notice shall not affect the proceedings for the redemption of the Bonds for which notice has been properly given.

SECTION 5.13. Bonds Purchased for Account of Liquidity Facility Issuer. Bonds subject to mandatory purchase pursuant to Section 5.03, 5.04, 5.08 or 5.09 shall be deemed to be purchased by the Company except to the extent the Liquidity Facility expressly provides that the Bonds are to be purchased by the issuer of the Liquidity Facility in which event such Bonds shall be deemed to be purchased by the issuer of the Liquidity Facility in a principal amount equal to the amount of a draw on, or borrowing or payment under, the Liquidity Facility for the payment of Bonds subject to purchase, upon the deposit with the Registrar and Paying Agent of the proceeds of such draw on, or borrowing or payment under, the Liquidity Facility in an amount equal to the principal of such Bonds plus accrued interest thereon to the purchase date, and such Bonds shall not be deemed paid and shall remain outstanding hereunder until the issuer of the Liquidity Facility has been reimbursed for such draws on, or borrowings or payments under, the Liquidity Facility to pay such principal and interest. Unless the issuer of any Liquidity Facility shall otherwise direct, any Bonds purchased by the issuer of the Liquidity Facility shall be immediately registered in the name of the Company except to the extent the Liquidity Facility expressly provides that the Bonds are to be purchased by the issuer of the Liquidity Facility in which event such Bonds shall be registered

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in the name of the issuer of the Liquidity Facility as a Holder and the issuer of the Liquidity Facility shall have all rights of a Holder of Bonds under this Indenture.

SECTION 5.14. Effect of Redemption. If the Bonds have been duly called for redemption and notice of the redemption thereof has been duly given or provided for as hereinbefore provided and if monies for the payment of the Bonds (or of the principal amount thereof to be redeemed) and the interest to accrue to the redemption date on the Bonds (or of the principal amount thereof to be redeemed), if any, and the premium, if any, thereon are held for the purpose of such payment by the Trustee, then the Bonds (or the principal amount thereof to be redeemed) shall on the redemption date

designated in such notice, become due and payable and interest on the Bonds (or the principal amount thereof to be redeemed) so called for redemption shall cease to accrue from such date and the Holder thereof shall thereafter have no rights hereunder as the Holder of such Bonds (or the principal amount thereof to be redeemed) except to receive the principal amount thereof and premium (if any) thereon and interest to the redemption date.

SECTION 5.15. Cancellation of Redeemed Bonds. Any Bonds surrendered or redeemed pursuant to the provisions of this Article shall be cancelled by the Registrar and Paying Agent.

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ARTICLE VI

SUPPORT FACILITY

SECTION 6.01. Support Facility - General. Pursuant to the Participation Agreement, the Company has agreed not to request that the interest rate mode applicable to the Bonds be adjusted to an Adjustable Rate or a Fixed Rate unless on the effective date of the applicable Change in the Interest Rate Mode the Bonds shall be rated at least "A" by S&P or "A2" by Moody's or "A" by Fitch or an equivalent rating by any nationally recognized rating agency. Subject to the requirements of the Participation Agreement, such rating of the Bonds may, but is not required to, be achieved by obtaining a Support Facility which meets the requirements of this Article VI. The Company has further agreed to maintain a Liquidity Facility meeting the requirements of the Participation Agreement with respect to the Bonds at all times, except with respect to Bonds bearing interest at an Auction Rate, a Fixed Rate applicable to the stated maturity date of the Bonds or a Term Rate for a period of at least five years. A Liquidity Facility also must be in effect on or prior to the effective date of (i) any Change in the Interest Rate Mode from an Auction Rate to another Adjustable Rate (other than a Change in the Interest Rate Mode to an Auction Rate), and (ii) any change in the Interest Rate Mode from a Fixed Rate to an Adjustable Rate (other than a Change in the Interest Rate Mode to an Auction Rate). The Trustee shall be furnished with a certified copy of any Support Facility obtained pursuant to this Section 6.01.

Notwithstanding anything herein to the contrary, for so long as no Bond Insurer Default has occurred and is continuing, neither the Company nor the Authority shall obtain or put into effect any Credit Facility other than such Policy for the applicable subseries of the Bonds, nor consent to or approve any such action.

SECTION 6.02. Support Facility - Delivery of an initial Liquidity Facility and Alternate Support Facility.

1. At any time, the Authority may, at the request of the Company, provide for the delivery to the Trustee of an initial Liquidity Facility or an Alternate Support Facility. The termination date of such initial Liquidity Facility or such Alternate Support Facility, as the case may be, shall be a date not earlier than 364 days from its date of issuance, subject to earlier termination upon the occurrence of (i) a Terminating Event or another event of default under the related reimbursement agreement or other corresponding agreement relating to such initial Liquidity Facility or Alternate Support Facility, as the case may be, (ii) the issuance of an alternate Liquidity Facility or a subsequent Alternate Support Facility, as the case may be, (iii) payment in full of the Outstanding Bonds or (iv) in the case of an alternate Liquidity Facility, a Change in the Interest Rate Mode to an Auction Rate or a Fixed Rate. Any Liquidity Facility shall specifically allow, in the case of occurrence of any event or events which under the terms of such Liquidity Facility or any agreement providing for the issuance thereof would cause the termination or expiration of such Liquidity Facility, for the mandatory tender of Bonds pursuant to Section 5.09 with a draw on or borrowing or payment under such Liquidity Facility prior to such termination or expiration. On or prior to the date of the delivery of an initial Liquidity Facility or an Alternate Support Facility to the Trustee, the Company shall furnish to the

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Trustee on behalf of the Authority (a) an Opinion of Bond Counsel stating that the delivery of such initial Liquidity Facility or Alternate Support Facility, as the case may be, to the Trustee is authorized under this Indenture and complies with the terms hereof and (b) in the case of an Alternate Support Facility, confirmation from S&P, if the Bonds are then rated by S&P, from Moody's, if the Bonds are then rated by Moody's, or another rating agency, if the Bonds are then rated by such rating agency, to the effect that such rating agency has reviewed the proposed Alternate Support Facility and that the substitution of the proposed Alternate Support Facility for the Support Facility will not, by itself, result in a reduction or withdrawal of its long or short-term rating of the Bonds below the rating category of S&P or Moody's or such other rating agency, as the case may be, then in effect with respect to the Bonds.

2. Nothing contained herein shall prevent the Authority, at the request of the Company, from delivering an Alternate Support Facility in substitution for a Support Facility which will result in a decline in the short-term or long-term rating or both assigned to such Bonds by Moody's or S&P or such other rating agency as a result of the Alternate Support Facility; provided, that (i) the Opinion of Bond Counsel referred to in the preceding paragraph is obtained; provided that such opinion shall also be to the effect that delivery of such Alternate Support Facility will not adversely affect the exclusion from gross income of interest on the Bonds for Federal income tax purposes and (ii) all Outstanding Bonds are subject to mandatory tender for purchase pursuant to Section 5.08 (unless the Bonds bear an Auction Rate or a Fixed Rate). The Authority, or the Company on behalf of the Authority, shall deliver notice to the Trustee of the substitution of an Alternate Support Facility which will result in a decline in the short-term or long-term ratings assigned to the Bonds pursuant to this Subsection 2 of Section 6.02 at least forty-five (45) days before the date of substitution.

3. Each Liquidity Facility and each Liquidity Facility Issuer shall be subject to the prior written approval of the Bond Insurer, which approval shall not be unreasonably withheld.

SECTION 6.03. Trustee not Responsible for Enforcement of Support Facility. The Trustee shall have no responsibility with respect to the enforcement of any Support Facility obtained hereunder.

SECTION 6.04. Payments Pursuant to the Policies. At any time a Policy has been issued by the Bond Insurer:

1. The Trustee shall, at least one Business Day prior to each scheduled Interest Payment Date and each date on which payment of principal of the Bonds is scheduled to be due (each such date being a "Principal Payment Date"), determine whether there will be sufficient funds in the Bond Fund to pay the principal of and/or interest on the Bonds on such Interest Payment Date or Principal Payment Date. If the Trustee determines that there will be insufficient funds in the Bond Fund, the Trustee shall so notify the Bond Insurer and its designated agent (if any) (the "Insurance Trustee"). Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be

the applicable subseries of the Bonds at least one Business Day prior to an Interest Payment Date or Principal Payment Date, the Bond Insurer will make payments of principal or interest due on the Bonds on or before the first Business Day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Trustee.

2. The Trustee shall after giving notice to the Bond Insurer and the Insurance Trustee (if any) as provided in paragraph 1 of this Section 6.04, make available to the Bond Insurer and the Insurance Trustee (if any), the registration books of the Authority maintained by the Trustee and all records relating to the Bond Fund maintained under this Indenture.

3. The Trustee shall provide the Bond Insurer and the Insurance Trustee with a list of Holders of the Bonds entitled to receive principal or interest payments from the Bond Insurer under the terms of the applicable Policy, and shall make arrangements with the Bond Insurer or the Insurance Trustee (if any) (i) to mail checks or drafts to the Holders of the Bonds entitled to receive full or partial interest payments from the Bond Insurer and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the Holders of Bonds entitled to receive full or partial principal payments from the Bond Insurer.

4. The Trustee shall, at the time it provides notice to the Bond Insurer pursuant to paragraph 1 of this Section 6.04, notify Holders of Bonds entitled to receive the payment of principal or interest thereon from the Bond Insurer (i) as to the fact of such entitlement, (ii) that the Bond Insurer will remit to them all or a part of the interest payments next coming due upon proof of the Holders' entitlement to interest payments and delivery to the Bond Insurer or the Insurance Trustee (if any), in form satisfactory to the Bond Insurer or the Insurance Trustee (if any), of an appropriate assignment of the Holder's right to payment, (iii) that should they be entitled to receive full payment of principal from the Bond Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of the Bond Insurer) for payment to the Bond Insurer or the Insurance Trustee (if any), and not the Trustee, and (iv) that should they be entitled to receive partial payment of principal from the Bond Insurer, they must surrender their Bonds for payment thereon first to the Trustee, who shall note on such Bonds the portion of the principal paid by the Trustee and then, along with an appropriate instrument of assignment of the Holder's right to payment in form satisfactory to the Bond Insurer or the Insurance Trustee (if any), to the Bond Insurer or the Insurance Trustee (if any), which will then pay the unpaid portion of principal.

5. In the event that the Trustee has notice that any payment of principal or interest on a subseries of the Bonds which has become Due for Payment (as defined in the Bond Insurer's Policy applicable to such subseries) and which is made to a Holder of a Bond by or on behalf of the Authority has been deemed a preferential transfer and theretofore recovered from its Holder pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee shall, at the time the Bond Insurer is notified pursuant to paragraph 1 of this Section 6.04, notify all Holders of the Bonds that in the event that any Holder's payment is so recovered, such Holder will be entitled to payment from the Bond Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Trustee shall furnish to the

Bond Insurer its records evidencing the payments of principal or interest on the Bonds which have been made by the Trustee and subsequently recovered from Holders of the Bonds and the dates on which such payments were made.

6. In addition to those rights granted to the Bond Insurer under this Indenture, the Bond Insurer shall, to the extent it makes payment of principal or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the applicable Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Holders of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books upon surrender of the Bonds by the Holders thereof together with proof of the payment of principal thereof to the Holders of the Bonds.

7. If the Trustee provides a notice to the Bond Insurer pursuant to paragraph 1 of this Section 6.04, then, so long as any Bonds bear interest at an Auction Rate, the Trustee shall confirm with the Bond Insurer and the Insurance Trustee (if any) on or prior to the Business Day immediately following the day on which such notice was given that the Bond Insurer made payments under the applicable Policy in an amount that is equal to or exceeds the deficiency in the Bond Fund. If by the end of business on the Business Day immediately following the day on which a notice was given pursuant to paragraph 1 of this Section 6.04 the Trustee was unable to confirm, upon its communication with the Bond Insurer and the Insurance Trustee (if any), that the Bond Insurer made payments under the applicable Policy in an amount that is equal to or exceeds the deficiency in the Bond Fund, then the Trustee shall immediately send a notice to the Auction Agent and Holders of each subseries of Bonds by telex, telecopy or similar means of the occurrence of a Payment Default. If at any time after the occurrence of a Payment Default the Trustee confirms with the Bond Insurer and the Insurance Trustee (if any) that the Bond Insurer made payments under the applicable Policy in an amount that is equal to or exceeds the deficiency in the Bond Fund, the Trustee shall immediately give a notice to the Auction Agent and Holders of each subseries of the Bonds that the Bond Insurer has cured the default under such Policy by making all scheduled payments thereunder.

8. The notice address for the Bond Insurer shall be:

XL Capital Assurance Inc.
1221 Avenue of the Americas
31st Floor
New York, NY 10020-1001

SECTION 6.05. Rights of Credit Facility Issuer After an Event of Default. Notwithstanding any other provision of this Indenture, upon the occurrence of an Event of Default and so long as no Bond Insurer Default has occurred and is continuing, then, in all such events, the Bond Insurer

shall be deemed to be the sole owner of the Bonds when the approval, consent, direction or any other action of the owners of such Bonds is required or may be exercised under this Indenture, and shall be entitled to control and direct the enforcement of all

rights and remedies granted to the Holders or the Trustee for the benefit of the Holders, including, without limitation, (i) the right to control and direct the declaration of principal of and accrued interest on all the Bonds then Outstanding to be due and payable immediately as described herein, (ii) the right to rescind and annul such declaration and the consequences of such declaration, (iii) the right to waive any Event of Default and its consequences and (iv) the rights and remedies granted to the Trustee pursuant to Section 12.05.

SECTION 6.06. Additional Rights of Bond Insurer. For so long as no Bond Insurer Default has occurred and is continuing, the following provisions shall apply:

(a) the Bond Insurer's consent shall be required in addition to Holder consent, when required, for the initiation or approval of any action which requires Holder consent;

(b) to the extent that the Company has entered into a continuing disclosure agreement with respect to the Bonds, the Bond Insurer shall be included as a party to be notified; and

(c) To the extent that this Indenture confers upon or gives or grants to the Bond Insurer any right, remedy or claim under or by reason of this Indenture, the Bond Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

SECTION 6.07. Qualification of Bond Insurer's Right to Consent. A Bond Insurer's right to consent pursuant to the provisions of this Indenture shall not exist when a Bond Insurer Default has occurred and is continuing.

ARTICLE VII

GENERAL TERMS AND PROVISIONS OF BONDS

SECTION 7.01. Execution and Authentication of Bonds. The Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of its Chair, Vice-Chair, President, Treasurer or any Vice President and shall be sealed with the seal of the Authority, or in lieu thereof shall bear a lithographed, engraved or otherwise reproduced facsimile of such seal attested by the manual or facsimile signature of its Vice President, Treasurer, Secretary or an Assistant Secretary.

Bonds bearing the manual signature of the officer of the Authority authorized to execute such Bonds in office on the date of such manual signing thereof and Bonds bearing the facsimile signature of the officer of the Authority authorized to execute such Bonds in office on the date of the reproducing of such facsimile signature on such Bonds, shall be valid and binding obligations in accordance with their terms, notwithstanding that before the delivery thereof and payment therefor the person whose signature appears thereon shall have ceased to be such officer.

Only Bonds having endorsed thereon a certificate of authentication substantially in the form set forth in Article XVI, duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bonds shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon a Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture and that the Holder thereof is entitled to the benefits of this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized officer of the Trustee.

SECTION 7.02. Books of Registry. The Registrar and Paying Agent shall keep or cause to be kept at its principal office books (herein referred to as the "books of registry" or "registration books") for the registration and transfer of the Bonds. Upon presentation at its principal office for such purpose the Registrar and Paying Agent, under such reasonable regulations as it may prescribe, shall register or transfer, or cause to be registered or transferred, on said books of registry, the Bonds as hereinafter set forth. The books of registry shall at all times during business hours be open for inspection by the Authority, the Company and the Trustee or their duly authorized agents or representatives.

SECTION 7.03. Transfer, Registration and Exchange of Bonds. The transfer of the Bonds may be registered only upon the books of registry required to be kept pursuant to Section 7.02 upon surrender thereof to the Registrar and Paying Agent, together with an assignment duly executed by the Holder thereof or his or her duly authorized agent and accompanied by a guarantee of signature, each in such form as shall be satisfactory to the Registrar and Paying Agent. Upon any such registration of transfer the Authority shall execute and the Trustee shall authenticate and deliver in exchange for such Bonds a new Bond or Bonds registered in the name of the transferee or transferees for a like aggregate principal amount, of

any denomination or denominations authorized by this Indenture. No transfer of any Bond shall be effective until entered on the books of registry.

Any Bond surrendered in any such registration of transfer shall forthwith be cancelled by the Trustee. Any Bonds registered and transferred to a new Holder pursuant to this Section shall be delivered to the Holder at the principal office of the Registrar and Paying Agent or sent by first-class mail to the Holder at his or her request, risk and expense.

Bonds, upon surrender thereof at the principal corporate trust office of the Registrar and Paying Agent, together with an assignment duly executed by the Holder or his or her authorized agent and accompanied by a guarantee of signature, each in such form as shall be satisfactory to the Registrar

and Paying Agent, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of Bonds of any denomination or denominations authorized by this Indenture and in the same form as the Bonds surrendered for exchange. All Bonds so surrendered pursuant to this Section shall be cancelled by the Trustee.

Any Bonds to be delivered to the Holder upon any such exchange shall be delivered to the Holder at the principal office of the Registrar and Paying Agent or sent by first-class mail to the Holder thereof at his or her request, risk and expense.

Any taxes or other governmental charges required to be paid with respect to the registration of transfer or exchange of the Bonds shall be paid by the Holder requesting registration of such transfer or exchange, as a condition precedent to the exercise of such privilege. The Authority or the Registrar and Paying Agent, or both, may charge the Company for every registration of transfer or exchange sufficient to reimburse it for any and all costs required to be paid in respect thereof.

SECTION 7.04. Mutilated, Lost, Stolen, or Destroyed Bonds. In the event any Bond shall be lost, stolen, destroyed, wholly or in part, or so defaced as to impair its value to the Holder, the Trustee shall, upon compliance with the terms provided by law, authenticate and deliver a new Bond of like date and tenor in exchange or replacement therefor against delivery for cancellation of such mutilated Bond, or in lieu of and in replacement of a destroyed, stolen or lost Bond, and upon payment by the Holder of the reasonable expenses of the Registrar and Paying Agent and the Authority and the reasonable charges of the Trustee and Registrar and Paying Agent in connection therewith and, in the event that the Bond is destroyed, stolen or lost, the Holder's filing with the Registrar and Paying Agent of evidence satisfactory to it that the Bond was destroyed, stolen or lost, of the Holder's ownership thereof, and furnishing the Registrar and Paying Agent such security and indemnity as is satisfactory to it which shall name the Authority as an additional indemnified party. Any replacement Bond issued under the provisions of this Section in exchange or substitution for the defaced, mutilated or partly destroyed Bond or in substitution for the allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Indenture as was the original Bond in lieu of which such replacement Bond is issued. Each such replacement Bond shall be prepared in substantially the same manner as the original.

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Notwithstanding the foregoing provisions of this Section, if the lost, stolen, destroyed, defaced or mutilated Bond has matured or been called for redemption and the date fixed for redemption thereof has arrived, at the option of the Authority, payment of the amount due thereon may be made without the issuance of any replacement Bond upon receipt of like evidence, indemnity, security and payment of expenses and the surrender for cancellation of the defaced or mutilated or partly destroyed Bond and upon such other conditions as the Trustee may prescribe.

Except as provided in this sentence and as permitted in the following paragraph, any replacement Bond shall be in the form of the Bond being replaced, and be dated the date of its issuance and bear such number as shall be assigned thereto by the Registrar and Paying Agent, with such subseries designation, if any, as may be deemed appropriate by the Registrar and Paying Agent. The Registrar and Paying Agent shall make an appropriate notation in the books of registry that a replacement Bond has been issued in exchange or substitution for the defaced, mutilated, lost, stolen, or wholly or partly destroyed Bond.

There may be imprinted or affixed on the face and the panel portion of any duplicate Bond a mark to identify such Bond as a replacement Bond.

Prior to arranging for the preparation or printing of a replacement Bond, the Trustee and the Registrar and Paying Agent may require a deposit by the Holder to secure the Trustee, the Registrar and Paying Agent and the Authority for costs and expenses incurred by them in the preparation, printing, execution and issuance of such replacement Bond.

Any amount of such deposit received by the Registrar and Paying Agent in excess of the amount required to reimburse the Registrar and Paying Agent, the Trustee or the Authority for costs and expenses shall be returned to the party which made the deposit.

Any defaced, mutilated or partly destroyed Bond surrendered to the Registrar and Paying Agent in substitution for a new Bond pursuant to this Section shall be cancelled by the Trustee.

SECTION 7.05. Temporary Bonds. Pending the preparation of definitive Bonds, interim receipts or certificates (herein referred to as "temporary Bonds") may initially be issued, exchangeable for definitive Bonds when the latter are ready for delivery. Such temporary Bonds may be printed, lithographed or typewritten, shall be of such denomination or denominations as may be determined by the Authority and may contain such references to any of the provisions of this Indenture as may be appropriate. If temporary Bonds are issued, the Authority will cause to be furnished duly executed definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered for cancellation at the principal office of the Trustee in exchange for definitive Bonds and without charge for such exchange, and the Registrar and Paying Agent shall deliver in exchange for such temporary Bonds so surrendered an equal aggregate principal amount of definitive duly executed Bonds, of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds.

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Nothing in this Indenture shall prevent the Authority from delivering, and the Authority is hereby expressly permitted to deliver, Auction Rate Bonds in typewritten form to the Securities Depository as registered owner thereof.

SECTION 7.06. Disposition of Bonds. Any Bond surrendered to the Registrar and Paying Agent for payment shall be cancelled upon such payment by the Trustee. The Trustee shall dispose of any cancelled Bond which has been paid and which bears any date two (2) years prior to the date of disposition in accordance with the Trustee's procedures in effect for the disposition of cancelled securities as of the date of such disposition. When the Trustee shall dispose of any Bond, it shall deliver a certificate of such disposition to the Authority and the Company.

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ARTICLE VIII

ESTABLISHMENT OF THE PROJECT FUND

SECTION 8.01. Project Fund.

1. There is hereby created and established a special trust fund to be designated "Consolidated Edison Company of New York, Inc. Series 2004B Project Fund" (hereinafter referred to as the "Project Fund") to be held by the Trustee. All income or gain on monies deposited in the Project Fund shall be retained therein.
2. There shall be deposited into the Project Fund the proceeds of the Bonds issued hereunder.
3. The monies on deposit from time to time in the Project Fund shall be held under and subject to this Indenture, but shall not be subject to the liens, pledges, charges, assignments and trusts created hereby for the security and benefit of the Holders of the Bonds and shall not be available for the payment of Bonds within the meaning of the Indenture, and shall be used and applied solely for the purpose of refunding the Prior Bonds in accordance with the remaining provisions of this Section.
4. The Trustee is authorized and directed to make payments from the Project Fund to pay the redemption price of the Prior Bonds or costs incurred in connection therewith, upon receipt of a letter or letters signed by an Authorized Company Representative so directing.

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ARTICLE IX

CREATION OF SPECIAL FUNDS AND ACCOUNTS;
APPLICATION AND INVESTMENT OF REVENUES

SECTION 9.01. Creation of Funds and Accounts. (a) The following fund and the following accounts therein, which shall be a special fund and accounts to be held by the Trustee, are hereby created and designated as set forth below:

Bond Fund

- (a) Interest Account
- (b) Principal Account
- (c) Redemption Account
- (d) Acceleration Account

The designation of each fund and account set forth above shall include the term "Consolidated Edison Company of New York, Inc. Series 2004B," which term shall precede the designation as set forth above. Such fund and each such account is, however, sometimes referred to herein as set forth above.

(b) The Bond Fund and the accounts therein shall be held in the custody of the Trustee. All monies required to be deposited with or paid to the Trustee under any provision of this Indenture shall be held by the Trustee in trust and applied only in accordance with the provisions of this Indenture and shall be trust funds for the purposes specified in this Indenture.

SECTION 9.02. Deposit of Note Payments. The Trustee shall deposit the Note Payments or other money set forth below in the Bond Fund and credit the Accounts set forth below in the order set forth below:

The Company shall pursuant to Sections 4.02, 4.03 and 4.04 of the Participation Agreement deposit, or cause to be deposited, the following in immediately available funds with the Trustee as the Note Payments become due or are declared to be immediately due and payable under the Participation Agreement and the Note unless sufficient amounts are then available in such Accounts to make the required payments therefrom:

- (a) No later than 12:00 noon (New York City time) on the Business Day next preceding each Interest Payment Date, into the Bond Fund for credit to the Interest Account an aggregate amount of funds available on the next Business Day in The City of New York equal to the aggregate amount required for the payment of the interest payable on the Bonds, on such Interest Payment Date.

In the event a Direct-Pay Credit Facility is in place, amounts required to be deposited in the Bond Fund for credit to the Interest Account shall be derived solely from the

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following sources of funds in the priority indicated and shall be so deposited and credited to the Interest Account on the date indicated:

- (I) First, on each Interest Payment Date, the proceeds of a draw, borrowing or payment under the Direct-Pay Credit Facility in respect of interest payable on such Interest Payment Date; and
- (II) Second, on each Interest Payment Date, any other monies provided by the Company pursuant to the preceding paragraph for such purpose.

The Trustee shall deposit the proceeds of a draw, borrowing or payment under a Direct-Pay Credit Facility in a segregated sub-account of the Interest Account in the Bond Fund and such proceeds shall not be commingled with moneys in any other Account or sub-account or derived from any

other source.

(b)(i) During an Auction Rate Period, no later than 12:00 noon (New York City time) on the second Business Day next preceding each Auction Date, into the Bond Fund for credit to the Redemption Account an aggregate amount of funds available on the next Business Day in The City of New York equal to the aggregate amount required to pay the principal of and premium, if any, and accrued interest on any Auction Rate Bonds, called for redemption; provided, however if the scheduled date of such deposit to the Redemption Account by the Company is not a Business Day then the date for such deposit to the Redemption Account by the Company shall be the first Business Day immediately preceding the scheduled date of such deposit to the Redemption Account by the Company.

(ii) Other than during an Auction Rate Period, on the last Business Day prior to the day on which any redemption is to occur or on the last Business Day prior to the Stated Maturity, into the Bond Fund for credit to the Redemption Account or the Principal Account, as appropriate, the amount required to pay principal of and premium, if any, and accrued interest on any Bonds called for redemption or at the Stated Maturity, the amount required to pay the principal of the Bonds.

In the event a Direct-Pay Credit Facility is in place, amounts required to be deposited in the Bond Fund for credit to the Redemption Account or the Principal Account, as appropriate, shall be derived solely from the following sources of funds in the priority indicated and shall be so deposited and credited in the Redemption Account or the Principal Account, as appropriate, on the date indicated:

(I) First, on the date any redemption is scheduled to occur and on the Stated Maturity, the proceeds of a draw, borrowing or payment under the Direct-Pay Credit Facility in respect of the amounts described in the preceding paragraph; and

(II) Second, on the date any redemption is scheduled to occur and on the Stated Maturity, any other monies provided by the Company pursuant to the preceding paragraph for such purpose.

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The Trustee shall deposit the proceeds of a draw, borrowing or payment under a Direct-Pay Credit Facility in a segregated sub-account of the Redemption Account or Principal Account, as the case may be, in the Bond Fund and such proceeds shall not be commingled with moneys in any other Account or sub-account or derived from any other source.

If other monies are received by the Trustee as advance payments of Note Payments to be applied to the redemption of all or a portion of the Bonds, such monies shall be deposited in the Bond Fund for credit to the Redemption Account therein.

(c) Immediately following the declaration of principal of and accrued interest on the Bonds then Outstanding to be immediately due and payable pursuant to Section 12.03, into the Bond Fund for credit to the Acceleration Account, the amount required to pay principal of and accrued interest on such Bonds.

In the event a Direct-Pay Credit Facility is in place, amounts required to be deposited in the Bond Fund for credit to the Acceleration Account shall be derived solely from the following sources of funds in the priority indicated and shall immediately be so deposited and credited in the Acceleration Account:

(I) First, the proceeds of a draw, borrowing or payment under the Direct-Pay Credit Facility in respect of principal of and accrued interest on the Bonds; and

(II) Second, any other monies provided by the Company pursuant to the preceding paragraph for such purpose.

The Trustee shall deposit the proceeds of a draw, borrowing or payment under a Direct-Pay Credit Facility in a segregated sub-account of the Acceleration Account in the Bond Fund and such proceeds shall not be commingled with moneys in any other Account or sub-account or derived from any other source.

SECTION 9.03. Application of Monies in the Bond Fund and the Bond Purchase Fund.

1. The Bond Fund shall be used for the purpose of making scheduled payments of principal of and interest on the Bonds, of making payments of principal of and premium, if any, and accrued interest on Bonds then subject to redemption in the manner herein provided and of making payments of principal of and accrued interest on the Bonds then Outstanding that have been declared to be immediately due and payable pursuant to Section 12.03. The monies in the Bond Fund shall be applied as follows:

(a) Interest Account. Subject to the succeeding sentence, on each Interest Payment Date, the Trustee shall apply the amount of monies then credited to the Interest Account equal to the interest then payable on the Bonds to the payment of such interest on such Interest Payment Date. In the event a Direct-Pay Credit Facility is in place and payments are required to be made in the order specified in Section 9.02 (a)(ii), the

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Trustee shall request a draw, borrowing or payment under the Direct-Pay Credit Facility in accordance with the terms thereof in an amount equal to the amount required to pay the interest payable on the Outstanding Bonds on such Interest Payment Date and shall notify the Company of the amount and date of such request. If sufficient funds are not available under Section 9.02(a)(ii)(I) to pay such interest, the Trustee shall apply funds, if any, available pursuant to Section 9.02(a)(ii)(II), to the extent necessary, to such payment of interest. If the interest on the Bonds has been paid in full when due and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(a)(ii)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

(b) Principal Account. Subject to the succeeding sentence, on the Stated Maturity, the Trustee shall apply the amount of monies then credited to the Principal Account equal to the principal amount of Bonds then payable to the payment of such principal on such date. In the event a Direct-Pay Credit Facility is in place, the Trustee shall request a draw, borrowing or payment under the Direct-Pay Credit Facility in accordance with the terms thereof in the amount required, to pay such principal amount and shall notify the Company of the amount and date of such request. If sufficient funds are not available under Section 9.02(b)(ii)(I) to pay such principal, the Trustee shall apply funds, if any, available pursuant to Section 9.02(b)(ii)(II), to the extent necessary, to such payment. If the principal of the Bonds has been paid in full when due and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(b)(ii)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

(c) Redemption Account. The Trustee shall redeem on the date set for the redemption thereof, as provided in Article V of this Indenture, a principal amount of Bonds then subject to redemption. Subject to the following sentence, the Trustee shall apply an amount credited to the Redemption Account equal to the principal amount and premium, if any, of Bonds then subject to redemption, together with accrued interest thereon to the redemption date, to the payment of such Bonds on the redemption date from funds described in Section 9.02(b).

In the event a Direct-Pay Credit Facility is in place, the Trustee shall request a draw under the Direct-Pay Credit Facility in accordance with the terms thereof, in an amount equal to the amount required to pay the principal amount and premium, if any, of Bonds then to be redeemed, together with accrued interest thereon to the date set for redemption and shall notify the Company of the date and amount of such request. If sufficient amounts to make such payment are not available under Section 9.02(b)(ii)(I), the Trustee shall apply amounts, if any, available pursuant to Section 9.02(b)(ii)(II), to the extent necessary, to such payment. Such redemption shall be made pursuant to the provisions of Article V. If the redemption price of the Bonds equal to the principal amount of Bonds then to be redeemed, together with premium, if

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any, and accrued interest thereon has been paid in full on the redemption date and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(b)(ii)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

Upon the retirement of any portion of the Bonds by redemption pursuant to the provisions of this Section 9.03, the Trustee shall file with the Authority and the Company a statement stating the amounts of the Bonds so redeemed and setting forth the date of their redemption and the amount paid as principal, premium and interest thereon. The expenses in connection with the redemption of the Bonds shall be paid by the Company as Additional Payments.

All monies in the Redemption Account on the last Business Day prior to the Stated Maturity shall be transferred to the Principal Account.

(d) Acceleration Account. The Trustee shall immediately apply an amount credited to the Acceleration Account equal to the principal amount of and accrued interest on the Bonds then Outstanding that have been declared to be immediately due and payable pursuant to Section 12.03 from funds described in Section 9.02(c).

In the event a Direct-Pay Credit Facility is in place, the Trustee shall request a draw under the Direct-Pay Credit Facility in accordance with the terms thereof, in an amount equal to the amount required to pay the principal amount of and accrued interest of the Bonds then Outstanding that have been declared to be immediately due and payable pursuant to Section 12.03 and shall notify the Company of the date and amount of such request. If sufficient amounts to make such payment are not available under Section 9.02(c)(I), the Trustee shall apply amounts, if any, available pursuant to Section 9.02(c)(II), to the extent necessary, to such payment. If the principal of and interest on the Bonds has been paid in full after such Bonds have been declared to be immediately due and payable and all payments required under the Direct-Pay Credit Facility have been made, the Trustee shall apply remaining funds, if any, available pursuant to Section 9.02(c)(II) in an amount not to exceed the amount of the draw or borrowing under the Direct-Pay Credit Facility to reimburse the Credit Facility Issuer for such draw or borrowing after such draw or borrowing has been honored by the Credit Facility Issuer.

2. Bond Purchase Fund. Pursuant to Section 4.02(d) of the Participation Agreement, the Company has agreed that the Company shall provide funds to the Registrar and Paying Agent for deposit in the Bond Purchase Fund and credit to the Company Account therein established under the Bond Purchase Trust Agreement to be applied to the payment of the Purchase Price of any Bond pursuant to the Bond Purchase Trust Agreement to the extent not otherwise provided from the sources described in the Bond Purchase Trust Agreement.

In the event sufficient funds are not available under Section 2.03(a)(i) of the Bond Purchase Trust Agreement to pay such Purchase Price on the date of purchase of any Bonds pursuant to Section 5.03, 5.04, 5.08 or 5.09 hereof, the Registrar and Paying Agent on or prior to

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the time specified in the Bond Purchase Trust Agreement shall direct the Trustee to request a draw or payment under the Liquidity Facility in accordance with the terms thereof in the amount required, together with amounts, if any, available under Section 2.03(a)(i) of the Bond Purchase Trust Agreement, to pay the Purchase Price of such Bonds on such date of purchase. The Trustee shall on or prior to the time specified in the Bond Purchase Trust Agreement request such draw or payment under the Liquidity Facility in accordance with the terms thereof and shall on or prior to the time specified in the Bond Purchase Trust Agreement transfer the proceeds of such draw or payment to the Registrar and Paying Agent, who shall cause the proceeds of such draw or payment to be deposited in the Bond Purchase Fund under the Bond Purchase Trust Agreement and credited to the Liquidity Facility Proceeds Account therein. The Registrar and Paying Agent shall notify the Company of the amount and date of such request. The Registrar and Paying Agent shall promptly notify the Company in the event that it has not received any amounts requested under a Support Facility prior to the time specified in the Bond Purchase Trust Agreement on any date a Purchase Price is due.

The Remarketing Agent for a subseries of Bonds shall notify the Registrar and Paying Agent and the Trustee, at or prior to 11:15 a.m. (New York City time) on a specified purchase date, of the amount of the proceeds of the related remarketing, and shall specify whether remarketing proceeds (excluding any such proceeds from the Company, the Authority or an affiliate of either) equal to the full amount of the Purchase Price payable on such

purchase date are held by such Remarketing Agent and will be available on such purchase date for the payment of such Purchase Price, and, if the amount of such remarketing proceeds that will be available on such purchase date for the payment of such Purchase Price shall not be equal to the full amount of the Purchase Price payable on such purchase date, such notice shall specify the amount of the deficiency. By 11:45 a.m. (New York City time) on such purchase date, the Remarketing Agent shall pay to the Registrar and Paying Agent, for deposit in the Bond Purchase Fund and credit to the Remarketing Proceeds Account, an aggregate amount of such remarketing proceeds equal to the amount stated in such notice to be available on such purchase date for the payment of such Purchase Price.

SECTION 9.04. Investment of Funds. Monies in the Bond Fund and the accounts in such fund shall only be invested and reinvested by the Trustee in Investment Securities selected by the Company, so long as the Company is not in default hereunder or under the Participation Agreement, and maturing in the amounts and at the times as determined by the Company so that the payments required to be made from such funds and accounts may be made when due and subsequent to the occurrence of an Event of Default hereunder or under the Participation Agreement, the Trustee shall hold monies in the Bond Fund uninvested. Investment earnings shall be considered on deposit in any Fund or Account as of the date they are actually received by the Trustee. Notwithstanding the foregoing, so long as a Direct-Pay Credit Facility is in effect, monies in the Bond Fund, except for proceeds of refunding bonds, shall be held uninvested.

Monies on deposit in the Project Fund shall be invested and reinvested by the Trustee at the express direction of the Company, promptly confirmed in writing (which may be provided by telecopy), so long as the Company is not in default under the Participation Agreement, to the extent reasonable and practicable, in Investment Securities maturing in such

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amounts and at such times as it is anticipated by the Company that such monies will be required to pay the redemption price of the Prior Bonds.

The Trustee, with the consent of the Company, shall be authorized to sell any investment when necessary to make the payments to be made from the funds and accounts therein. All earnings on and income from monies in said funds and accounts (other than the Project Fund) created hereby shall be considered to be Revenues and shall be held in the respective account in the Bond Fund for use and application as are all other monies deposited in such accounts. The Trustee shall, in the statement required by Section 11.07, set forth the Investment Securities held separately in, and the earnings realized on investment for, each fund and account hereunder. The Trustee shall not be liable for any depreciation in the value of the Investment Securities acquired hereunder or any loss suffered in connection with any investment of funds made by it in accordance herewith, including, without limitation, any loss suffered in connection with the sale of any investment pursuant hereto.

The Trustee may make any such investments through its own investment department upon written direction of the Company.

All Investment Securities shall constitute a part of the respective fund and accounts therein from which the investment in Investment Securities was made.

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ARTICLE X

PARTICULAR COVENANTS OF THE AUTHORITY

SECTION 10.01. Payment of Principal of and Interest and Redemption Premium on Bonds. The Authority will promptly pay solely from the Note Payments and other monies held by the Trustee and available therefor, the principal of, and the interest on, every Bond issued under and secured by the Indenture and any premium required to be paid for the retirement of said Bonds by redemption, at the places, on the dates and in the manner specified in this Indenture and in said Bonds according to the true intent and meaning thereof, subject, however, to the provisions of Section 2.02.3.

SECTION 10.02. Performance of Covenants. The Authority will faithfully perform at all times all covenants, undertakings, stipulations and provisions contained in the Indenture, in any and every Bond and in all proceedings of the Authority pertaining thereto.

SECTION 10.03. Further Instruments. The Authority will from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of the Indenture; provided, however, that no such instruments or actions shall pledge the credit of the Authority or the State of New York or the taxing power of the State of New York or otherwise be inconsistent with the provisions of Section 2.02.3.

SECTION 10.04. Inspection of Project Books. All books and documents in the possession of the Authority relating to the Project or the Participation Agreement shall at all times be open to inspection by such accountants or other agents as the Trustee or the Bond Insurer may from time to time designate.

SECTION 10.05. No Extension of Time of Payment of Interest. In order to prevent any accumulation of claims for interest after maturity, the Authority will not directly or indirectly extend or assent to the extension of the time of payment of any claims for interest on, any of the Bonds and will not directly or indirectly be a party to or approve any such arrangement by purchasing such claims for interest or in any other manner. In case any such claim for interest shall be extended in violation hereof, such claim for interest shall not be entitled, in case of any default hereunder, to the benefit or security of the Indenture except subject to the prior payment in full of the principal of, and premium, if any, on, all Bonds issued and outstanding hereunder, and of all claims for interest which shall not have been so extended or funded.

SECTION 10.06. Trustee's, Auction Agent's, Remarketing Agent's, Broker-Dealers', Registrar and Paying Agent's and Indexing Agent's Fees, Charges and Expenses. Pursuant to the provisions of Section 4.02 of the Participation Agreement, the Company has agreed to pay the fees and the expenses (including, in the case of the Trustee, the Registrar and Paying Agent and the Remarketing Agents, the reasonable fees and expenses of counsel and accountants) of the Trustee, the Registrar and Paying Agent, Indexing Agent, Remarketing Agents and in the case of Auction Rate Bonds, the Auction Agent and Broker-Dealers, in the

amounts set forth more fully therein, and the Authority shall have no liability for the payment of any fees or expenses of the Trustee, the Registrar and Paying Agent, Indexing Agent, Remarketing Agents and in the case of Auction Rate Bonds, the Auction Agent and Broker-Dealers.

SECTION 10.07. Agreement of the State of New York. In accordance with the provisions of subdivision 11 of Section 1860 of the Act, the Authority, on behalf of the State of New York, does hereby pledge to and agree with the Bondholders that the State of New York will not limit or alter the rights and powers vested by the Act in the Authority to fulfill the terms of any contract made with Bondholders, or in any way impair the rights and remedies of such Bondholders, until the Bonds, together with the premium and interest thereon, with (to the extent permitted by law) interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such Bondholders, are fully met and discharged.

SECTION 10.08. Recording and Filing. Pursuant to the Participation Agreement, the Company covenants that it will cause all financing statements related to this Indenture and all supplements thereto and the Participation Agreement and all supplements thereto, as well as such other security agreements, financing statements and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may from time to time be required by law in order to preserve and protect fully the security of Holders and the rights of the Trustee hereunder, and to take or cause to be taken any and all other action necessary to perfect the security interest created by this Indenture. The Company is obligated under Section 5.08 of the Participation Agreement to file all such financing statements and other security agreements. The Trustee is hereby authorized to file all financing statements in the event that the Company does not file them.

SECTION 10.09. Rights Under the Participation Agreement and the Note. The Participation Agreement, a duly executed counterpart of which has been filed with the Trustee, sets forth the covenants and obligations of the Authority and the Company and reference is hereby made to the same for a detailed statement of said covenants and obligations of the Company thereunder. Subsequent to the issuance of Bonds and prior to their payment in full or provision for payment thereof in accordance with the provisions hereof, neither the Participation Agreement nor the Note may be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article XIV hereof. The Authority agrees that the Trustee, in its name or in the name of the Authority, may enforce all rights of the Authority and all obligations of the Company under and pursuant to the Participation Agreement and the Note for and on behalf of the Holders, whether or not the Authority is in default hereunder. The Note heretofore delivered to the Trustee evidences the obligations of the Company to make certain specified payments under the Participation Agreement. Nothing herein contained shall be construed to prevent the Authority from enforcing directly any or all of its rights to administrative compensation or indemnification under the Participation Agreement.

ARTICLE XI

CONCERNING THE TRUSTEE; APPOINTMENT OF REGISTRAR AND PAYING AGENT, REMARKETING AGENTS, AUCTION AGENT AND INDEXING AGENT

SECTION 11.01. Appointment of Trustee. The Bank of New York is hereby appointed the Trustee hereunder and by the execution of this Indenture accepts such appointment and without further act, deed or conveyance, shall be fully vested with all the estate, properties, rights, powers, trusts, duties and obligations of the Trustee hereunder.

The Trustee shall set up suitable accounts for the deposit of the Note Payments and for the payment of the Bonds and the interest thereon and for all other payments provided or required by this Indenture, including, without limiting the generality of any of the foregoing, setting up of the Funds created by Articles VIII and IX.

SECTION 11.02. Indemnification of Trustee as Condition for Remedial Action. The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees and other reasonable disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without indemnity, and in such case the Trustee shall be reimbursed from the Additional Payments required to be made pursuant to the Participation Agreement for all costs and expenses, outlays and counsel fees and other reasonable disbursements incurred in connection therewith. If the Company shall fail to make such reimbursement, the Trustee may reimburse itself from any monies in its possession under the provisions of this Indenture and shall be entitled to a preference over the Bonds; provided, however, that the proceeds of a Support Facility or of remarketing of Bonds shall be applied solely as set forth elsewhere herein and in such Support Facility and shall not be applied to the reimbursement set forth in this Section 11.02. Notwithstanding the foregoing, the Trustee shall make all payments of principal of and premium, if any, and interest on the Bonds then Outstanding when due, when called for redemption or when declared to be immediately due and payable pursuant to this Indenture and of the Purchase Price of the Bonds in accordance with this Indenture.

SECTION 11.03. Trustee Not Liable for Failure of the Authority or Company to Act. The Trustee shall not be liable or responsible because of the failure of the Authority or the Company or any of their employees or agents to make any collections or deposits or to perform any act herein required of the Authority or the Company. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other monies deposited with it and paid out, withdrawn or transferred hereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Indenture. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

SECTION 11.04. Certain Duties and Responsibilities of the Trustee. (a) Except during the continuance of an Event of Default specified in Section 12.01 of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08,

(1) the Trustee shall undertake to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(b) In case an Event of Default specified in Section 12.01 has occurred and is continuing of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in such exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(c) None of the provisions of this Indenture shall be construed to relieve the Trustee from liability for negligent action, negligent failure to act, or willful misconduct, except that

(1) this Subsection (c) shall not be construed to limit the effect of Subsection (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be proved that the Trustee was negligent;

(3) in the absence of bad faith on its part, the Trustee shall be protected and shall incur no liability in acting or proceeding or in not acting or not proceeding upon any resolution, order, notice, telegram, request, consent, waiver, certificate, statement, affidavit, voucher requisition, bond or other paper or document which the Trustee shall believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any attorney, engineer, accountant or other expert believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements;

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(4) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in aggregate principal amount of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under the provisions of this Indenture; and

(5) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Notwithstanding anything contained elsewhere in this Indenture, the Trustee shall have the right to reasonably require, in respect of the payment or withdrawal of any monies or the taking of any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that required by the terms hereof as a condition of such action by the Trustee.

(e) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers, and shall not be responsible for any negligence or misconduct on the part of any such attorney, agent or receiver appointed by it if the Trustee shall have exercised due care and diligence in appointing or selecting such person, and shall be entitled to advice of counsel concerning all matters of the trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney or attorneys (who may be the attorney or attorneys for the Authority or the Company), approved by the Trustee in the exercise of reasonable care, and the Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(f) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon a certificate of an Authorized Company Representative or an Authorized Officer.

(g) The Trustee shall not be accountable for the use by the Company of any proceeds of the Bonds authenticated or delivered hereunder.

(h) The Trustee shall not be required to give any bonds or surety in respect of the execution of its trusts and powers hereunder.

(i) The Trustee may treat and deem the Holder of any Bonds as set forth in the books of the registry hereunder as the absolute owner thereof.

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(j) Notwithstanding any other provision of this Indenture, in determining whether the rights of the Holders will be adversely affected by any action taken pursuant to the terms and provisions of this Indenture, the Trustee shall consider the effect on the Holders as if there were no Policies.

(k) The Trustee shall furnish to the Bond Insurer, upon request, such information concerning the subseries of the Bonds to which such Policy applies as it may reasonably request.

(l) The Trustee shall provide to the Bond Insurer (attention: Surveillance Department), a copy of any notice to be given to the registered owners of the related subseries of Bonds, including, without limitation, notice of any redemption of or defeasance of the Bonds, and any certificate rendered pursuant to this Indenture relating to the security for the Bonds.

(m) The Trustee shall notify the Bond Insurer of any failure of the Company to provide relevant notices, certificates or other information pursuant to the terms hereof or of the Participation Agreement.

(n) Notwithstanding any other provision of this Indenture, the Trustee shall immediately notify the Bond Insurer if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any Event of Default hereunder

SECTION 11.05. Limitations on Obligations and Responsibilities of Trustee. The Trustee shall be under no obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the Company, or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made. The Trustee, except as to the acceptance of the trusts by its execution of this Indenture and the performance of its responsibilities hereunder, shall have no responsibility in respect of the validity, sufficiency, due execution or acknowledgment of this Indenture, or in respect of the validity of the Bonds or the due execution or issuance thereof. The Trustee shall be under no obligation to see that any duties herein or in the Participation Agreement, the Remarketing Agreement, the Auction Agency Agreement, the Broker-Dealer Agreement or any Support Facility imposed upon the Authority, the Company, the issuer of any Support Facility, or any party other than itself in its capacity as Trustee, or any covenants herein contained on the part of any party other than itself in its capacity as Trustee to be performed, shall be done or performed, and the Trustee shall be under no obligation for failure to see that any such duties or covenants are so done or performed.

SECTION 11.06. Compensation and Indemnification of Trustee. The Company has agreed in the Participation Agreement (1) to pay to the Trustee from time to time such compensation for all services rendered by it hereunder or shall from time to time be agreed

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in writing (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust); (2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and (3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

SECTION 11.07. Statements from Trustee. It shall be the duty of the Trustee, on or about the fifteenth (15th) day of each month, and at such other reasonable time or times as may be determined by the Authority or the Company, to file with the Authority, upon the written request thereof, and the Company a statement setting forth in respect of the preceding calendar month:

- (a) the amount withdrawn or transferred by it and the amount received by it and held on account of each Fund under the provisions of this Indenture;
- (b) the amount on deposit with it at the end of such calendar month to the credit of each such Fund or Account;
- (c) a monthly account of reconciliation and income which includes a brief description of all obligations held by it as an investment of monies in each such Fund or Account;
- (d) the amount applied to the redemption of the Bonds under the provisions of Article V and Section 9.03 and the amount of the Bonds remaining Outstanding; and
- (e) any other information which the Authority or the Company may reasonably request.

All records and files pertaining to the Bonds and the Company in the custody of the Trustee shall be open at all reasonable times upon prior notice to the inspection of the Authority, the Company and their agents and representatives.

SECTION 11.08. Notice of Default. Except upon the happening of any Event of Default specified in clauses (a) through (d), inclusive, of Section 12.01, the Trustee shall not be obliged to take notice or be deemed to have notice of any Event of Default hereunder, unless a Responsible Officer of the Trustee shall have actual knowledge thereof or be specifically notified in writing of such Event of Default by the issuer of any Support Facility, any Remarketing Agent, the Auction Agent or the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding and such written notice shall state that it is a "notice of default."

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SECTION 11.09. Trustee May Deal in Bonds. The bank or trust company acting as Trustee under this Indenture, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in the Bonds issued under and secured by this Indenture, and may join in the capacity of a Holder of a Bond in any action which any Holder of a Bond may be entitled to take with like effect as if such bank or trust company were not the Trustee under this Indenture.

SECTION 11.10. Trustee Not Responsible For Recitals. The recitals, statements and representations contained herein and in the Bonds shall be taken and construed as made by and on the part of the Authority, and not by the Trustee, and the Trustee assumes, and shall be under, no responsibility for the correctness of the same or for the recording or re-recording or filing or refiling of the Indenture or any supplements thereto or any instruments of further assurance (including financing statements) except as otherwise provided herein. The Trustee makes no representations as to the value of any property pledged hereunder to the payment of Bonds or as to the title of the Authority or the Company thereto or as to the validity, sufficiency or adequacy of the security afforded thereby or hereby or as to the validity of this Indenture, the Note, the Participation Agreement, any Support Facility or of the Bonds.

SECTION 11.11. Qualification of the Trustee. There shall at all times be a Trustee hereunder which shall be a trust company or bank in good standing located in or incorporated under the laws of the State of New York, duly authorized to exercise trust powers and subject to examination by Federal or State authority, and having reported capital and surplus of not less than \$75,000,000. The Trustee hereunder shall not be required to maintain, and any successor Trustee shall not be required to have, an office in the city in which the principal corporate trust office of the initial Trustee hereunder is located.

If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 11.11, it shall resign immediately in the manner and with the effect specified in Section 11.12.

SECTION 11.12. Resignation and Removal of Trustee.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 11.13.

(b) The Trustee may resign at any time by giving written notice thereof to the Authority, the Bond Insurer and the Company. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the retiring Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by demand of the Holders of a majority in principal amount of the Bonds then Outstanding, signed in person by such Holders or by their attorneys, legal representatives or agents and delivered to such

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Trustee, the Authority and the Company (such demand to be effective only when received by the Trustee, the Authority and the Company).

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 11.11 and shall fail to resign after written request by the Authority or by a Holder who shall have been a bona fide Holder for at least six months,

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, or

(3) the Trustee shall breach any trust or obligation hereunder,

then, in any such case, (i) the Authority may remove, and the Company or the Bond Insurer may direct the Authority to remove, the Trustee, or (ii) any Holder who has been a bona fide Holder for at least six months may, on behalf of herself and all other similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Trustee for any cause, the Authority shall promptly appoint a successor; the Company or the issuer of any Support Facility or both of them, having the right to request the appointment of a particular qualified institution as such successor. Within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee may be appointed by an instrument or concurrent instruments in writing executed by the Holders of a majority in principal amount of the Bonds then Outstanding delivered to the Authority and the retiring Trustee, and, upon such delivery, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Authority.

(f) The Authority shall give notice to the Trustee, the Bond Insurer, the Company, the applicable Remarketing Agents, the Registrar and Paying Agent, the Auction Agent and the Bondholders of each resignation and each removal of a Trustee and each appointment of a successor Trustee in the manner set forth in Section 17.03 with respect to Bondholders and Section 17.09 with respect to the Company, the Bond Insurer, the Auction Agent and the applicable Remarketing Agents. Each notice shall include the name and address of the Principal Corporate Trust Office of the successor Trustee.

(g) The Trustee at any time other than during the continuance of an Event of Default and for any reason may be removed by an instrument in writing, executed by an Authorized Officer, appointing a successor, filed with the Trustee so removed.

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SECTION 11.13. Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the Authority and the Company, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on written request of its successor or of the Authority and upon payment of expenses, charges and other disbursements of such predecessor which are payable pursuant to the provisions of Sections 11.02 and 11.06, execute and deliver an instrument

transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and monies held by it hereunder to its successor, subject, nevertheless, to its first lien and preference provided for in Sections 11.02 and 11.06. Should any instrument in writing from the Authority be required by any successor Trustee for more fully vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the Authority.

Every successor Trustee appointed pursuant to this Section shall be a trust company or bank in good standing located in or incorporated under the laws of the State of New York, duly authorized to exercise trust powers and subject to examination by Federal or State authority, having a reported capital and surplus of not less than \$75,000,000.

Notwithstanding any of the foregoing provisions of this Article, any bank or trust company having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be converted, merged or consolidated, or to which the corporate trust business assets as a whole or substantially as a whole of such bank or trust company may be sold, shall be deemed the successor of the Trustee.

SECTION 11.14. Appointment of Remarketing Agents. Morgan Stanley & Co. Incorporated, J.P. Morgan Securities Inc., Banc One Capital Markets, Inc. and Citigroup Global Markets Inc. are hereby appointed by the Authority as the initial Remarketing Agents to serve as such under the terms and provisions hereof and of the Market Agent Agreements for the Series 2004B-1-1 Bonds, the Series 2004 B-1-2 Bonds, the Series 2004 B-1-3 Bonds, and the Series 2004 B-1-4 Bonds and Series 2004B-2 Bonds, respectively, and of any successor Remarketing Agreement. The Remarketing Agent for any subseries, including any successor appointed pursuant hereto, shall be a member of the National Association of Securities Dealers, Inc. having capitalization of at least \$25,000,000, and be authorized by law to perform all the duties imposed upon it by this Indenture, the Bond Purchase Trust Agreement and the Remarketing Agreement. The Remarketing Agent for any subseries of Bonds may be removed at any time by the Authority, upon thirty (30) days' notice, acting at the written direction of the Company by an instrument signed by the Authority and filed with the Trustee, the Registrar and Paying Agent, the Remarketing Agent and the Company. If there shall not be at least one Remarketing Agent serving as such for any subseries of Bonds following the effective date of a proposed removal of a Remarketing Agent for such subseries, no such removal shall take effect until the appointment of a successor Remarketing Agent for such subseries of Bonds. The

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Remarketing Agent for any subseries of Bonds may resign upon 30 days' written notice delivered to the Company, the Authority, the Trustee, the Registrar and Paying Agent and the Bond Insurer or any other issuer of any Support Facility. The Company shall use its best efforts to cause the Authority to appoint a successor Remarketing Agent that is a qualified institution, effective as of the effectiveness of any such resignation or removal. Each successor Remarketing Agent shall be a qualified institution selected and appointed by the Authority, upon the written request and with the approval of the Company and the Bond Insurer. If there shall be more than one Remarketing Agent serving as such for a subseries of Bonds, the Authority, at the request of the Company, shall designate one such Remarketing Agent as "Remarketing Representative" to act on behalf of all Remarketing Agents for such subseries, and each other Remarketing Agent shall agree in writing to accept the determinations of such Remarketing Representative.

SECTION 11.15. Appointment of Registrar and Paying Agent. The Bank of New York in New York, New York is hereby appointed by the Authority to serve as the Registrar and Paying Agent hereunder. The Company shall have the right to request the appointment of an institution meeting the requirements of Section 11.19 to serve as successor thereto in the event of the removal or resignation of such Registrar and Paying Agent.

The Trustee hereby appoints any Registrar and Paying Agent appointed hereunder as authenticating agent.

SECTION 11.16. General Provisions Regarding Registrar and Paying Agent.

(a) The Registrar and Paying Agent shall:

(i) hold all Bonds delivered to it for purchase hereunder in trust for the benefit of the respective Bondholders which shall have so delivered such Bonds until monies representing the purchase price of such Bonds shall have been delivered to or for the account of or to the order of such Holders and deliver said Bonds in accordance with the provisions of this Indenture;

(ii) hold all monies delivered to it for the purchase of Bonds, in trust for the benefit of the person or entity who has delivered such monies until the Bonds purchased with such monies have been delivered to or for the account of such person or entity as provided in this Indenture;

(iii) maintain the books of registry and keep such books and records as shall be consistent with prudent industry practice and make such books and records available for inspection by the Trustee, the Remarketing Agent, the Authority and the Company at all reasonable times;

(iv) perform the duties and undertake the obligations assigned to them in Sections 7.02 through 7.06;

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(b) The Registrar and Paying Agent may deem and treat the Holder of any Bonds as set forth in the books of registry hereunder as the absolute owner thereof;

(c) The Registrar and Paying Agent may in good faith hold any other form of indebtedness issued by the Authority or any security issued by the Company, or any affiliate of the Company; own, accept or negotiate any drafts, bills of exchange, acceptances or obligations thereof; and make disbursements therefor and enter into any commercial or business arrangement therewith; all without any liability on the part of such Registrar and Paying Agent for any real or apparent conflict of interest by reason of any such actions; and

(d) The Registrar and Paying Agent agrees to cooperate with the Trustee and the Company in preparing and conveying information necessary for drawings under any Support Facility. To the extent that any other certificate to be submitted by the Trustee to an issuer of a Support Facility in connection with a drawing under the Support Facility requires the Trustee to state that the Registrar and Paying Agent has certified certain information to the Trustee, the Registrar and Paying Agent agrees to provide such certification to the Trustee to the extent such information is known to it.

SECTION 11.17. Payment of Registrar and Paying Agent; Indemnification. The Authority will cause the Company to agree in the Participation Agreement to pay all reasonable fees, charges and expenses of the Registrar and Paying Agent for acting under and pursuant to this Indenture. In addition, the Authority will cause the Company to agree in the Participation Agreement to indemnify the Registrar and Paying Agent and its directors, officers and employees against and save them harmless from any and all losses, costs, charges, expenses, judgments and liabilities incurred while carrying out the transactions contemplated by this Indenture, except that said indemnity does not apply to the extent that they are caused by the negligent action, negligent failure to act or willful misconduct of the Registrar and Paying Agent or its directors, officers, employees or agents.

SECTION 11.18. Registrar and Paying Agent's Performance; Duty of Care. The duties and obligations of the Registrar and Paying Agent shall be determined solely by the provisions of this Indenture. None of the provisions of this Indenture shall be construed to relieve the Registrar and Paying Agent from liability for negligent action, negligent failure to act or willful misconduct, except that (a) the Registrar and Paying Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and, in the absence of bad faith on the part of the Registrar and Paying Agent, the Registrar and Paying Agent may conclusively rely, as to the truth of the statements expressed therein, upon any document furnished to the Registrar and Paying Agent and conforming to the requirements of this Indenture and the Registrar and Paying Agent may conclusively rely and shall be protected in acting upon any document believed by it to be genuine and to have been signed or presented by the proper party or parties, provided that, in the case of any such document which by any provision of this Indenture is specifically required to be furnished to the Registrar and Paying Agent, the Registrar and Paying Agent shall be under a duty to examine the same to determine whether or not it conforms to the requirements of this Indenture, and (b) no provisions of this Indenture shall require the Registrar and Paying Agent to expend

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or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder. The Registrar and Paying Agent may act upon the opinion or advice of any attorney or attorneys (who may be the attorney or attorneys for the Authority or the Company), approved by the Trustee in the exercise of reasonable care, and the Registrar and Paying Agent shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

SECTION 11.19. Qualifications of Registrar and Paying Agent. The Registrar and Paying Agent, including any successor appointed pursuant to this Indenture, shall be a bank duly organized under the laws of the United States of America or any State or territory thereof, having a combined capital and unimpaired surplus of at least \$50,000,000 and authorized by law to exercise trust powers and perform all the duties imposed upon it by this Indenture. Unless the Bonds bear an Auction Rate, or a Fixed Rate, the Registrar and Paying Agent shall have an office or agency in New York, New York capable of performing its obligations hereunder.

SECTION 11.20. Resignation or Removal of Registrar and Paying Agent and Successor to Registrar and Paying Agent; Termination of Registrar and Paying Agent's Obligations. The Registrar and Paying Agent may at any time resign and be discharged of the duties and obligations created hereunder and under the Bond Purchase Trust Agreement by giving at least sixty days' notice to the Authority, the Company, the Trustee, the Bond Insurer and the Remarketing Agent. The Registrar and Paying Agent may be removed at any time upon and pursuant to the request of the Company by an instrument, signed by the Authority and filed with the Trustee, the Bond Insurer and the Registrar and Paying Agent and the Company, provided that such removal shall not take effect until the appointment of a successor Registrar and Paying Agent. The Authority at the request of the Company shall appoint a successor Registrar and Paying Agent effective as of the effectiveness of any such resignation or removal. Each successor Registrar and Paying Agent shall be a qualified institution selected by the Company and, so long as a Support Facility is in effect, reasonably acceptable to the issuer of a Support Facility, and approved and appointed by the Authority.

In the event of the resignation or removal of the Registrar and Paying Agent, the Registrar and Paying Agent shall pay over and deliver any monies and Bonds held by it in such capacity to its successor or, if there is no successor, to the Trustee. In the event that there is no successor to the Registrar and Paying Agent on the effective date of its resignation, the entity acting as Trustee shall perform the functions of the Registrar and Paying Agent; provided that monies held by the Trustee pursuant to this paragraph shall not be deemed to be held by the Trustee in its capacity as Trustee.

SECTION 11.21. Appointment of Auction Agent; Qualifications of Auction Agent, Resignation; Removal. The Authority hereby appoints The Bank of New York to serve as the Auction Agent for the Bonds. The Auction Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 90 days' notice, or, if it has not been paid, 30 days' notice, to the Trustee, the Company, the Authority, and to the Remarketing Agent. During the Auction Rate Period, the Auction Agent may be removed at any time by the Authority acting at the request of the Company by an instrument

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signed by the Authority and filed with the Company, the Auction Agent, the Bond Insurer, the Remarketing Agent and the Registrar and Paying Agent upon at least 90 days' notice. No resignation or removal of the Auction Agent shall take effect until the appointment of a successor Auction Agent. During any Auction Rate Period, an Authorized Officer of the Authority shall appoint a successor Auction Agent with the consent of the Company and the Bond Insurer. The Company shall evidence its consent to such appointment by entering into an Auction Agency Agreement with the Auction Agent. The Auction Agent shall be (a) a bank or trust company duly organized under the laws of the United States of America or any State or territory thereof having its principal place of business in the Borough of Manhattan, in The City of New York and having a combined capital stock, surplus and undivided profits of at least \$25,000,000 or (b) a member of the National Association of Securities Dealers, Inc., having a capitalization of at least \$25,000,000 and, in either case, authorized by law to perform all the duties imposed upon it under the Auction Agency Agreement.

If the Auction Agent shall fail to determine, or for any reason fail to timely provide, a rate of interest pursuant to the Auction Procedures for three consecutive Auction Periods, the Authority shall use its best efforts to remove the then-existing Auction Agent and appoint a successor Auction Agent in accordance with this Indenture and the then-existing Auction Agency Agreement.

SECTION 11.22. Appointment of Broker-Dealers. On the Closing Date, the Company appointed, subject to the consent of the Authority, Morgan Stanley & Co. Incorporated, J.P. Morgan Securities Inc., Banc One Capital Markets, Inc. and Citigroup Global Markets Inc. as the initial lead Broker-Dealers for the Series 2004B-1-1 Bonds, the Series 2004 B-1-2 Bonds, the Series 2004 B-1-3 Bonds, and the Series 2004 B-1-4 Bonds and Series 2004B-2 Bonds, respectively. The Authority hereby consents to such appointment of Citigroup Global Markets Inc., Morgan Stanley & Co. Incorporated, J.P. Morgan Securities Inc. and Banc One Capital Markets, Inc. On or prior to a subsequent Change in the Interest Rate Mode to an Auction Rate Period with respect to a subseries, the Company with the consent of the Authority shall appoint an initial Broker-Dealer for such subseries. After the Closing Date or a Change in the Interest Rate Mode to an Auction Rate Period, as the case may be, the Company may select, with the consent of the Auction Agent, the Authority and the initial lead Broker-Dealer or any successor, from time to time, one or more additional persons to serve as Broker-Dealers under Broker-Dealer Agreements. Notwithstanding anything in this Indenture or the Auction Agency Agreement to the contrary, the Authority may substitute any Broker-Dealer for a subseries with a new Broker-Dealer in a written direction, provided at the request of the Company, to the Auction Agent and to the Broker-Dealer to be substituted at any time not less than 30 days in advance of the date of substitution.

SECTION 11.23. Appointment of Additional Paying Agents; Each Paying Agent to Hold Money in Trust. The Authority may at the request of the Company appoint an additional Paying Agent or Paying Agents for the Bonds. Each such Paying Agent shall hold in trust subject to the provisions of the Indenture for the benefit of the Holders all sums held by such Paying Agent for the payment of the principal of, premium, if any, and interest on the Bonds. Any such Paying Agent may be any person or corporation authorized to perform such functions, including to the extent permitted by law, the Company.

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SECTION 11.24. Appointment and Duties of Indexing Agents. The Authority hereby appoints Kenny Information Systems, Inc. as Indexing Agent for the Bonds for the purpose of calculating each rate index defined in Section 1.01. The Authority may, with the approval of the Company, appoint additional or successor Indexing Agents, subject to the conditions set forth in this Section. There may be separate Indexing Agents for the purpose of calculating each rate index defined in Section 1.01. The Indexing Agent shall designate to the Trustee its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Authority, the Trustee, the Company and the Remarketing Agent under which the Indexing Agent will agree, particularly:

(a) to compute the Daily Rate Index, the Commercial Paper Rate Index, the Weekly Rate Index, the Monthly Rate Index, the Semi-annual Rate Index, the Term Rate Index or the Fixed Rate Index, as the case may be, pursuant to and in accordance with Section 3.01, and to give notice to the Trustee, the Registrar and Paying Agent, the Remarketing Agent and the Company of such rate index on the date of the computation thereof in accordance with Section 3.01; and

(b) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Authority, the Trustee, the Registrar and Paying Agent, the Remarketing Agent and the Company at all reasonable times.

The Indexing Agent will perform the duties provided for in Section 3.01. Whenever the Indexing Agent makes a computation under that Section, it will promptly notify the Trustee, the Registrar and Paying Agent, the Authority, the Remarketing Agent (and during any Auction Rate Period, the Auction Agent), and the Company of the results and date of computation. The Indexing Agent will keep adequate records pertaining to the performance of its duties and allow the Trustee, the Bond Insurer, Registrar and Paying Agent, the Authority, the Remarketing Agent and the Company (and, if appropriate, the Auction Agent) to inspect the records at reasonable times.

SECTION 11.25. Qualifications of Indexing Agents. Each Indexing Agent shall be a commercial bank, a member of the National Association of Securities Dealers, Inc. or a nationally recognized municipal securities evaluation service authorized by law to perform all the duties imposed upon it by the Indenture. Any Indexing Agent may at any time resign and be discharged of the duties and obligations created by the Indenture by giving at least sixty (60) days' notice to the Authority, the Company, the Remarketing Agent and the Trustee. The Indexing Agent may be removed at any time, at the written direction of the Company, by an instrument, signed by the Authority, filed with the Company, the Indexing Agent, the Remarketing Agent, the Trustee, the Bond Insurer, the Registrar and Paying Agent and the issuer of a Support Facility, if any.

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ARTICLE XII

EVENTS OF DEFAULT; REMEDIES UPON OCCURRENCE THEREOF

SECTION 12.01. Events of Default. Each of the following is hereby defined as and declared to be and shall constitute an "Event of Default":

(a) Payment of the principal of and premium, if any, on any Bond (whether by maturity, proceedings for redemption, purchase in accordance with Article V hereof or the Remarketing Agreement, or otherwise) shall not be made when the same shall become due and payable; or

(b) Payment of any installment of interest on any Bond shall not be made when the same shall become due and payable and such nonpayment shall continue for one (1) Business Day; or

(c) Receipt by the Trustee of written notice from the Bond Insurer of the occurrence and continuance of an event of default under the agreement entered into with the Company in connection with the issuance of a Policy directing the Trustee to declare an Event of Default; or

(d) The Authority shall fail in the due and punctual performance of any of the covenants, conditions, agreements, provisions or obligations, other than as set forth in (a) and (b) above, contained in the Bonds or in this Indenture or in any Supplemental Indenture on the part of the Authority to be performed, and such failure shall continue for ninety (90) days after written notice specifying such failure and requiring the same to be remedied shall have been given to the Authority, the Company, the Governor, the Comptroller and the Attorney General of the State of New

York, by the Trustee or to the Trustee, the Authority and the Company by the Bond Insurer or by the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding as provided for in Section 12.08; provided that if any such failure shall be such that it cannot be cured or corrected within such ninety (90) day period, it shall not constitute an Event of Default hereunder if curative or corrective action is instituted within such period and diligently pursued until the failure of performance is cured or corrected; or

- (e) The occurrence of an event of default as defined in Section 7.01 of the Participation Agreement.

SECTION 12.02. Notice to Holders and Others Upon Occurrence of an Event of Default or a Payment Default. 1. The Trustee shall give notice to the Bondholders of all Events of Default within sixty (60) days after the Trustee has been notified thereof or is deemed to have notice thereof as provided in Section 11.08, unless the Event of Default shall have been cured before the giving of such notice or unless the Trustee shall deem it in the best interest of the Holders to defer or withhold notice under this Section; provided, however, that if a notice of

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an Event of Default is given to any Bondholder, the Trustee shall concurrently therewith cause a copy to be provided to all beneficial owners.

2. So long as ownership of the Auction Rate Bonds is maintained in book-entry form by the Securities Depository, upon the occurrence of an Event of Default, the Trustee shall immediately send a notice thereof in substantially the form required by the Auction Agency Agreement to the Auction Agent and to the registered Holders of each series of Bonds by telecopy or similar means.

3. So long as the ownership of the Auction Rate Bonds is maintained in book-entry form by the Securities Depository, the Trustee shall immediately send a notice in substantially the form required by the Auction Agency Agreement to the Auction Agent and to the registered Holders of each series of Bonds by telecopy or similar means if an Event of Default has been cured or waived in accordance with this Article XII.

4. Upon the occurrence of a Payment Default, or in the event such Payment Default is cured, the Trustee shall give the Auction Agent the notices referred to in paragraph 7 of Section 6.04 hereof.

SECTION 12.03. Declaration of Principal and Interest As Due. Upon the occurrence and continuation of any Event of Default, of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08, then and in every case the Trustee, by a notice in writing to the Authority, the Company and (to addresses then specified by the Authority) the Governor, the Comptroller and the Attorney General of the State of New York, may with the written consent of the Bond Insurer (such consent, however, not being required if a Bond Insurer Default has occurred and is continuing), and shall, unless a Bond Insurer Default has occurred and is continuing, upon the written request or direction of the Bond Insurer, or, if a Bond Insurer Default has occurred and is continuing, upon the written request or direction of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding (determined in accordance with the provisions of Section 13.03) shall, declare the principal of and accrued interest on all the Bonds then Outstanding (if not then due and payable) to be due and payable immediately, and upon such declaration the same shall become due and be immediately due and payable, anything contained in the Bonds or in this Indenture to the contrary notwithstanding. If, however, at any time after the principal of the Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such Event of Default, or before the completion of the enforcement of any other remedy under this Indenture, monies shall have accumulated in the Bond Fund sufficient to pay the principal of and any premium (or redemption price) on all Bonds (or portions of the principal amount thereof) then or theretofore required to be redeemed pursuant to any provisions of this Indenture (excluding principal not then due except by reason of the aforesaid declaration) and all arrears of interest and interest then due, if any, upon Bonds then Outstanding and if the fees, compensation, expenses, disbursements, advances and liabilities of the Trustee and all other amounts then payable by the Company under the Participation Agreement and the Note shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and every other Event of Default known to the Trustee in the observance or performance of any covenant, condition or

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agreement contained in the Bonds or in this Indenture (other than default in the payment of the principal of such Bonds then due only because of a declaration under this Section) shall have been remedied to the satisfaction of the Trustee or, the Company shall be taking, or shall be causing to be taken, appropriate action in good faith to effect its cure, then and in every such case the Trustee may with the written consent of the Bond Insurer, unless a Bond Insurer Default has occurred and is continuing, and shall upon the written request of the Bond Insurer, unless a Bond Insurer Default has occurred and is continuing, or, if a Bond Insurer Default has occurred and is continuing, upon the written request or direction of the Holders of not less than a majority in principal amount of the Bonds (determined in accordance with the provisions of Section 13.03) then Outstanding shall, by written notice to the Authority, rescind and annul such declaration and its consequences; provided, however, that notwithstanding any such rescission and annulment during an Auction Rate Period, the Bonds shall continue to bear interest at the Overdue Rate for the applicable period of time determined pursuant to Article III. No such rescission or annulment pursuant to the next preceding sentence shall extend to or affect any subsequent default or impair any right consequent thereto.

SECTION 12.04. Action by Trustee Upon Occurrence of Event of Default. Subject to Section 6.05, upon the occurrence and continuation of an Event of Default the Trustee (i) for and on behalf of the Holders of the Bonds, shall have the same rights hereunder which are possessed by any Holders of the Bonds; (ii) shall be authorized to proceed, in its own name and as trustee of an express trust; (iii) may pursue any available remedy by action at law or suit in equity to enforce the payment of the principal of and interest and premium, if any, on the Bonds; (iv) may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of such Trustee and of the Bondholders allowed in any judicial proceedings relative to the Company, its creditors, its property or the Bonds; and (v) may, and upon the written request or direction of the Bond Insurer, unless a Bond Insurer Default has occurred and is continuing, or Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding (determined in accordance with the provisions of Section 13.03), with, so long as no Bond Insurer Default has occurred and is continuing, the prior written consent of the Bond Insurer, shall proceed to protect and enforce all rights of the Holders and the Trustee under and as permitted by this Indenture and the laws of the State of New York, by such means or appropriate judicial proceedings as shall be suitable or deemed by it most effective in the premises, including the appointment of temporary trustees and any actions, suits or special proceedings at law or in equity or in bankruptcy or by proceedings in the office of any board or officer having jurisdiction, or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture, or in aid of execution of any power granted in this Indenture or to enforce any other legal or equitable right or remedy vested in the Holders of the Bonds or the Trustee by this Indenture or by such laws, or for the appointment of a receiver. All rights of action (including the right to file proofs of claim) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the

production thereof in any trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Trustee shall be brought in its name and as trustee of an express trust without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery or judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

In the enforcement of any remedy under this Indenture the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts, then or during any Event of Default becoming, and at any time remaining, due from the Company and unpaid under the Participation Agreement and the Note for principal, premium, interest or otherwise under any of the provisions of this Indenture or of the Bonds, with interest on overdue payments if such interest then is permitted by the laws of the State of New York, together with any and all costs and expenses of collection and of all proceedings hereunder and under such Bonds, without prejudice to any other right or remedy of the Trustee or of the Holders, and to recover and enforce judgment or decree against the Company which is in default of its respective obligations under the Participation Agreement and the Note, but solely as provided herein and in such Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect in any manner provided by law, the monies adjudged or decreed to be payable. Any such judgment shall be recovered by the Trustee, in its own name and as trustee of an express trust.

SECTION 12.05. Powers of Trustee With Respect to Participation Agreement and Other Agreements. If the payments required to be paid to the Trustee under the Participation Agreement and the Note or other agreement pledged and assigned hereunder, as the case may be, are not paid when due or upon the happening and continuance of an Event of Default set forth in clause (a) or (b) of Section 12.01, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of all payments due and unpaid under the Participation Agreement and the Note or other agreement, as the case may be, and required to be paid to the Trustee and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or the obligor under any other agreement, as the case may be, and collect in the manner provided by law out of the property of the Company or such obligor wherever situated, the monies adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company under the Participation Agreement or an obligor under any other agreement pledged and assigned hereunder, as the case may be, under the Federal Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company under the Participation Agreement and the Note or an obligor under any other agreement pledged and assigned hereunder, as the case may be, the Trustee, regardless of whether the principal of the Bonds shall then be due and payable as therein expressed or by declaration or otherwise and regardless of whether the Trustee shall have made any demand pursuant to the power vested in it by this Indenture, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid under the Participation Agreement and the Note by the Company or under such other agreement by such obligor, as the case may be, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or bad faith) and of the Holders allowed in any such judicial proceedings relative to the Company or other obligor, as the case may be, or to the creditors or

property of the Company or other obligor, as the case may be, and to collect and receive any monies or other property payable or deliverable on such claims, and to distribute in accordance with the provisions hereof all amounts received with respect to the claims of the Holders and of the Trustee on their behalf, and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holders any plan of reorganization, arrangement, adjustment or composition of the Authority or the Company affecting the Bonds or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holders in any such proceeding. In the event of any such reorganization, arrangement, adjustment, composition or liquidation, the Bond Insurer shall have the right to vote on behalf of all Holders who hold Bonds covered by the Policy applicable to such Bonds unless a Bond Insurer Default has occurred and is continuing.

The provisions of this Section shall not be construed as in any way limiting the powers of the Trustee, with respect to defaults by the Authority or by the Company under the Participation Agreement and the Note, or an obligor under any other agreement pledged and assigned hereunder, as the case may be, whether such powers be expressly or implicitly granted to the Trustee elsewhere in this Indenture or in the Participation Agreement or the Note or other agreement, as the case may be, or as a denial that the Trustee has any such other powers, but the powers granted to the Trustee by this Section shall be supplemental, additional and cumulative to all other powers possessed by the Trustee with respect to defaults under this Indenture or under the Participation Agreement, the Note or other agreement pledged and assigned hereunder, as the case may be.

SECTION 12.06. Disposition of Monies in Event of Insufficiencies in Funds and Accounts. All monies (other than proceeds of any Support Facility) received by the Trustee pursuant to any right given or action taken under the provisions of this Article, after payment of the costs and expenses of the proceedings resulting in the collection of such monies and of the expenses, fees and advances incurred or made by the Trustee hereunder, shall be deposited in the Bond Fund. If at any time the monies in the Bond Fund shall not be sufficient to pay the interest or principal or premium, if any (or the redemption price), of the Bonds as the same become due and payable (whether at maturity or upon proceedings for the redemption thereof or by acceleration or otherwise), the monies in such fund, together with any other monies then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article XII or otherwise, shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become due and payable or shall have been declared due and payable pursuant to the provisions of Section 12.03, all such monies shall be applied:

First: to the payment to the persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest, and if the amount available shall not be sufficient to pay in full any particular installment, then to

the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference; and

Second: to the payment of the premium, if any, on and the principal of the Bonds, to the purchase and retirement of Bonds and to the redemption of Bonds, all in accordance with the provisions of this Indenture.

(b) If the principal of all the Bonds shall have become due and payable or shall have been declared due and payable pursuant to the provisions of Section 12.03, all such monies shall be applied to the payment of the principal and interest then due and unpaid, with interest on such principal as aforesaid, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all the Bonds shall have been declared due and payable pursuant to the provisions of Section 12.03, and if such declaration shall thereafter have been rescinded and annulled pursuant to the provisions of such Section 12.03, then, subject to the provisions of subparagraph (b) above of this paragraph in the event that the principal of all the Bonds shall later become due and payable or be declared due and payable pursuant to the provisions of Section 12.03, the monies then held in the Bond Fund shall be applied to the payment of the principal of and premium (or redemption price) on all matured Bonds and all Bonds (or portions of the principal amount thereof) then or theretofore required to be redeemed pursuant to any provisions of this Indenture (excluding principal not then due except by reason of such declaration) and all arrears of interest and interest then due, if any, upon all Bonds then Outstanding, and any monies thereafter deposited in the Bond Fund shall be applied in accordance with the provisions of Article IX.

Whenever monies are to be applied by the Trustee pursuant to the provisions of subparagraphs (a) and (b) of this Section, (i) such monies shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such monies available for application and the likelihood of additional monies becoming available for such application in the future; (ii) the deposit of such monies, in trust for the proper purpose, shall constitute proper application by the Trustee; and (iii) the Trustee shall incur no liability whatsoever to the Authority, to any Holder or to any other person for any delay in applying any such monies, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such monies, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment

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to the Holder of any unpaid Bond until such Bond shall be surrendered to the Trustee for appropriate endorsement, or for cancellation if fully paid.

SECTION 12.07. Effect of Delay or Omission; Waiver of Default; Direction of Remedial Proceedings by the Holders. No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein.

Anything in this Indenture to the contrary notwithstanding, but subject to Section 6.05, the Holders of not less than a majority in principal amount of the Bonds at the time Outstanding (determined in accordance with the provisions of Section 13.03) with, so long as the no Bond Insurer Default has occurred and is continuing, the prior written consent of the Bond Insurer shall be authorized and empowered and have the right, by an instrument or concurrent instruments in writing delivered to the Trustee on behalf of the Holders of the Bonds then Outstanding to consent to the waiver of any Event of Default or its consequences, and the Trustee shall waive any Event of Default and its consequences upon the written request of the Holders of such majority with the prior written consent of the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing; provided, however, that there shall not be waived (i) any default in payment of principal or premium when due or (ii) any default in payment when due of interest unless, in either case, prior to such waiver all arrears in principal, premium, if any, and interest, with additional interest, to the extent permitted by law, at the rate then borne by the Bonds (which, in the case of a Payment Default with respect to Auction Rate Bonds shall be the Overdue Rate), and all fees and expenses of the Trustee shall have been paid or provided for; provided, however, that notwithstanding any such waiver, any Auction Rate Bonds shall continue to bear interest at the Overdue Rate until such Payment Default is cured. No such waiver shall extend to or affect any other existing or subsequent default or Event of Default or impair any rights or remedies consequent thereon.

Anything in this Indenture to the contrary notwithstanding, but subject to Section 6.05, the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds at the time Outstanding (determined in accordance with the provisions of Section 13.03) with, so long as no Bond Insurer Default has occurred and is continuing, the prior written consent of the Bond Insurer shall be authorized and empowered and have the right, by an instrument or concurrent instruments in writing delivered to the Trustee to direct the time and method of conducting any proceeding for any remedy to enforce the payment of the Bonds to be taken by the Trustee or available to the Trustee or available to the Holders of the Bonds, or exercising any trust or power conferred upon the Trustee hereunder provided: (1) such direction shall not be in conflict with any rule of law or with this Indenture or expose the Trustee to personal liability, or be unduly prejudicial to Holders not joining therein, and (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

SECTION 12.08. Suits or Actions by Holders; Any Holder May Enforce Overdue Payment of His or Her Bond or Interest Thereon. No Holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder or for any other remedy hereunder unless there shall have occurred an Event

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of Default of which the Trustee has been notified or is deemed to have notice as provided in Section 11.08, and such Holder previously shall have given to the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, and unless also the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, with the consent of the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing, shall have made written request of the Trustee after the right to exercise such powers or right of action, as the case

may be, shall have accrued, and shall have afforded the Trustee a period of 60 days either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, the Trustee shall have been indemnified by Holders against the costs, expenses and liabilities to be incurred in compliance with such request, and shall not have received an inconsistent direction from the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing, or from the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds and the Trustee shall have refused or neglected to comply with such request within a reasonable time. It is understood and intended that no one or more Holders of the Bonds hereby secured shall have any right in any manner whatever by the action of such Holder or Holders to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder except in the manner herein provided; that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Holders of such Outstanding Bonds; and that any individual rights of action or other right given to one or more of such Holders by law are restricted by this Indenture to the rights and remedies herein provided. Notwithstanding the foregoing and subject to Section 11.02, the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders, unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. The rights of any Holder under this Section 12.08 are subject to the rights of the Bond Insurer under Section 6.05.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Bond to receive payment of the principal of, premium, if any, and interest on such Bond, on or after the respective due dates expressed in such Bond, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder, except that no Holder of any such Bond shall have the right to institute any such suit, if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver, or loss of the lien of this Indenture.

SECTION 12.09. Remedies Not Exclusive. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee, the Bond Insurer or the Holders of the Bonds is intended to be exclusive of any other remedy so conferred or reserved or to be exclusive of other remedies now or hereafter existing at law or in equity or by statute, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder to the Trustee, the Bond Insurer or to the Holders of the Bonds or now or hereafter existing at law or in equity or by statute. Every such right, power and remedy given hereunder or by law or in equity or by statute may be exercised from time to time and as often as may be deemed expedient.

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SECTION 12.10. Effect of Abandonment of Proceedings on Default. In case any proceeding taken by the Trustee or the Holders of the Bonds on account of any Event of Default shall have been discontinued or abandoned for any reason, then and in every such case the Authority, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

SECTION 12.11. Interest on Overdue Amounts. To the extent permitted by law all amounts which are due and payable but which have not been so paid under this Indenture shall bear interest at the then current rate of interest on the Bonds until paid; provided, however, that upon the occurrence of a Payment Default during any Auction Rate Period all amounts which are due and owing but unpaid hereunder shall bear interest at the Overdue Rate until paid.

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ARTICLE XIII

EXECUTION OF INSTRUMENTS BY BONDHOLDERS AND OWNERSHIP OF BONDS; EXCLUSION OF BONDS OWNED BY THE AUTHORITY OR THE COMPANY

SECTION 13.01. Execution of Requests, Directions and Consents and Other Instruments and Proof of Same; Ownership of Bonds and Proof of Same. Any request, direction, consent or other instrument required by this Indenture to be signed or executed by Holders of Bonds may be signed or executed by such Holders in person or by agent or agents duly appointed in writing, and may be in any number of concurrent writings of substantially similar tenor. Proof of the execution of any such request, direction, consent or other instrument or of a writing appointing any such agent, and of the holding or ownership of Bonds, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee hereunder with regard to any action taken by it under such request, direction, consent or other instrument or of a writing appointing any such agent, if made in the following manner:

- (a) the fact and date of the execution by any person of any such request, direction, consent or other instrument in writing may be proved in any reasonable manner which the Trustee deems sufficient;
- (b) the ownership of Bonds shall be proved by the books of registry kept under the provisions of this Indenture.

Any request, direction, consent or vote of the Holder of any Bond shall bind and be conclusive upon the Holder of such Bond giving such request, direction or consent or casting such vote and upon every future Holder of the same Bond in respect of anything done or suffered to be done by the Trustee or otherwise, or by the Holders of other Bonds, in pursuance of such request, direction, consent or vote, and whether or not such future Holder has knowledge of or information as to such request, direction, consent or vote; provided that any request, direction, consent or vote of the Holder of a Bond required by any of the provisions hereof may be revoked by the Holder giving such request, direction, consent or vote or by a subsequent Holder if such revocation in writing is filed with the Trustee, prior to the time when the request, direction, consent or vote of the percentage of the Holders of the Bonds required by such provision shall have been given and action taken by the Trustee or otherwise, or by the Holders of other Bonds, under authority of such request, direction, consent or vote.

The payment of or on account of principal to or upon the order of the person in whose name the Bonds shall at the time be registered on said books of registry and the payment of interest to or upon the order of any person in whose name the Bonds shall at the time be registered on said books of registry, shall be valid and effectual fully to satisfy and discharge all liability hereunder or upon the Bonds to the extent of the sum or sums so paid.

SECTION 13.02. Meetings of Holders. The Trustee or the Holders of not less than twenty percent (20%) in principal amount of the Bonds then Outstanding may at any time call a meeting of the Holders of the Bonds for the purpose of the consenting to, the approving, the requesting, or the directing by the Holders of the Bonds of any action required to be consented to or approved by them hereunder or which they may request or direct hereunder to be taken, or for the making by the Holders of any appointments they may make hereunder, or for the purpose of taking any other action which the Holders may take hereunder, or for any other purpose concerning the payment and security of the Bonds hereunder. Every such meeting shall be held at such place in The City of New York, State of New York, as may be specified in the notice calling such meeting. Written notice of such meeting, stating the place and time of the meeting and in general terms the business to be submitted, shall be mailed to the Holders whose names and addresses then appear upon the books of registry by the Registrar and Paying Agent or the Holders calling such meeting, not less than 20 days nor more than 60 days before such meeting. Any meeting of Holders shall, however, be valid without notice if the Holders of all Bonds then Outstanding are present in person or by proxy or if notice is waived before or within 30 days after the meeting by those not so present.

Attendance and voting by Holders at meetings thereof may be in person or by proxy. Holders of Bonds may, by an instrument in writing under their hands, appoint any person or persons, with full power of substitution, as their proxy to attend and vote at any meeting for them.

Persons named by the Trustee, or elected by the Holders of a majority in principal amount of the Bonds represented at the meeting in person or by proxy in the event the Trustee is not represented at such meeting, shall act as temporary chairman and temporary secretary of any meeting of Holders. A permanent chairman and a permanent secretary of such meeting shall be elected by the Holders of a majority in principal amount of the Bonds represented at such meeting in person or by proxy. The permanent chairman of the meeting shall appoint two (2) inspectors of votes who shall count all votes cast at such meeting, except votes on the election of chairman and secretary as aforesaid, and who shall make and file with the secretary of the meeting and the Trustee their verified report of all such votes cast at the meeting.

The Holders of not less than the principal amount of the Bonds required by the provisions hereof to consent to, approve, request or direct any action to be taken at a meeting of Holders, or required by the provisions hereof to make any appointments to be made at such meeting, or required by the provisions hereof to take any other action to be taken at such meeting, must be present at such meeting in person or by proxy in order to constitute a quorum for the transaction of such business. Less than a quorum, however, shall have power to adjourn the meeting from time to time without notice of such adjournment other than the announcement thereof at the meeting; provided, however, that if such meeting is adjourned by less than a quorum for more than ten (10) days, notice of such adjournment shall be given by the Trustee at least five (5) days prior to the adjourned date of the meeting.

Any Holder of a Bond shall be entitled in person or by proxy to attend and vote at such meeting as Holder of the Bond or Bonds registered in his or her name without producing

such Bond or Bonds. Such persons and their proxies shall, if required, produce such proof of personal identity as shall be satisfactory to the Secretary of the meeting.

All proxies presented at such meeting shall be delivered to the Inspector of Votes and filed with the Secretary of the meeting. The right of a proxy for a Holder to attend the meeting and act and vote thereat may be proved (subject to the Trustee's right to require additional proof) by a written proxy executed by such Holder as aforesaid.

The officers or nominees of the Trustee may be present or represented at such meeting and take part therein, but shall not be entitled to vote thereat, except for such officers or nominees who are Holders or proxies for Holders (including the Trustee).

The vote at any such meeting of the Holder of any Bond, or his or her proxy, entitled to vote thereat shall be binding upon such Holder and upon every subsequent Holder of such Bond (whether or not such subsequent Holder has notice thereof).

SECTION 13.03. Exclusion of Bonds Held by or for the Authority, the Company and of Bonds No Longer Deemed Outstanding Hereunder. In determining whether the Holders of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent, vote or waiver under this Indenture, any Bonds which are owned by or on behalf of or for the account of the Authority, the Company and, except for the purposes of Section 15.01, any Bonds which are deemed no longer Outstanding hereunder shall be disregarded and not included for the purpose of any such determination, and such Bonds shall not be entitled to vote upon, consent to or concur in any action provided in this Indenture, except that for the purposes of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent, vote or waiver only Bonds which a Responsible Officer of the Trustee knows are owned as aforesaid shall be disregarded. The Trustee may require each Holder of a Bond or Bonds, before such Holder's demand, request, direction, consent, vote or waiver shall be deemed effective, to reveal if the Bonds as to which such demand, request, direction, consent, vote or waiver is made, granted, cast or given are disqualified as provided in this Section.

ARTICLE XIV

**AMENDING AND SUPPLEMENTING THE INDENTURE,
THE PARTICIPATION AGREEMENT, THE REMARKETING AGREEMENT,
AUCTION AGENCY AGREEMENT, BROKER-DEALER AGREEMENTS,
BOND PURCHASE TRUST AGREEMENT**

SECTION 14.01. Amending and Supplementing Indenture Without Consent of Holders. The Authority and the Trustee, from time to time and at any time and without the consent or concurrence of any Holder, may enter into a Supplemental Indenture, (i) to make any changes, modifications, amendments or deletions to this Indenture that may be required to permit the Indenture to be qualified under the Trust Indenture Act of 1939 of the United States of America or (ii) for any one or more of the following purposes:

- (a) (x) to make any changes or corrections in this Indenture or any Supplemental Indenture as to which the Authority shall have been advised by counsel that the same are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provision or omission or mistake or manifest error contained in this Indenture or Supplemental Indenture, or (y) to insert in this Indenture such provisions clarifying matters or questions arising under this Indenture as are necessary or desirable if such provisions shall not materially and adversely affect the rights of the Holders;
- (b) to add additional covenants and agreements of the Authority for the purpose of further securing the payment of the Bonds;
- (c) to surrender any right, power or privilege reserved to or conferred upon the Authority by the terms of this Indenture;
- (d) to confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Indenture or any Supplemental Indenture;
- (e) to grant to or confer upon the Holders any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them, or to grant to or to confer upon the Trustee for the benefit of the Holders any additional rights, duties, remedies, power or authority;
- (f) to provide for the issuance of Bonds in book entry or coupon form, if at the time permitted by applicable law;
- (g) to provide for the substitution of rating agencies;
- (h) to provide for any new administrative or procedural provisions made necessary or desirable by the issuance of a Support Facility or an Alternate Support Facility, other credit, liquidity or support facility, including, but not limited to, any amendment necessary to obtain a rating on the Bonds based upon such facility; and

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- (i) to modify, amend or supplement the Indenture in such manner as to permit the qualification of the Bonds for deposit with a Securities Depository, and, in connection therewith, if they so determine, to add to the Indenture, such other terms, conditions and provisions as may be required to permit such qualification.

No Supplemental Indenture shall be entered into unless in the Opinion of Bond Counsel which shall be delivered to the Trustee (which opinion may be combined with the opinion required by Section 14.04) the execution of such Supplemental Indenture is permitted by the foregoing provisions of this Section and the provisions of such Supplemental Indenture do not materially and adversely affect the rights of the Holders of the Bonds and the Trustee may rely on any such opinion.

SECTION 14.02. Amending and Supplementing Indenture with Consent of Holders. With the consent of the Holders of a majority in principal amount of the Bonds then Outstanding and, so long as no Bond Insurer Default has occurred and is continuing, the Bond Insurer, the Authority and the Trustee from time to time and at any time may enter into a Supplemental Indenture for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, this Indenture, or modifying or amending the rights and obligations of the Authority hereunder, or modifying or amending in any manner the rights of the Holders; provided that, without the specific consent of the Holders of all Bonds Outstanding which would be affected thereby and the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing, no Supplemental Indenture amending or supplementing the provisions hereof shall: (a) change the fixed maturity date for the payment of the principal of any Bond, or the dates for the payment of interest thereon or the terms of the purchase or redemption thereof, or reduce the principal amount of any Bond or the rate of interest thereon or the method of calculating the same except as otherwise provided in this Indenture; or (b) reduce the aforesaid percentage of Bonds, the Holders of which are required to consent to any Supplemental Indenture amending or supplementing the provisions of this Indenture; or (c) give to any Bond any preference over any other Bond secured hereby; or (d) authorize the creation of any pledge of payments under the Participation Agreement or Note Payments prior or superior to the pledge of a lien and charge thereon assigned herein for the payment of the Bonds; or (e) effect any change in the purchase or redemption provisions relating to the Bonds; or (f) deprive any Holders in any material respect of the security afforded by this Indenture. A modification or amendment of the provisions of Article IX hereof with respect to the Bond Fund or any other Funds or Accounts established thereby shall not be deemed a change in the terms of payment; provided that no such modification or amendment shall, except upon the consent of the Bond Insurer and the Holders of all Bonds Outstanding affected thereby, reduce the amount or amounts required to be deposited in the Bond Fund. Nothing in this paragraph contained, however, shall be construed as making necessary the approval of the Holders of the execution of any Supplemental Indenture authorized by the provisions of Section 14.01.

The proof of the giving of any consent by any Holder required by this Section and of the holding of the Bonds for the purpose of giving consents shall be made in accordance with the provisions of Article XIII. It shall not be necessary that the consent of the Holders approve the particular form of wording of the proposed supplemental amendment or supplement, but it shall be sufficient if such consent approves the substance of the proposed amendment or

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supplement. After the Holders of the required percentage of Bonds shall have filed their consents to the amending or supplementing hereof pursuant to this Section, the Authority shall mail a copy of a notice of such consent, postage prepaid, to each Holder at his or her address as it appears upon the books of registry and to the Trustee. Nothing in this paragraph contained, however, shall be construed as requiring the giving of notice of any amending or supplementing of this Indenture authorized by this Section. A record of the consents shall be filed with the Trustee, and shall be proof of the matters therein stated until the contrary is proved. No action or proceeding to set aside or invalidate such Supplemental Indenture or any of the proceedings for its adoption

shall be instituted or maintained unless such action or proceeding is commenced within sixty (60) days after the mailing of the notice required by this paragraph.

Notwithstanding anything in this Indenture to the contrary, the consent of the Holders of the required amount of Bonds shall be deemed given with respect to a Supplemental Indenture if:

- (a) (i) the Supplemental Indenture takes effect on a date on which all of the Bonds that are affected by such Supplemental Indenture are subject to mandatory tender for purchase in accordance with this Indenture, (ii) any modification or amendment effected thereby is consented to in writing by the Remarketing Agent, if any, for such Bonds on or prior to such effective date and (iii) the Bonds so tendered are purchased;
- (b) (i) not less than 30 days before the effective date of the Supplemental Indenture, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Bonds that are affected by such Supplemental Indenture and the Holders of such Bonds have the right to tender their Bonds for purchase pursuant to Section 5.03 hereof before such effective date, (ii) the Remarketing Agent, if any, for such Bonds consents in writing to the proposed modification or amendment on or prior to such effective date and (iii) the Bonds so tendered are purchased; or
- (c) (i) not less than 30 days before the Auction Date for the Auction Period during which any modification or amendment to this Indenture shall become effective, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Auction Rate Bonds that are affected by such modification or amendment, (ii) the Auction Rate determined for such Auction Rate Bonds at the Auction immediately preceding the effective date of the modification or amendment is a Winning Bid Rate, and (iii) any modification or amendment effected thereby is consented to in writing by the Broker-Dealer(s) for such Bonds on or prior to such effective date and is disclosed in the official statement or other disclosure document delivered by the Broker-Dealer(s) to Potential Holders prior to the Auction immediately preceding such effective date; provided, however, that, notwithstanding anything to the contrary in this Indenture, any Auction Rate Bonds that are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order at the Auction immediately preceding such effective date.

SECTION 14.03. Notation upon Bonds; New Bonds Issued upon Amendments. The Bonds delivered after the effective date of any action taken as provided in

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this Article, if any, may and shall if required by the Trustee bear a notation as to such action, by endorsement or otherwise and in form approved by the Authority. In that case, upon demand of any Holder at such effective date and upon presentation of Bonds at the Principal Corporate Trust Office of the Trustee or other transfer agent or registrar hereunder for such Bonds, and at such additional offices, if any, as the Authority may select and designate for that purpose, a suitable notation shall be made on the Bonds.

SECTION 14.04. Effectiveness of Supplemental Indentures. Upon the execution pursuant to this Article by the Authority and the Trustee of any Supplemental Indenture amending or supplementing the provisions of this Indenture and the delivery to the Trustee of an Opinion of Bond Counsel that such Supplemental Indenture is permitted by the provisions of this Article XIV and has been duly executed in accordance with the provisions hereof and applicable law and that the provisions thereof are valid (upon which opinion the Trustee, subject to the provisions of Section 11.04, shall be fully protected in relying), or upon such later date as may be specified in such Supplemental Indenture, (i) this Indenture and the Bonds shall be modified and amended in accordance with such Supplemental Indenture; (ii) the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Authority, the Trustee, and the Holders shall thereafter be determined, exercised and enforced under this Indenture subject in all respects to such modifications and amendments; and (iii) all of the terms and conditions of any such Supplemental Indenture shall be a part of the terms and conditions of the Bonds and of this Indenture for any and all purposes.

SECTION 14.05. Supplemental Indenture Affecting Support Facility Provider. No Supplemental Indenture affecting the rights or obligations of the Support Facility Issuer which takes effect while any Support Facility is in effect may, so long as the Support Facility Issuer is not in default under the Support Facility and no event of the type described in (b) through (g) of the definition of Bond Insurer Default contained herein shall have occurred and be continuing in respect to the Support Facility Issuer, be entered into by the Authority and the Trustee or be consented to by the Holders without written consent of each Support Facility Issuer.

SECTION 14.06. Supplemental Participation Agreements Not Requiring the Consent of the Holders. The Authority and the Company may, with the written consent of the Trustee but without notice to or consent of any Holder, from time to time and at any time, agree to such supplemental agreements supplementing the Participation Agreement or amendments to the Participation Agreement as shall not be inconsistent with the terms and provisions of the Participation Agreement or this Indenture and, in the opinion of the Authority, shall not be detrimental to the interests of the Holders (which Supplemental Participation Agreements shall thereafter form a part of the Participation Agreement):

- (a) to cure any ambiguity or formal defect or omission in the Participation Agreement or in any supplemental agreement;
- (b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders or the Trustee;

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- (c) to provide for any new administrative, security or procedural provisions necessitated by the issuance of an Alternate Support Facility; or
- (d) to provide for or add any further changes or corrections that are necessary or desirable to comply with any Supplemental Indenture entered into pursuant to Section 14.01;

provided that no such Supplemental Participation Agreement which takes effect while a Support Facility is in effect shall, so long as the Support Facility Issuer is not in default under the Support Facility, be effective prior to the receipt by such parties of the written consent of each Support Facility Issuer.

SECTION 14.07. Notice and Consent for Supplemental Participation Agreements Requiring the Consent of the Holders. Except for Supplemental Participation Agreements or amendments provided for in Section 14.06, neither the Authority nor the Trustee shall agree or consent, as the case may be, to any Supplemental Participation Agreement or amendment to the Participation Agreement unless notice of the proposed execution of such Supplemental Participation Agreement or amendment shall have been given and the Holders, and, so long as no Bond Insurer Default has occurred and is continuing, the Bond Insurer shall have consented to and approved the execution thereof in the same manner and form as provided for in Section 14.02 in the case of Supplemental Indentures; provided that no such Supplemental Participation Agreement which materially and adversely affects any issuer of a Support Facility (so long as such Support Facility is in effect) shall be effective prior to the receipt by such parties of the written consent of the issuer of such Support Facility, so long as the Support Facility Issuer is not in default under the Support Facility and no event of the type described in (b) through (g) of the definition of Bond Insurer Default contained herein shall have occurred and be continuing in respect of the Support Facility Issuer.

Notwithstanding anything in this Indenture to the contrary, the consent of the Holders of the required amount of Bonds shall be deemed given with respect to any Supplemental Participation Agreement or amendment to the Participation Agreement if:

(a) (i) the Supplemental Participation Agreement or amendment to the Participation Agreement takes effect on a date on which all of the Bonds that are affected by such Supplemental Participation Agreement or amendment to the Participation Agreement are subject to mandatory tender for purchase in accordance with this Indenture, (ii) any modification or amendment effected thereby is consented to in writing by the Remarketing Agent, if any, for such Bonds on or prior to such effective date and (iii) the Bonds so tendered are purchased;

(b) (i) not less than 30 days before the effective date of the Supplemental Participation Agreement or amendment to the Participation Agreement, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Bonds that are affected by such modification or amendment and the Holders of such Bonds have the right to tender their Bonds for purchase pursuant to Section 5.03 hereof before such effective date, (ii) the Remarketing Agent, if any, for such Bonds consents in writing to

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the proposed modification or amendment on or prior to such effective date and (iii) the Bonds so tendered are purchased; or

(c) (i) not less than 30 days before the Auction Date for the Auction Period during which any modification or amendment to the Participation Agreement shall become effective, the Trustee sends a notice of the proposed modification or amendment to the Holders of the Auction Rate Bonds that are affected by such modification or amendment, (ii) the Auction Rate determined for such Auction Rate Bonds at the Auction immediately preceding the effective date of the modification or amendment is a Winning Bid Rate, and (iii) any modification or amendment effected thereby is consented to in writing by the Broker-Dealer(s) for such Bonds on or prior to such effective date and is disclosed in the official statement or other disclosure document delivered by the Broker-Dealer(s) to Potential Holders prior to the Auction immediately preceding such effective date; provided, however, that, notwithstanding anything to the contrary in this Indenture, any Auction Rate Bonds that are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order at the Auction immediately preceding such effective date.

SECTION 14.08. Effectiveness of Supplemental Participation Agreement. Upon the execution pursuant to this Article and of applicable law by the Authority and the Company of any Supplemental Participation Agreement amending or supplementing the provisions of the Participation Agreement and the delivery to the Trustee of an Opinion of Bond Counsel that such Supplemental Participation Agreement is in due form, has been duly executed in accordance with the provisions hereof and applicable law and that the provisions thereof are valid (upon which opinion the Trustee, subject to the provisions of Section 11.04, shall be fully protected in relying), or upon such later date as may be specified in such Supplemental Participation Agreement, (i) the Participation Agreement shall be modified and amended in accordance with such Supplemental Participation Agreement; (ii) the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Authority and the Company shall thereafter be determined, exercised and enforced thereunder subject in all respects to such modifications and amendments; and (iii) all of the terms and conditions of any such Supplemental Participation Agreement shall be a part of the terms and conditions thereof for any and all purposes.

SECTION 14.09. Amending and Supplementing the Remarketing Agreement, Auction Agency Agreement, Broker-Dealer Agreements or Bond Purchase Trust Agreement. Amendments of or supplements to the Remarketing Agreement, the Auction Agency Agreement, any Broker-Dealer Agreement or the Bond Purchase Trust Agreement shall be made only in accordance with the terms thereof.

SECTION 14.10. Supplemental Participation Agreement Affecting Support Facility Provider. No Supplemental Participation Agreement or amendments to the Participation Agreement affecting the rights or obligations of the Support Facility Issuer which take effect while any Support Facility is in effect may, so long as the Support Facility Issuer is not in default under the Support Facility and no event of the type described in (b) through (g) of the definition of Bond Insurer Default contained herein shall have occurred in respect to the

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Support Facility Issuer, be entered into by the Authority or be consented to by the Holders without written consent of each Support Facility Issuer.

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ARTICLE XV

DEFEASANCE; MONEYS HELD FOR PAYMENT OF DEFEASED BONDS

SECTION 15.01. Discharge of Liens and Pledges; Bonds No Longer Deemed to be Outstanding Hereunder. Bonds purchased pursuant to Section 5.03, 5.04, 5.08 or 5.09 shall continue to be Outstanding hereunder until such Bonds shall be cancelled in accordance with Section 5.15 or paid at maturity or redeemed pursuant to Article V or otherwise defeased. The obligations of the Authority under this Indenture and the liens, pledges,

charges, trusts, covenants and agreements of the Authority, herein made or provided for, shall be, subject to the terms of Section 15.02, fully discharged and satisfied as to the Bonds or portion thereof and the Bonds shall no longer be deemed to be Outstanding hereunder:

(a) when the Bonds shall have been cancelled, or shall have been surrendered for cancellation and are subject to cancellation, or shall have been redeemed by the Trustee from monies held by it under this Indenture; or

(b) if the Bonds have not been cancelled or so surrendered for cancellation or subject to cancellation, or so redeemed, when (1) payment of the principal of and premium, if any, on the Bonds, plus interest on such principal to the due date thereof (whether such due date be by reason of maturity or upon redemption or prepayment, or otherwise) and of any Purchase Price which is or may become due on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee in trust, and irrevocably appropriating and setting aside exclusively for such payments (A) monies sufficient to make such payment, or (B) Governmental Obligations maturing as to principal and interest in such amounts and at such times as will insure the availability of sufficient and timely monies to make such payments when due, or (C) a combination of both such monies and Governmental Obligations, whichever the Authority deems to be in its best interest, (2) there shall have been delivered to the Trustee (x) a letter addressed to the Trustee from a nationally recognized firm of independent public accountants verifying the mathematical accuracy of the sufficiency of the deposit made pursuant to (1)(ii) above, (y) an Opinion of Bond Counsel to the effect that upon the provision of payment on the Bonds as described in (1)(ii) above, the Bonds are no longer deemed to be Outstanding under the Indenture and (z) in the case of Bonds bearing interest at a Daily Rate, a Weekly Rate, an Auction Rate, a Monthly Rate and a Semi-annual Rate, written confirmation from S&P, if the Bonds are then rated by S&P, to the effect that the deposit made pursuant to (1)(ii) above will not, by itself, result in a reduction or withdrawal of its short-term or long-term rating of the Bonds below the rating category of S&P then in effect with respect to the Bonds, and (3) all necessary and proper fees, compensation and expenses of the Trustee pertaining to the Bonds or portion thereof with respect to which such deposit is made, shall have been paid or the payment thereof provided to the satisfaction of the Trustee.

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At such time as the Bonds shall be deemed to be no longer Outstanding hereunder, as aforesaid, such Bonds shall cease to accrue interest from the due date thereof (whether such due date occurs by reason of maturity, or upon redemption or prepayment or otherwise) and, except for the purposes of any such payment from such monies or Governmental Obligations and except, in the case of Auction Rate Bonds, to the extent provided in the definition of Outstanding in Article I shall no longer be secured by or entitled to the benefits of this Indenture.

Any such monies so deposited with the Trustee as provided in this Section may at the written direction of the Company also be invested and reinvested in Governmental Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Governmental Obligations in the hands of the Trustee pursuant to this Section which is not required for the payment of the Bonds and interest thereon with respect to which such monies shall have been so deposited shall be paid to the Company or if any Bonds are then Outstanding, be deposited in the Bond Fund and credited to the Principal Account as and when realized and collected, for use and application as are other monies credited to such Account.

Anything in Article XV to the contrary notwithstanding, if monies or Governmental Obligations have been deposited or set aside with the Trustee pursuant to this Section for the payment of the Bonds, the Bonds shall be deemed to have been paid in full. No amendment to the provisions of this Article shall be made without the consent of the Bond Insurer, so long as no Bond Insurer Default has occurred and is continuing, and the Holders of the Bonds affected thereby.

The Trustee shall promptly surrender any Support Facility (if appropriate for the type of instrument or instruments then serving as Support Facility) to the issuer of such Support Facility for cancellation or shall otherwise take appropriate action to terminate the Support Facility following any such defeasance.

Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by the Bond Insurer pursuant to a Policy, the Bonds to which such Policy relates shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Authority or Company, and the assignment and pledge of the Trust Estate and all covenants, agreements and other obligations of the Authority and Company to the Holders shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such Holders.

SECTION 15.02. Release of Indenture, Termination of Right, Title and Interest of Trustee. When the Bonds shall be deemed to be paid in accordance with the provisions of Section 15.01, then and in the case all right, title and interest of the Trustee under this Indenture shall thereupon cease, determine and become void, and the Trustee in such case shall release this Indenture, shall execute such documents to evidence such release as may be reasonably required by the Authority and furnish the Authority with the same, and shall turn over to the Company any surplus monies and balances remaining in any of the Funds and Accounts created in or held under this Indenture, other than monies and Governmental Obligations held by it pursuant to Section 15.01 or the provisions of Section 15.03 for the

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redemption, payment or prepayment of the Bonds; otherwise, this Indenture shall be, continue and remain in full force and effect.

Notwithstanding the satisfaction and discharge of this Indenture, the rights of the Trustee and the Registrar and Paying Agent under Sections 11.02, 11.06 and 11.17 shall survive defeasance of the Bonds hereunder.

SECTION 15.03. Bonds Not Presented for Payment When Due; Monies Held for the Bonds after Due Date of Bonds. Subject to the provisions of the next sentence of this paragraph, if the Bonds shall not be presented for payment when the principal thereof shall become due, whether at maturity or at the date fixed for the redemption thereof, or otherwise, and if monies or Governmental Obligations shall at such due date be held by the Trustee in trust for that purpose sufficient and available to pay the principal of and premium, if any, on the Bonds, together with all interest due on such principal to the due date thereof or to the date fixed for redemption thereof, all liability of the Authority and the Company for such payment shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold said monies or Governmental Obligations without liability to the Holders for interest thereon, in trust for the benefit of the Holders, which thereafter shall be restricted exclusively to said monies or

Governmental Obligations for any claim of whatever nature on its part on or with respect to the Bonds, including for any claim for the payment thereof. Notwithstanding anything to the contrary in Section 9.04, any monies or Governmental Obligations held by the Trustee for the Holders after the principal of and premium, if any, and interest on the Bonds or any portion thereof with respect to which such monies or Governmental Obligations have been so set aside has become due and payable (whether at maturity or upon redemption or prepayment or otherwise) shall be either held uninvested as cash or at the written direction of the Company invested and reinvested in Governmental Obligations which mature on the next Business Day. Any such monies or Governmental Obligations held by the Trustee for the Holders after the principal of and premium, if any, and interest on the Bonds or any portion thereof with respect to which such monies or Governmental Obligations have been so set aside has become due and payable (whether at maturity or upon redemption or prepayment or otherwise) shall be deemed abandoned property when such monies or Governmental Obligations shall have remained unpaid or undelivered to the Holder or Holders entitled thereto for three years from the date the principal of and premium, if any, and interest on the Bonds or any portion thereof has become due and payable and shall be subject to the laws of the State of New York relating to disposition of unclaimed property.

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ARTICLE XVI

FORM OF BONDS AND ENDORSEMENT AND ASSIGNMENT PROVISIONS

SECTION 16.01. Form of Bonds and Endorsement and Assignment Provisions. The form of Bond, the form of the certificate of authentication thereof, the form of endorsement to appear thereon and the form of assignment thereof shall be substantially in the form set forth in Appendix A hereto.

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ARTICLE XVII

MISCELLANEOUS

SECTION 17.01. Benefits of Indenture Limited to Authority, Company, Trustee, Registrar and Paying Agent, Support Facility Issuer, and Auction Agent and Holders of the Bonds. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or should be construed to confer upon or give to any person other than the Authority, the Company, the Trustee, the Registrar and Paying Agent, the Bond Insurer and any other Support Facility Issuer, the Auction Agent and the Holders of the Bonds any legal or equitable right, remedy or claim under or by reason of or in respect to this Indenture or any covenant, condition, stipulation, promise, agreement or provision herein contained. Unless otherwise expressly set forth herein, this Indenture and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Authority, the Company, the Trustee, the Registrar and Paying Agent, the Bond Insurer or any other Support Facility Issuer, the Auction Agent and the Holders of the Bonds as herein and therein provided.

SECTION 17.02. Indenture a Contract; Indenture Binding Upon Successors or Assigns of the Authority. In consideration of the acceptance of the Bonds by any person who shall hold the same from time to time, each of the obligations, duties, limitations and restraints imposed by this Indenture upon the Authority or any employee thereof shall be deemed to be a covenant between the Authority and every Holder and this Indenture and every provision and covenant hereof shall be a contract by the Authority with the Holders of the Bonds issued hereunder to secure the full and final payment of the principal of, premium, if any, of and the interest on the Bonds executed and delivered hereunder. The provisions of the Act shall be a contract by the Authority with the Holders and the duties of the Authority and any employee thereof under the Act shall be enforceable by the Holders. This Indenture shall be enforceable by the Holders, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. The covenants and agreements herein set forth to be performed by the Authority and any employee thereof, shall be for the benefit, security and protection of the Holders. All the terms, provisions, conditions, warranties and agreements contained in this Indenture shall be binding upon the assigns of the Authority, and shall inure to the benefit of the Trustee, its successors or substitutes in trust and assigns, and the Holders.

SECTION 17.03. Notice to Holders of Bonds. Except as is otherwise provided in this Indenture, any provision for the mailing of a notice or other paper to the Holders shall be fully complied with if it is mailed postage prepaid, to the Holder of the Bonds at such Holder's address appearing upon the books of registry kept pursuant to Article VII. The Trustee shall furnish a copy of any notice to a Holder upon a request by the Holder that a copy of such notices be provided directly to the Holder; provided, however, that any failure to provide such a notice to a Holder shall not effect the validity of the provision of the notice in the preceding sentence.

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SECTION 17.04. Waiver of Notice. Whenever in this Indenture the giving of notice by mail, publication, or otherwise is required, the giving of such notice may be waived by the person entitled to receive such notice, and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 17.05. Effect of Saturdays, Sundays and Non-Business Days. Except as otherwise specifically provided herein, whenever this Indenture requires any action to be taken on a Saturday, Sunday or other day which is not a Business Day, such action shall be taken on the first Business Day occurring thereafter. Except as otherwise specifically provided herein, whenever in this Indenture the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday or other day which is not a Business Day, such time shall continue to run until midnight on the next succeeding Business Day.

SECTION 17.06. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this Indenture on the part of the Authority or the Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements

or portions thereof provided in this Indenture and the invalidity thereof shall in no way affect the validity of the other provisions of this Indenture or of the Bonds, but the Holders shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatsoever.

SECTION 17.07. Law and Place of Enforcement of Indenture. This Indenture shall be construed and interpreted in accordance with the laws of the State of New York and all suits and actions arising out of this Indenture shall be instituted in a court of competent jurisdiction in the State of New York.

SECTION 17.08. Requests, Approvals and Directions of Authority. Whenever in this Indenture a request, approval, direction or other action is required of the Authority, such request, approval, direction or other action shall be in the form of and evidenced by a certificate of an Authorized Officer of the Authority unless otherwise provided herein.

SECTION 17.09. Notices, Demands; Requests. Except as otherwise set forth herein, all notices, demands, directions and requests to be given to or made hereunder by the Company, the Authority, the Trustee, the Remarketing Agent, the Auction Agent and the

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Registrar and Paying Agent shall be given or made in writing and shall be deemed to be properly given or made if sent by first class United States mail, postage prepaid, addressed as follows:

- | | | |
|-----|--------------------------------------|---|
| (a) | As to the Company | 4 Irving Place New York, New York 10003 Attention: Secretary |
| (b) | As to the Authority | 17 Columbia Circle Albany, New York 12203-6399 Attention: President |
| (c) | As to the Trustee | 101 Barclay Street - 21W New York, New York 10286 Attention: Corporate Trust Trustee Administration |
| (d) | As to the Auction Agent | at the address specified in the Auction Agency Agreement |
| (e) | As to the Remarketing Agents | at the address specified in the applicable Remarketing Agreement |
| (f) | As to the Registrar and Paying Agent | 101 Barclay Street - 21W New York, New York 10286 Attention: Corporate Trust Trustee Administration |
| (g) | As to the Bond Insurer | 1221 Avenue of the Americas New York, New York 10020 Attention: Surveillance Department and General Counsel |

Any such notice, demand, direction or request may also be transmitted to the appropriate above-mentioned party by telegram, telecopy, telex or similar means and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be in writing and sent as specified above.

Any notice, demand, direction or request given or transmitted to the Trustee or the Authority shall be effective only upon receipt.

Any of such addresses may be changed at any time upon written notice of such change sent by first-class United States mail, postage prepaid, to the other parties by the party affecting the change.

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If the Bonds shall be rated by Moody's, the Trustee shall furnish to Moody's at 99 Church Street, New York, New York, Attention: Corporate Department Structured Finance Group or such other office as Moody's may designate to the Trustee, if the Bonds shall be rated by S&P, the Trustee shall furnish to S&P at 55 Water Street, New York, New York 10041, Attention: Letter of Credit Surveillance Group, and if the Bonds shall be rated by Fitch, the Trustee shall furnish to Fitch, Inc. at One State Street Plaza, New York, New York 10004, Attention: Municipal Structured Finance Group (i) a copy of each amendment to the Indenture, Participation Agreement, Bond Purchase Trust Agreement, and each Support Facility of which it has knowledge, (ii) notice of the termination, extension or expiration of any Support Facility, (iii) notice of the payment of all the Bonds (iv) notice of a Change in the Interest Rate Mode, and (v) notice of any successor Trustee, Registrar and Paying Agent or Remarketing Agent; provided, however, that failure by the Trustee to so notify Moody's, S&P or Fitch shall not result in any liability on the part of the Trustee or affect the validity of such documents or actions.

SECTION 17.10. Effect of Article and Section Headings and Table of Contents. The heading or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Indenture.

SECTION 17.11. Indenture May be Executed in Counterparts; Effectiveness of Indenture. This Indenture may be simultaneously executed in counterparts. Each such counterpart so executed shall be deemed to be an original, and all together shall constitute but one and the same instrument. This Indenture shall take effect immediately upon the execution and delivery hereof. Notwithstanding the actual date hereof, for convenience and purposes of reference this Indenture shall be dated as of January 1, 2004 and may be cited and referred to as the "Indenture dated as of January 1, 2004".

SECTION 17.12. Liability of Authority Limited to Revenues. Notwithstanding anything in this Indenture or in the Bonds contained, the Authority shall not be required to advance any monies derived from any source other than the Revenues and other assets pledged under this Indenture for any of the purposes in this Indenture mentioned, whether for the payment of the principal or redemption price of or interest on the Bonds or for any other purpose of this Indenture. Pursuant to Section 5.09 of the Participation Agreement, the Company has agreed to indemnify and hold harmless the Authority and the Trustee from all liability arising hereunder.

SECTION 17.13. Waiver of Personal Liability. No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of or premium, if any, or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

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[Signature Page of this Indenture Follows]

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IN WITNESS WHEREOF, the Authority has caused this Indenture to be executed by its Acting President, Vice President or Treasurer and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, and the Trustee has caused this Indenture to be executed by its authorized officer, all as of the date first above written.

**NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY**

By _____
Acting President

(SEAL)

Attest:

Assistant Secretary

THE BANK OF NEW YORK
as Trustee,

By _____

[Signature Page of Indenture]

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Con Edison Company of New York, Inc.

Ratio of Earnings to Fixed Charges

(Millions of Dollars)

| | For the Twelve Months Ended December 31, | | | | |
|---|--|-----------------|-----------------|-----------------|-----------------|
| | 2003 | 2002 | 2001 | 2000 | 1999 |
| Earnings | | | | | |
| Net Income for Common Stock | \$ 591 | \$ 605 | \$ 649 | \$ 570 | \$ 698 |
| Preferred Stock Dividend | 11 | 13 | 14 | 14 | 14 |
| Cumulative Effect of Changes in Accounting Principles | — | — | — | — | — |
| (Income) or Loss from Equity Investees | — | 1 | — | — | — |
| Minority Interest Loss | — | — | — | — | — |
| Income Tax | 367 | 342 | 427 | 290 | 366 |
| Pre-Tax Income from Continuing Operations | \$ 969 | \$ 961 | \$ 1,090 | \$ 874 | \$ 1,078 |
| Add: Fixed Charges* | 409 | 408 | 410 | 392 | 340 |
| Add: Amortization of Capitalized Interest | — | — | — | — | — |
| Add: Distributed Income of Equity Investees | — | — | — | — | — |
| Subtract: Interest Capitalized | — | — | — | — | — |
| Subtract: Preferred Stock Dividend Requirement | — | — | — | — | — |
| Earnings | \$ 1,378 | \$ 1,369 | \$ 1,500 | \$ 1,266 | \$ 1,418 |
| * Fixed Charges | | | | | |
| Interest on Long-term Debt | 333 | \$ 333 | \$ 347 | \$ 319 | \$ 292 |
| Amortization of Debt Discount, Premium and Expense | 13 | 12 | 13 | 13 | 13 |
| Interest Capitalized | — | — | — | — | — |
| Other Interest | 42 | 51 | 32 | 43 | 17 |
| Interest Component of Rentals | 21 | 12 | 18 | 17 | 18 |
| Preferred Stock Dividend Requirement | — | — | — | — | — |
| Fixed Charges | \$ 409 | \$ 408 | \$ 410 | \$ 392 | \$ 340 |
| Ratio of Earnings to Fixed Charges | 3.4 | 3.4 | 3.7 | 3.2 | 4.2 |

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in the Registration Statement on Form S-3 (No. 333-104623) of Consolidated Edison Company of New York, Inc. of our report dated February 19, 2004 relating to the financial statements and financial statement schedule of Consolidated Edison Company of New York, Inc. which appears in this Annual Report on Form 10-K.

PricewaterhouseCoopers LLP

New York, NY
February 24, 2004

CERTIFICATIONS

CON EDISON OF NEW YORK - Principal Executive Officer

I, Eugene R. McGrath, the principal executive officer of Consolidated Edison Company of New York, Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2003 of Consolidated Edison Company of New York, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) [Paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986.]
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2004

/s/ Eugene R. McGrath
Eugene R. McGrath
Chairman and Chief Executive Officer

CERTIFICATIONS

CON EDISON OF NEW YORK - Principal Financial Officer

I, Joan S. Freilich, the principal financial officer of Consolidated Edison Company of New York, Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2003 of Consolidated Edison Company of New York, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) [Paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986.]
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2004

/s/ Joan S. Freilich
Joan S. Freilich
Executive Vice President and Chief
Financial Officer

Certification Required Under Section 906 of the Sarbanes-Oxley Act of 2002

I, Eugene R. McGrath, the Chief Executive Officer of Consolidated Edison Company of New York, Inc. (the "Company") certify that the Company's Annual Report on Form 10-K for the year ended December 31, 2003, which this statement accompanies, (the "Form 10-K") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Eugene R. McGrath

Eugene R. McGrath

Dated: February 24, 2004

Certification Required Under Section 906 of the Sarbanes-Oxley Act of 2002

I, Joan S. Freilich, the Chief Financial Officer of Consolidated Edison Company of New York, Inc. (the "Company") certify that the Company's Annual Report on Form 10-K for the year ended December 31, 2003, which this statement accompanies, (the "Form 10-K") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Joan S. Freilich

Joan S. Freilich

Dated: February 24, 2004

Orange and Rockland Utilities, Inc.
Annual Team Incentive Plan (ATIP) Policy
January 2004
(supersedes January 2003)

Purpose:

To set forth the details of the Annual Team Incentive Plan (ATIP) for management employees. All management employees participate in the ATIP. Their awards are based on the Company's specified financial and operational performance.

Application:

This policy applies to all full-time and part-time management employees. It also applies to employees who transfer to or from an affiliate of the Company during the plan year.

Award Determination and Payment:

The ATIP award is based on the achievement of the Company's specified financial and operational goals. Each salary band is assigned a target award.

The award is split between a fixed team-based award of 60 percent and a variable individual award of 40 percent. Each employee is eligible to receive from 0 to 150 percent of the target award based on the individual's contribution.

The award is included in the employee's annual base pay used in the calculation of an employee's pension benefit.

1

Policies:

1. An employee transferring from an affiliate of the Company during the plan year will be eligible for an award based on the full plan year unless other provisions have been made by the affiliate.
2. An award will not be paid to an employee who transfers to an affiliate of the Company, unless the affiliate has not made provisions for the employee to be included in its award program.
3. An external hire joining the Company during the year will have his/her award prorated to reflect full months of actual service during the year.
4. A part-time employee will also be eligible for an award that will be calculated on his/her annual base earnings exclusive of overtime payments.
5. If an employee becomes disabled or takes a leave of absence for more than 90 calendar days, the employee's award will be prorated based on the number of full months of active service during the year.
6. An award will not be paid to an employee who leaves prior to December 31st of the plan year due to resignation, termination or retirement.
7. The target award percentage for the year will be based on the employee's band at year-end.
8. An employee who receives an unsatisfactory performance review is not eligible for an award.

2

Responsibilities and Authorities:

1. The Board of Directors will evaluate and approve the Company's performance criteria.
2. The Board of Directors will evaluate and approve the Company's achievement of specified financial and operational goals.
3. Without limiting the Board's ability to prescribe reasonable compensation, the Board may, at its discretion and in consultation with the Chief Executive Officer, adjust ATIP awards to reflect strategic and other factors affecting business operations and results, although in the absence of extraordinary circumstances it is not expected that such adjustment would exceed plus or minus 25 percent.
4. The Board may also make other adjustments it deems appropriate, based on an employee's performance.

3

Orange and Rockland Utilities, Inc. and Subsidiaries

Ratio of Earnings to Fixed Charges

(Millions of Dollars)

| | For the Twelve Months Ended December 31, | | | | |
|--|--|-------|-------|-------|-------|
| | 2003 | 2002 | 2001 | 2000 | 1999 |
| Earnings | | | | | |
| Net Income | \$ 45 | \$ 45 | \$ 40 | \$ 39 | \$ 15 |
| Federal Income & State Tax | 34 | 24 | 26 | 25 | 40 |
| Total Earnings Before Federal and State Income Tax | 79 | 69 | 66 | 64 | 55 |
| Fixed Charges* | 23 | 30 | 26 | 27 | 35 |
| Total Earnings Before Federal and State Income Tax and Fixed Charges | \$ 102 | \$ 99 | \$ 92 | \$ 91 | \$ 90 |
| * Fixed Charges | | | | | |
| Interest on Long-Term Debt | 18 | 20 | 21 | 22 | 26 |
| Amortization of Debt Discount, Premium and Expense | 1 | 1 | 1 | 1 | 1 |
| Interest Component of Rentals | 2 | 2 | 1 | 1 | 3 |
| Other Interest | 2 | 7 | 3 | 3 | 5 |
| Total Fixed Charges | \$ 23 | \$ 30 | \$ 26 | \$ 27 | \$ 35 |
| Ratio of Earnings to Fixed Charges | 4.4 | 3.3 | 3.5 | 3.4 | 2.5 |

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in the Registration Statement on Form S-3 (No. 333-107947) of Orange and Rockland Utilities, Inc. of our report dated February 19, 2004 relating to the financial statements and financial statement schedule of Orange and Rockland Utilities, Inc. which appears in this Annual Report on Form 10-K.

PricewaterhouseCoopers LLP

New York, NY
February 24, 2004

CERTIFICATIONS

O&R - Principal Executive Officer

I, John D. McMahon, the principal executive officer of Orange and Rockland Utilities, Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2003 of Orange and Rockland Utilities, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) [Paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986.]
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2004

/s/ John D. McMahon

John D. McMahon

President and Chief Executive Officer

CERTIFICATIONS

O&R - Principal Financial Officer

I, Louis M. Bevilacqua, the principal financial officer of Orange and Rockland Utilities, Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K for the year ended December 31, 2003 of Orange and Rockland Utilities, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) [Paragraph omitted pursuant to SEC Release Nos. 33-8238 and 34-47986.]
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2004

/s/ Louis M. Bevilacqua

Louis M. Bevilacqua
Chief Financial Officer

Certification Required Under Section 906 of the Sarbanes-Oxley Act of 2002

I, John D. McMahon, the Chief Executive Officer of Orange and Rockland Utilities, Inc. (the "Company") certify that the Company's Annual Report on Form 10-K for the year ended December 31, 2003, which this statement accompanies, (the "Form 10-K") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ John D. McMahon

John D. McMahon

Dated: February 24, 2004

Certification Required Under Section 906 of the Sarbanes-Oxley Act of 2002

I, Louis M. Bevilacqua, the Chief Financial Officer of Orange and Rockland Utilities, Inc. (the "Company") certify that the Company's Annual Report on Form 10-K for the year ended December 31, 2003, which this statement accompanies, (the "Form 10-K") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Louis M. Bevilacqua
Louis M. Bevilacqua

Dated: February 24, 2004
