

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

_____ Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
X _____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: October 11, 2006 (COW)(B of T) October 19, 2006

TITLE: Motion to Ratify a Contract with Constellation New Energy for the Provision of Electrical Energy for the Village of Lombard Water and Sewer System

SUBMITTED BY: Leonard J. Flood, Director of Finance

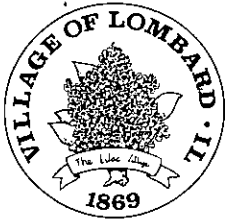
BACKGROUND/POLICY IMPLICATIONS:

A staff report on this matter is attached.


Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X Leonard J. Flood _____ Date 10/11/06
Village Manager X W. T. Lichter _____ Date 10/12/06

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



To: William T. Lichter
Village Manager

From: Leonard J. Flood 
Director of Finance

Date: October 11, 2006

Subject: Electricity Supply Contract

On September 7, 2006, The Village Board approved Resolution 36-07 which authorized the Northern Illinois Electric Cooperative (NIMEC) to serve as the broker for the Village in regard to obtaining bids from Electricity providers and authorizing the Village Manager to approve a contract with the lowest cost electricity provider.

Bidding was conducted by NIMEC on October 10, 2006, for the electrical needs for the Village's water and sewer system. Bids for the street lighting needs of the NIMEC membership are expected to be taken within the next few weeks. The winning bid was submitted by Constellation New Energy at a price of 6.1 cents/kWh, which compares to the ComEd auction rate for energy of 7.2 cents/kWh. Based on current usage, this would result in a savings of approximately \$60,000 over the ComEd rate during the 17 month term of the contract. At this time, almost 50 members of the Cooperative have accepted the bid.

As you are aware, there is currently action in the General Assembly that is seeking to extend the current ComEd rate freeze for another three years. This legislation has moved out of committee and may be called for at a special session in November. In addition, there is currently legal action being taken by the Attorney General challenging the validity of the Reverse Auction held by ComEd

Staff has undertaken an extensive review and discussion of what is happening in Springfield and concluded that it was in the Village's best interest to accept the Constellation New Energy bid. This is based on the following reasoning:

1. The Reverse Auction held by ComEd in September 2006 was approved by the Illinois Commerce Commission and Federal Energy Regulatory Commission. If, by some reason, the Attorney General is successful in challenging the validity of the Reverse Auction, ComEd would be forced to purchase power on the open market based on market rates available at that time which would be higher than the frozen rate. This would violate one of the terms of the deregulation legislation which was that the utility would be able to sell power at a rate that would recoup their costs.

2. The contracts that ComEd has entered into are valid and the General Assembly does not have the power to overturn these contracts.
3. Exelon, the parent company of ComEd, has indicated that if the utility is not able to recoup its costs, ComEd would be forced into bankruptcy which could result in a bankruptcy court deciding the rate question.

Approval of the contract with Constellation New Energy is the best way for the Village to lock in our costs for the next 17 months and know with certainty the rate that the Village will be paying for electricity for the water and sewer system.

The attached contract has been reviewed by the Village Attorney's office and includes all changes that were recommended by them. In accordance with the authorization provided for in Resolution 36-07, the Village Manager executed the contract on October 11, 2006. As provided for in that resolution, the contract is to be placed on the first available Village Board meeting following the execution thereof by the Village Manager for ratification by the President and Board of Trustees.

- c. Tim Sexton, Assistant Director of Finance
Wes Anderson, Director of Public Works



The way energy works.
for your business

**Fixed Price
Illinois ComEd Electricity Supply Agreement**

<p>Full Legal Name ("Customer"): <u>Village of Lombard</u></p> <p>Business Address: 255 W. Wilson Ave. Lombard, IL 60148</p> <p>Phone/Fax #: / <u>630-620-8222</u> FAX <u>630-620-5700</u> Phone</p>	<p>Customer - Billing Address: <u>255 E. Wilson Avenue</u> <u>Lombard, IL 60148</u></p> <p>Billing Contact: <u>Accounts Payable</u></p> <p>Billing Phone/Fax #: <u>630-620-5700</u> <u>630-620-8222</u></p> <p>Secondary Contact/Phone #: <u>Tim Sexton/630-620-5902</u></p>
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CUSTOMER, A NIMEC MEMBER, AND CONSTELLATION NEWENERGY, INC. ("NewEnergy") AGREE AS FOLLOWS:

Capitalized terms have the meanings set out in this Electricity Supply Agreement, including the General Terms and Conditions attached hereto ("Agreement"); generally the words "you" and "your" refer to the Customer listed above and the words "we" and "us" refer to NewEnergy, unless the context clearly requires otherwise.

Purchase and Sale of Electricity: You will purchase from us on an exclusive basis, and we will supply, or caused to be supplied, all of your electricity requirements as well as act as the exclusive provider of demand response programs, including but not limited to curtailment programs for the Accounts identified in the Account Schedule ("Accounts") at the Energy Charge (which is calculated based on the Fixed Price(s)) plus applicable Utility Charges, Line Loss Charges, Transmission Service Charges, Ancillary Service Charges and Taxes, each of which are variable price components and therefore subject to change during the duration of the Agreement, and an Administration Fee. By signing this Agreement, you authorize us to enroll your Accounts at ISO and with your Utility so that we can provide service to you or to take any other actions identified herein. You will take such actions as we request to allow us to enroll your Account(s) in a timely manner. You also give us the authority to supply you with electricity from whatever source we choose.

Term: This Agreement will become effective and binding on both of us after you have signed the Agreement and we have countersigned and returned a copy to you. However, if we determine that any commercial terms inserted into this Agreement - like for example your Start Date or End Date - are not correct, we will notify you in writing of the corrected terms. IF YOU WISH TO CANCEL THIS AGREEMENT BASED ON THE CORRECTED TERMS, YOU MAY DO SO WITHOUT PENALTY BY PROVIDING WRITTEN NOTICE TO US WITHIN 2 BUSINESS DAYS OF YOUR RECEIPT OF SUCH NOTICE. IF WE DO NOT RECEIVE YOUR REJECTION NOTICE DURING THAT TIME, YOU WILL BE DEEMED TO HAVE CONCLUSIVELY ACCEPTED THE REVISED TERMS, AND YOU WILL BE BOUND BY THEM. We will begin supplying your Account(s) with electricity beginning with the Start Date after enrollment of your Account(s). IF WE ARE UNABLE TO COMMENCE SERVICE WITHIN 35 DAYS OF THE START DATE(S), WE WILL HAVE THE RIGHT, IN OUR DISCRETION, TO TERMINATE THIS AGREEMENT WITHOUT PENALTY OR PREJUDICE UPON WRITTEN NOTICE TO YOU. Nothing in this Agreement shall be deemed to require or otherwise obligate us to offer to extend the term of this Agreement. At the end of the term of this Agreement (including any renewal term), if for any reason you fail to renew this Agreement or terminate some or all of the Accounts, or otherwise timely instruct us that you will be served by another supplier, we will return all your Accounts effective as of their applicable meter read cycle date to the applicable Utility supply service.

Final Meter Read Date: ANY NOTICE PERIOD IN THE AGREEMENT TO THE CONTRARY NOTWITHSTANDING, IF YOU TERMINATE THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS, SUCH TERMINATION SHALL BECOME EFFECTIVE AT THE APPLICABLE TERMINATION DATE BUT NOT EARLIER THAN THE NEXT REGULARLY SCHEDULED METER READ CYCLE DATE AT WHICH WE ARE ABLE TO RETURN YOU TO BEING SERVED BY THE UTILITY OR ANY ALTERNATIVE SUPPLIER ELECTED BY YOU.

Your Invoice: You will receive a single invoice from NewEnergy that contains all charges applicable to your electricity usage, including the applicable Fixed Price Energy Charge; Utility Charges; Transmission Service Charges; Ancillary Service Charges, Line Loss Charges; an Administration Fee; and Taxes. All amounts charged are due in full within thirty (30) days of the invoice date, and we reserve the right to adjust amounts previously invoiced based upon supplemental or additional data we may receive from your Utility, the ISO or otherwise. You shall make payments in accordance with this Agreement; provide that to extent the payment terms of this Agreement are in conflict with the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.* (the "Prompt Payment Act"), the Prompt Payment Act shall govern. We will use our reasonable efforts to send you invoices based on actual data provided by the Utility and/or ISO. If we do not receive actual data in a timely manner, we will make a good faith estimate using your historical usage data and other information to calculate your invoice. Once we receive actual data, we will reconcile the estimated charges and adjust them as needed in subsequent invoices. If you fail to make payment by the due date, we may (a) assess a late payment charge of 1.5% of the invoice and interest will accrue daily on outstanding amounts from the due date until the bill is paid in full at a rate of 1.5% per month, or the highest rate permitted by law, whichever is less and (b) withhold any payments due to Utility until we receive such payments. **You will be deemed to have waived any billing disputes unless you present them to us in writing within 60 days after the date on your invoice.** All other claims you may have related in any way to this Agreement and/or the

products and services we provide will be deemed waived if you do not notify us of such claims within 60 days after termination or expiration of this Agreement. In the event that you are not eligible to receive a single bill from NewEnergy, or if you fail to comply with this section, your Utility will invoice you for all Utility Charges and we will invoice you for all other charges. You acknowledge that the failure to timely remit payment to us of amounts due and owing to Utility may result in Utility requesting that you provide a deposit and/or face disconnection of service by Utility.

Relationship of Parties. We are an independent contractor, and nothing in this Agreement establishes a joint venture, fiduciary relationship, partnership or other joint undertaking. We are not acting as your consultant or advisor, and you will **not rely** on us in evaluating the advantages or disadvantages of any specific product or service, predictions about future energy prices, or any other matter. Your decision to enter into this Agreement and any other decisions or actions you may take is and will be based solely upon your own analysis (or that of your advisors) and not on information or statements from us.

Certain Warranties. You warrant and represent that your aggregate consumption and usage during any 12 month period is greater than 15,000 kilowatt-hours and that the electricity supplied under this Agreement is not for use at a residence.

Customer service information. Please contact our Customer Service department toll free at 1-888-6384606 or locally in Chicago, Illinois at 312-704-9200 with any questions.

GENERAL TERMS AND CONDITIONS

1. Definitions:

"Administration Fee" shall equal \$25 for each Account per billing cycle for charges including, but not limited to, billing and metering. *The Administration Fee is fixed for the term of the Agreement.*

"Ancillary Service Charges" means for any billing period the applicable charges regarding ancillary services as set forth in the applicable ISO Open Access Transmission Tariff ("OATT") and more specifically identified in the applicable schedules to the OATT; whether such specific charges are set forth in the OATT or are determined market based in accordance with the OATT. We will determine your monthly Ancillary Service Charges by socializing our cost for Ancillary Service Charges among all of our customers within the applicable ISO service territory based on their respective kWh usage or in the form of an otherwise reasonable allocation method. *Ancillary Service Charges are a variable price component and therefore subject to change during the term of this Agreement.*

"Capacity Charges" means a charge in dollars per kWh (\$/kWh) for fulfilling the capacity requirements for the Account(s) imposed by PJM or otherwise. "Congestion Charges" means a charge reflecting the cost associated with transmission congestion. *The Fixed Price(s) includes Congestion Charges and Congestion Charges.*

"Delivery Point" means existing and future points of interconnection between your Utility's transmission system and/or distribution system and those of a third-party. "End Date" means the last billing cycle date of the Utility's monthly billing cycle for the month and year specified on the Account Schedule to this Agreement. "ISO" means PJM-West, L.L.C. ("PJM"), or other entity approved by the Federal Energy Regulatory Commission or other applicable regulatory body, that provides transmission service within Commonwealth Edison Company's service territory. "Taxes" means all taxes, duties, fees, levies, premiums or any other charges of any kind, whether direct or indirect, relating to the sale, purchase or delivery of electricity, together with all interest, penalties or other additional amounts imposed, including but not limited to gross receipts, sales, consumption, use, value added, kWh, commercial activity or other privilege tax, and any other tax (whether in effect as of the effective date of this Agreement or thereafter) imposed by any governmental entity.

"Transmission Service Charges" means the applicable transmission service charges (other than Ancillary Service Charges, which will be invoiced separately) as identified in the applicable OATT Tariff for the provision of transmission service by the ISO within the Utility's service territory. We will calculate Customer's Transmission Service Charges in the form of a kWh charge based on Rider TS or in the form of an otherwise reasonable allocation method. *Transmission Service Charges are a variable price component and therefore subject to change during the term of this Agreement.*

"Non-Time-of-Use" means all hours of each day. "On-Peak" means the hours designated from time to time as "peak" by Utility. Currently, On-Peak hours are 9:00 a.m. Central Prevailing Time to 10:00 p.m. Central Prevailing Time on Monday through Friday, except on days on which the following holidays are observed in the United States of America: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and, if one of the foregoing holidays occurs on a Tuesday or Thursday, the immediately preceding Monday or immediately following Friday, respectively. "Off-Peak" means all hours other than On-Peak hours. "Utility" means the transmission and distribution service provider owning and/or controlling and maintaining the distribution system required for delivery of electricity to the Accounts. "Utility Charges" include, but are not limited to: distribution and delivery services charges, which may include, without limitation, meter rental and installation charges, distribution facilities charges, customer charge, facilities, franchise fees, lighting charges, public programs, and decommissioning charges, all as defined by the Utility tariffs, and any similar or related charges the Utility may impose from time to time.

2. Cash deposit and other security. Usually we do not require cash deposits. Nevertheless at any time we may require that you provide information to us so that we may evaluate your creditworthiness. We reserve the right to require that you make a cash deposit or provide other security acceptable to us (or increase such deposit) if your financial obligations to us increase under this Agreement, or if, in our opinion, your credit, payment history, or ability to pay your bills as they come due becomes a concern. You will need to deliver any required cash deposit or other required security (or any increase therein) within 5 days of our request.

3. Default under this Agreement. You will be in default under this Agreement if you fail to: pay your bills on time and in full; provide cash deposits or other security as required; perform all material obligations under this Agreement and you do not cure such default within 5 days of written notice from us; or declare or file for bankruptcy or otherwise become insolvent or unable to pay your debts as they come due.

4. What we can do if you are in default. If you are in default under this Agreement, in addition to any other remedies available to us, we may:

- terminate this Agreement entirely and switch you to the applicable Utility interim supply service; and/or

- require that you compensate us for all losses we sustain due to your default.

5. Certain payments to us following default or termination. As a result of your default or otherwise in circumstances where we cancel this Agreement, the compensation we can recover from you may include, without limitation:

- payment of all amounts you owe us for electricity provided to you;
- when the Agreement is terminated, payment of an amount (that we will calculate using our reasonable judgment) equal to the positive difference between (A) the dollar amount you would have paid to us under this Agreement had it not been terminated early and (B) the dollar amount we can resell such electricity for to a third party under then-current market conditions; and
- all costs (including attorneys' fees, expenses and court costs) we incur in collecting amounts you owe us under this Agreement. The parties agree that any termination payment determined in accordance with the foregoing is a reasonable approximation of harm or loss, and is not a penalty or punitive in any respect.

6. Changes in law, market structure, and/or your electricity needs or classifications. If a change in or implementation of (a) law, rule, regulation, ordinance, statute, judicial decision, administrative order, ISO operating guides, ISO protocols, resource adequacy or renewable portfolio standards, zonal boundary definitions, Utility tariffs, and the like (including resource adequacy or renewable portfolio standards or other renewable energy requirements), (b) electricity market structure, or (c) your electricity needs or rate classifications causes our costs under this Agreement to increase, we will have the right to pass such increased costs on to you.

7. Events beyond either of our reasonable control. If something happens that is beyond either of our reasonable control that prevents either of us from performing our respective obligations under this Agreement, then whichever one of us cannot perform will be relieved from performance until the situation is resolved. Examples of such events include: acts of God, fire, flood, hurricane, war, terrorism; declaration of emergency by a governmental entity, ISO or the Utility; curtailment, disruption or interruption of electricity transmission, distribution or supply; regulatory, administrative, or legislative action, or action or restraint by court order or other governmental entity; actions taken by third parties not under your or our control, such as ISO or an Utility. Such events shall not excuse failure to make payments in a timely manner for electricity supplied to you prior to such event. Further, if such an event prevents performance for more than 15 days, then whichever one of us whose performance was not prevented by such events shall have the right to terminate the Agreement without penalty upon written notice to the other.

8. Delivery point. We will deliver electricity to the Delivery Point. At that point title and risk of loss related to the electricity transfer to you, and you are responsible for all transmission, distribution, and other costs (including Taxes and other fees) related to the final delivery to the facilities to which the Accounts relate as well as your use of the electricity. While we will arrange for the delivery of electricity to you by your Utility, we will have no liability or responsibility for matters within the control of the Utility or the ISO-controlled grid, which include maintenance of electric lines and systems, service interruptions, loss or termination of service, deterioration of electric services, or meter readings.

9. Limitation on Liability. NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, IN NO EVENT WILL NEWENERGY OR ANY OF OUR AFFILIATED COMPANIES BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST OPPORTUNITIES OR LOST PROFITS. EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEWENERGY'S TOTAL LIABILITY RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, WILL BE LIMITED TO DIRECT ACTUAL DAMAGES. NO WARRANTY, DUTY, OR REMEDY, WHETHER EXPRESSED, IMPLIED OR STATUTORY, ON NEWENERGY'S PART IS GIVEN OR INTENDED TO ARISE OUT OF THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

10. Applicable law. THIS AGREEMENT WILL BE GOVERNED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAW PROVISIONS. WE BOTH AGREE THAT EXCLUSIVE JURISDICTION AND VENUE FOR THE ADJUDICATION OF ANY SUIT, CLAIM, ACTION OR OTHER PROCEEDING, WHETHER AT LAW OR IN EQUITY, RELATING TO THIS AGREEMENT WILL BE IN COOK COUNTY, ILLINOIS, OR SUCH OTHER COUNTY IN WHICH CUSTOMER IS LOCATED. WE ALSO BOTH AGREE TO IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

11. Miscellaneous Provisions. If in any circumstance we do not provide notice of, or object to, any default on your part under this Agreement, such situation will not constitute a waiver of any future default of any kind. If any portion of this Agreement is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be deemed substituted for the invalid provisions such provisions as will most nearly carry out our mutual intent as expressed in this Agreement. You may not assign or otherwise transfer any of your rights or obligations under this Agreement without our prior written consent. Any such attempted transfer will be void. Except as otherwise required pursuant to the Illinois Freedom of Information Act (5 ILCS 140), you agree to keep this Agreement and all information provided to you by NewEnergy in connection with this Agreement confidential and not disclose it to any third-party unless otherwise required by law. This Agreement contains the entire agreement between both of us, supersedes any other agreements, discussions or understandings (whether written or oral) regarding the subject matter of this Agreement, and may not be contradicted by any prior or contemporaneous oral or written agreement. A facsimile copy with your signature will be considered an original for all purposes, and you will provide original signed copies upon request. Except as otherwise explicitly provided in this Agreement, no amendment to this Agreement will be valid or given any effect unless signed by both of us. The applicable provisions of this Agreement will continue in effect after termination or expiration of this Agreement to the extent necessary, including those for billing adjustments and payments and with respect to your indemnification obligations. We are an independent contractor under this Agreement, and nothing in this Agreement will be construed to constitute a joint venture, fiduciary relationship, partnership or other joint undertaking. This Agreement is a "forward contract" and NewEnergy is a "forward contract merchant" for purposes of the U.S. Bankruptcy Code, as amended. Further, we are not providing advice regarding "commodity interests", including futures contracts and commodity options or any other matter, which would cause us to be a commodity trading advisor under the U.S. Commodity Exchange Act, as amended. The terms of any purchase order (PO) you send to us or any alterations, additions, or modifications you make to the preprinted terms of this Agreement shall be void and without any effect unless we agree in writing.

12. Usage and Account Information. You acknowledge that the price is based upon your projected usage and consumption pattern(s) (weather adjusted) for all Account(s), and that you are eligible for Utility's Rate RDS as of the Start Date. You agree to notify us in advance of any material variance in usage and/or consumption patterns and to bear any actual and incremental charges resulting from any variance of your Account(s) in consumption in excess of thirty percent (30%), as compared to the projected usage and consumption patterns for the Account(s); provided that you shall only be required to bear any actual and incremental charges resulting from any variance of your Accounts if your Accounts in the aggregate together with all Accounts of NIMEC members set forth on Exhibit B hereto fall outside the thirty percent (30%) limitation. You acknowledge our right, which is hereby reserved, to modify the Fixed Price(s) upon thirty (30) days prior written notice to you if your usage and/or consumption patterns have changed materially compared to the projected usage and consumption patterns during the Term

WZ
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ACCOUNT SCHEDULE
Expiration Date: October 13, 2006

Account Number	Service Address	Switch Date	End MonthYear	AdminFee	NTOU Price (\$/kWh)	Off-Peak Price (\$/kWh)	On-Peak Price (\$/kWh)
5438011007	255 E. Wilson Ave., Lombard, IL	01/10/2007	May-2008	\$25	\$ 0.05673	\$ 0.04439	\$ 0.07522

Your Price: The price for the electricity provided to you under this Agreement is \$0.06091 /kWh. This price includes an estimate of ancillary service charges and line loss charges, which are not fixed for the term of this Agreement.

Agreement is indicated in the Account Schedule above ("Energy Charge"). The Energy Charge shall mean the sum of Customer's kilowatt-hour consumption during the applicable period, multiplied by the "On-Peak-Fixed Price," "Off-Peak Fixed Price," and "Non-Time-of-Use Fixed Price" charges for electric energy and capacity for the Accounts listed on this Account Schedule. This price does not include Utility Charges; Taxes; Transmission Charges, Line Loss Charges, and an Administration Fee. Supply to your Accounts will begin on the Start Date upon receipt of a signed Agreement and General Account Agent form by facsimile to (312) 704-8530 (Attention: Account Enrollment) on or before 2:00 p.m. CPT of the Expiration Date identified above and end on the regularly scheduled Utility meter read dates in the month and year listed above unless we are unable to enroll your Accounts because of circumstances beyond our control (including any acts or omissions of ISO or the Utility), in which case the Start Date will commence on the next regularly scheduled Utility meter read date. In this circumstance, we will have the right, but will not be required, to extend your End Date to reflect the delay in the Start Date. If we extend your End Date, we will notify you in writing. Otherwise the End Date will remain the same.

IN THE EVENT OF AN EMERGENCY, POWER OUTAGE OR WIRES AND EQUIPMENT SERVICE NEEDS, CONTACT YOUR APPLICABLE UTILITY AT: 800-334-7661. All notices will be in writing and delivered by hand, certified mail, return receipt requested, or by express carrier to our respective business addresses. Our business address is 550 W. Washington Blvd., Suite 300, Chicago, IL 60661. Either of us can change our address by notice to the other as provided for in this paragraph.

Payments to Certain Third-Parties. Customer acknowledges and understands that (a) NewEnergy is making a payment to Glenview Consulting Corp. ("Broker") in connection with its efforts to facilitate Customer and NewEnergy entering into this transaction; (b) the NewEnergy Electricity Charge reflects the fee paid to Broker; and (c) Broker is acting on Customer's behalf as its representative and is not a representative or agent of NewEnergy. Customer should direct any questions regarding such fee to Broker.

You represent and warrant that your duly authorized representative executed this Agreement on your behalf as of the date set forth below. This Agreement shall not be binding or enforceable against NewEnergy unless and until signed by an authorized representative of NewEnergy.

Constellation NewEnergy, Inc

CUSTOMER: Village of Lombard
(Full Legal Name)

By: _____

By: William T. Lichter

Title: _____

Printed Name: William T. Lichter

Title: Village Manager

Date: _____

Date: 10/11/2006

NewEnergy Contract Number: 61011092712820515

DESIGNATION OF GENERAL ACCOUNT AGENT

As provided for in the tariffs of Commonwealth Edison Company ("ComEd"), Customer hereby designates Constellation NewEnergy to act as Customer's General Account Agent ("General Account Agent") for all purposes in arranging and managing tariffed services provided by ComEd in regard to the Account number(s) listed on the back of this form. ComEd may rely and act on any and all representations and requests made by General Account Agent on behalf of Customer as if made by Customer directly, except that General Account Agent shall not have authority to request that ComEd release prior credit history or disconnect service.

General Account Agent may be contacted at the following address(es), telephone number(s), fax number(s), and e-mail address(es): Constellation NewEnergy, 550 W. Washington Blvd., Suite 300, Chicago, Illinois 60661 Attn: Billing Department, (312) 704-9200, fax 312-704-8530, e-mail: CNEILcontracts@constellation.com

Customer acknowledges that General Account Agent is an agent of Customer, not of ComEd. Customer acknowledges that ComEd will send all bills and notices, including notices prior to disconnection, to General Account Agent. Customer may or may not receive such notices directly from ComEd in the future. ComEd is not a party to, and shall not be bound by, the agreement(s) between Customer and General Account Agent. The use of a General Account Agent does not amend, modify, or alter ComEd's tariffs or any contracts between ComEd and Customer. General Account Agent has no authority to enter into any agreement on behalf of ComEd or to amend, modify, or alter any of ComEd's tariffs, contracts, or procedures, or to bind ComEd by making any promises, representations, or omissions. This Designation of General Account Agent shall be valid until Customer or General Account Agent provides ComEd with written notice of its termination or until this Designation is otherwise terminated in accordance with ComEd's tariffs.

The designation or use of a General Account Agent does not affect Customer's responsibilities to timely pay ComEd all amounts due and perform and satisfy all other obligations applicable to Customer. Customer shall remain liable to timely pay ComEd for all balances due for services rendered by ComEd and all other balances owed ComEd, even if General Account Agent fails to remit to ComEd amounts paid by Customer to General Account Agent for remittance to ComEd. Customer shall be responsible to protect its interests with General Account Agent. The appointment of General Account Agent shall not give Customer or General Account Agent any additional rights beyond those Customer would have under ComEd's tariffs and any agreements between ComEd and Customer. ComEd shall not be required to perform services for General Account Agent as agent of Customer that ComEd does not perform for Customer.

Please mail or fax this form to:

ComEd - Central Handling Group

Customer Care Center

P.O. Box 87522

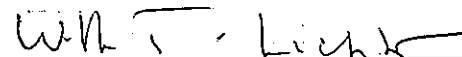
Chicago, IL 60680

Fax #(630) 684-2692

Village of Lombard

Customer's Printed Name
10/11/2006

Date



Signature of Customer
Village Manager

Title of Person Signing on Behalf of Customer

Account Number	Meter Number
5438011007	116739739