

AGREEMENT

Between

NEW YORK POWER AND LIGHT CORPORATION

And

HUDSON RIVER REGULATING DISTRICT

Dated: January 5<sup>th</sup>, 1939

Re-Adjustment - Contract dated November 14, 1927

THIS AGREEMENT, made this 5<sup>th</sup> day of January, 1939,

between NEW YORK POWER AND LIGHT CORPORATION, a corporation created, organized and existing under the Laws of the State of New York, with a principal place of business at No. 126 State Street, in the City and County of Albany, State of New York, party of the first part, hereinafter called Power Company, and HUDSON RIVER REGULATING DISTRICT, a public corporation created, organized and existing pursuant to the provisions of ARTICLE VII-A (now Article VII) of the Conservation Law of the State of New York, party of the second part, hereinafter called District.

W I T N E S S E T H:

WHEREAS, under date of November 14, 1927, Power Company and District entered into an Agreement, a copy of which is hereto annexed for reference thereto herein, which Agreement is hereinafter called Original Agreement; and

WHEREAS, the Regulating Reservoir known as the Sacandaga Reservoir, and the dam known as the Conklingville Dam to impound the waters in said Reservoir, referred to in said Original Agreement, have been duly constructed, and have been, and are being, operated for the public purposes set forth or referred to in the aforesaid Article VII of said Conservation Law; and

WHEREAS, since the completion of the construction of said Reservoir and said Dam in 1930 to the date hereof, the general method of releasing water from said Reservoir between the hours of 7 A. M. and 7 P. M. on days of such release, has demonstrated effective and proper operation and regulation of said Reservoir for the public purposes for which it was constructed; and

WHEREAS, release of water from said Reservoir during fourteen hours between 6 A. M. and 10 P. M. on days of release of water therefrom, in connection with the general manner of operating said Reservoir, would in the judgment of District further benefit and facilitate said public purposes; and

WHEREAS, Paragraph 9 on Page 4 of said Original Agreement provides for a re-adjustment of the price to be paid for power referred to in said Paragraph 9, at the times and in the manner therein mentioned; and

WHEREAS, negotiations have been had between Power Company and District for a re-adjustment, revision and modification of said Original Agreement, resulting in the terms, covenants and conditions hereinafter set forth:

NOW, THEREFORE, Power Company and District mutually covenant and agree that said Original Agreement be re-adjusted, revised and modified, as follows:

A. Paragraphs numbered 1 - 9, inclusive, contained in said Original Agreement, under the caption "It Is Mutually Agreed", on pages 2 - 4, inclusive, thereof, are hereby suspended and declared to be inoperative and not in force and effect as a part of this Agreement; and that said paragraphs shall so remain until such time as Power Company may exercise the option or election set forth or referred to in Paragraph G herein;

B. Paragraphs numbered 10 - 15, inclusive, contained in said Original Agreement, under the caption "It Is Mutually Agreed", on pages

5 and 6 thereof, are hereby declared to be, and constituted, a part of this Agreement the same as if said paragraphs were fully set forth at length herein;

C. That the provisions of said Original Agreement, other than those specifically referred to and provided for in paragraphs A and B herein, shall be, and are hereby constituted, a part of this Agreement the same as if said provisions were fully set forth at length herein, excepting wherein said provisions are specifically, generally, or by implication, re-adjusted, revised, changed or modified by the provisions of this Agreement;

D. That Power Company will pay to District for the purposes of subdivisions (a) and (b) contained in Paragraph 2 on Page 2 of said Original Agreement, under the caption "Power Company Agrees", the total and fixed sum of EIGHTY-THOUSAND (\$80,000.00) DOLLARS per year, each year during the term of this Agreement, and until such amount may be re-adjusted as provided in Paragraph E herein, or reversion is had to said Original Agreement as provided in Paragraph G herein; which said sum of \$80,000.00 shall be paid and be payable in equal monthly installments, each of which said monthly installments shall be paid on or before the 15th day of the month succeeding that for which said installment is due; that said sum of \$80,000.00 shall not be reduced by any credits or allowances of any name, kind, character or description whatsoever;

E. That at the end of each five year period of this Agreement either party hereto may petition for a re-adjustment of the price to be paid hereunder as specified in Paragraph D herein by written notice to the other party to this Agreement, and that if the parties to this Agreement

cannot agree as to the necessity of an adjustment, or as to the adjustment itself, the matter will immediately be decided under the terms of the arbitration clause contained in Paragraph 10 of said Original Agreement;

F. The method of operating said Reservoir including the method of release of water therefrom, as hereinbefore referred to or set forth, for the public purposes referred to herein, shall be deemed the generally accepted method of operation of said Reservoir and the generally accepted method of release of water therefrom, except where emergency or the due and proper carrying out of and compliance with said public purposes may otherwise require or be deemed necessary in the judgment of said District or its Board; provided, however, that there shall be no arbitrary or capricious change in, or modification of, said generally accepted method of operation of said Reservoir or said generally accepted method of water release therefrom;

G. Power Company shall have the privilege, at its option or election, upon giving sixty days' notice in writing to District, of reverting to the terms and conditions of said Original Agreement; such reversion to be effective at the end of said sixty days' notice, from and after which said Original Agreement, and all its terms, conditions and covenants, shall be and become in full force and effect; and

H. This Agreement shall take effect on January 1, 1939, and shall continue in force and effect for the term set forth in Paragraph 14 on Page 6 of said Original Agreement; subject, however, to the provisions of Paragraph G herein.

IN WITNESS WHEREOF, the parties hereto have caused their respective

corporate seals to be hereunto affixed and this Agreement to be signed in duplicate by their respective officers thereunto duly authorized, the day and year first above written.

(Corporate Seal)

NEW YORK POWER AND LIGHT CORPORATION,

By *[Signature]*  
President

Attest:

*[Signature]*  
Secretary

(Corporate Seal)

HUDSON RIVER REGULATING DISTRICT,

By *[Signature]*  
President of  
BOARD OF HUDSON RIVER REGULATING DISTRICT  
Managing Agency of District

Attest:

*[Signature]*  
Secretary

STATE OF NEW YORK

SS.:

COUNTY OF ALBANY

On this 6<sup>th</sup> day of January, 1939, before me, the subscriber, personally came OTTO SNYDER, to me known, who being by me duly sworn, did depose and say, that he resides in the City and County of Albany, State of New York; that he is President of New York Power and Light Corporation, the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of said corporation; that the seal affixed to the foregoing instrument is such corporate seal; that the same was so affixed by authority of the Board of Directors of said corporation, and that he signed his name thereto by like authority.

Mary M. Shanahan  
Notary Public

STATE OF NEW YORK

SS.:

COUNTY OF ALBANY

On this 5<sup>th</sup> day of January, 1939, before me, the subscriber, personally appeared JAMES C. McDONALD, to me known, who being by me duly sworn, did depose and say, that he resides in the City and County of Schenectady, State of New York; that he is President of the Board of Hudson River Regulating District, which Board is the Managing Agency of Hudson River Regulating District, a public corporation organized and existing under the Laws of the State of New York and being the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of said corporation; that the seal affixed to the foregoing instrument is such corporate seal; that the same was so affixed by authority of the said Board of Hudson River Regulating District; and that he signed his name thereto by like authority.

Mary M. Shanahan  
Notary Public

