South Texas Project Electric Generating Station P.O. Box 289 Wadsworth, Texas 77483

October 14, 2005
NOC-AE-05001940
10 CFR 50.80
File No.: D43.01

U.S. Nuclear Regulatory Commission
Attention: James E. Dyer
Director, Office of Nuclear Reactor Regulation
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

South Texas Project
Units 1 and 2
Docket Nos. STN 50-498 and STN 50-499
Application for Order Approving Indirect Transfer of Control of Licenses

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (the Act), and 10 CFR 50.80, STP Nuclear Operating Company (STPNOC), acting on behalf of Texas Genco, LP (Texas Genco) and NRG Energy, Inc. (NRG Energy), hereby requests that the Nuclear Regulatory Commission (NRC) consent to the indirect transfer of control of Texas Genco's licenses to own a 44% interest in the South Texas Project Electric Generating Station, Units 1 and 2 (STPEGS). NRG Energy and Texas Genco LLC have entered into a definitive agreement for NRG Energy to acquire all of the outstanding equity of Texas Genco LLC, which indirectly owns 100% of Texas Genco, as described in greater detail below. Texas Genco and NRG Energy seek NRC consent to the indirect transfer of control of its licenses that will result from NRG Energy's acquisition of Texas Genco LLC.

In addition to its 44% undivided ownership interests in STPEGS, Texas Genco holds a corresponding interest in STPNOC, a not-for-profit Texas corporation, which is the licensed operator of STPEGS. Thus, the indirect transfer of control of Texas Genco also results in an indirect transfer of control of this interest in STPNOC. However, this is not a controlling interest in STPNOC, and therefore, there will be no indirect transfer of control of STPNOC's licenses to operate STPEGS on behalf of the owners. If the NRC concludes that the indirect transfer of control of Texas Genco's interests in STPNOC also requires prior NRC consent, such consent is hereby requested.

Through the attached Application, STPNOC requests, on behalf of NRG Energy and Texas Genco, that the NRC consent to this proposed indirect transfer of control. The information contained in this Application demonstrates that, after the proposed indirect transfer of control, Texas Genco will continue to possess the requisite qualifications to own a 44% undivided

AP01

ownership interest in STPEGS. The proposed indirect transfer of control will not result in any change in the role of STPNOC as the licensed operator of the facility and will not result in any changes to its technical qualifications.

In summary, the proposed indirect transfer of control will be consistent with the requirements set forth in the Act, NRC regulations, and the relevant NRC licenses and orders. The proposed indirect transfer of control will not result in any physical changes to STPEGS or changes in the officers, personnel, or day-to-day operation of STPEGS. The proposed indirect transfer of control will not involve any changes to the current STPEGS licensing basis. It will neither have any adverse impact on the public health and safety, nor be inimical to the common defense and security. This Application therefore respectfully requests that the NRC consent to the indirect transfer of control in accordance with 10 CFR 50.80.

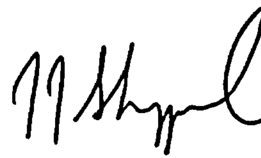
NRG Energy and Texas Genco LLC desire to effect the indirect transfer of control of Texas Genco and its 44% interest in STPEGS and corresponding interest in STPNOC on a closing date to take place as soon after February 1, 2006 as all required regulatory approvals and rulings are received and/or waiting periods have expired. The proposed transaction is subject to approval by the Federal Energy Regulatory Commission (FERC). Also, notifications are required to be filed with the Federal Trade Commission and the Department of Justice under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (HSR Act), and applicable rules and regulations. In addition, a filing likely will be made with the Public Utility Commission of Texas (PUCT) to provide notice and obtain any required approvals in connection with the proposed transaction, if any such approval is required. It is expected that FERC approval will be obtained by mid-January, that the HSR Act waiting period will have expired or been terminated by November 30, 2005, and that any approvals from the PUCT will be obtained by December 31, 2005. Therefore, NRC approval is expected to be the last approval obtained prior to closing.

For the reasons described in the Application, NRG Energy will realize important benefits if the indirect transfer of control of Texas Genco can be completed before February 14, 2006. To support this schedule, NRG Energy and Texas Genco request that NRC review this Application on a schedule that will permit the issuance of NRC consent to the indirect transfer of control by February 1, 2006. Such consent should be made immediately effective upon issuance and should permit the indirect transfer of control at any time until December 31, 2006. STPNOC will inform NRC if there are any significant changes in the status of any other required approvals or any other developments that have an impact on the schedule.

The Application includes a proprietary, separately bound Attachment 4A, which contains confidential commercial or financial information. NRG Energy and Texas Genco request that Attachment 4A be withheld from public disclosure pursuant to 10 CFR 9.17(a)(4) and the policy reflected in 10 CFR 2.390, as described in the Affidavit of Jack A. Fusco and the Affidavit of David Crane, both of which are provided in Attachment 5 to the Application. A non-proprietary version of Attachment 4A suitable for public disclosure is provided as Attachment 4 to the Application.

There are no commitments in this letter.

If the NRC requires additional information concerning this license transfer request, please contact Mr. Scott Head, STPNOC's Manager, Licensing, at (361) 972-7136. Service on STPNOC, Texas Genco and NRG Energy of comments, hearing requests or intervention petitions, or other pleadings, if applicable, should be made to counsel for STPNOC and NRG Energy, Mr. John E. Matthews at Morgan, Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, NW, Washington, DC 20004 (tel: 202-739-5524; fax: 202-739-3001; e-mail: jmatthews@morganlewis.com); counsel for NRG Energy, Dr. William R. Hollaway at Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, Washington, DC 20005 (tel: 202-371-7819; fax: 202-371-7939; e-mail: whollawa@skadden.com); and counsel for Texas Genco, Mr. Nicholas S. Reynolds at Winston and Strawn LLP, 1700 K Street, N.W., Washington, D.C. 20006-3817 (tel: 202-282-5717; fax: 202-282-5100; e-mail: nreynolds@winston.com).



J. J. Sheppard
President & Chief Executive Officer

jtc

Enclosure: Application for Order Approving Indirect Transfer of Control of Licenses

cc: w/o proprietary Addendum except *
(paper copy)

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011-8064

* U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

* Steven R. Hom
U. S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852
Mail Stop OWFN/15-D21

Jeffrey Cruz
U. S. Nuclear Regulatory Commission
P. O. Box 289, Mail Code: MN116
Wadsworth, TX 77483

Richard A. Ratliff
Bureau of Radiation Control
Texas Department of State Health Services
1100 West 49th Street
Austin, TX 78756-3189

C. M. Canady
City of Austin
Electric Utility Department
721 Barton Springs Road
Austin, TX 78704

(electronic copy)

A. H. Gutterman
J. E. Matthews
Morgan, Lewis & Bockius LLP

J. J. Nesrsta
R. K. Temple
E. Alarcon
City Public Service

C. Kirksey
City of Austin

Jack A. Fusco
Michael A. Reed
Texas Genco, LP

David Sorkin
Simpson Thacher & Bartlett

Tim O'Brien
Chris O'Hara
NRG Energy, Inc.

Nicholas S. Reynolds
David A. Repka
Winston & Strawn

David H. Jaffe
U. S. Nuclear Regulatory Commission

Jon C. Wood
Cox Smith Matthews

William Conway, Jr.
William Hollaway
Skadden, Arps, Slate Meagher &
Flom LLP

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
STP Nuclear Operating Company	)	Docket Nos. 50-498
	)	50-499
South Texas Project Units 1 and 2	)	

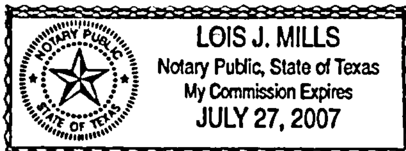
AFFIRMATION

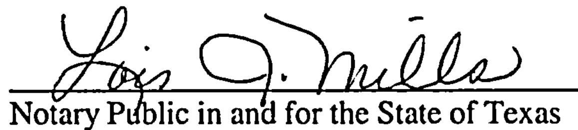
I, J. J. Sheppard, being duly sworn, hereby depose and state that I am President and Chief Executive Officer of STP Nuclear Operating Company; that I am duly authorized to sign and file with the Nuclear Regulatory Commission the attached application for order approving indirect transfer of control of licenses; that I am familiar with the content thereof; and that the matters set forth therein with regard to STP Nuclear Operating Company are true and correct to the best of my knowledge and belief.

J. J. Sheppard
President & Chief Executive Officer

STATE OF TEXAS	)
	)
COUNTY OF MATAGORDA	)

Subscribed and sworn to me, a Notary Public, in and for the State of Texas, this 14th day of October, 2005.





Notary Public in and for the State of Texas

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
STP Nuclear Operating Company	)	Docket Nos. 50-498
	)	50-499
South Texas Project Units 1 and 2	)	

AFFIRMATION

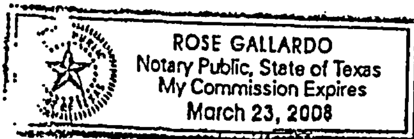
I, Jack A. Fusco, being duly sworn, hereby depose and state that I am Manager and President of Texas Genco GP, LLC, which is the General Partner of Texas Genco, LP; that I am familiar with the content of the attached application for order approving indirect transfer of control of licenses; and that the matters set forth therein with regard to Texas Genco, LP and its affiliates are true and correct to the best of my knowledge and belief.

Jack A. Fusco
Manager & President

STATE OF TEXAS)
)
COUNTY OF HARRIS)

Subscribed and sworn to me, a Notary Public, in and for the State of Texas, this 13 day of October, 2005.

Notary Public in and for the State of Texas



UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)		
	)		
STP Nuclear Operating Company	)	Docket Nos.	50-498
	)		50-499
South Texas Project Units 1 and 2	)		

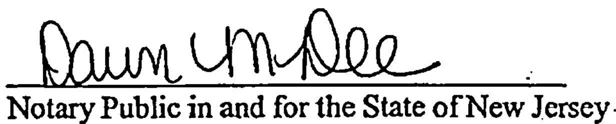
AFFIRMATION

I, David Crane, being duly sworn, hereby depose and state that I am President and Chief Executive Officer of NRG Energy, Inc.; that I am familiar with the content of the attached application for order approving indirect transfer of control of licenses; and that the matters set forth therein with regard to NRG Energy, Inc. are true and correct to the best of my knowledge and belief.

David Crane
President and Chief Executive Officer

STATE OF NEW JERSEY)
)
COUNTY OF Mercer)

Subscribed and sworn to me, a Notary Public, in and for the State of New Jersey, this 13th day of October, 2005.



Notary Public in and for the State of New Jersey

DAWN M. DEE
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APR. 26, 2007

NOC-AE-05001940

APPLICATION FOR ORDER APPROVING

INDIRECT TRANSFER OF CONTROL OF LICENSES

October 14, 2005

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submitted by

STP Nuclear Operating Company,

on behalf of Texas Genco, LP and NRG Energy, Inc.,

South Texas Project Electric Generating Station, Units 1 and 2
NRC Facility Operating License Nos. NPF-76 and NPF-80
Docket Nos. STN 50-498 and STN 50-499

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Figure 1 Simplified Organizational Diagram (Current)

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Attachment 1 Texas Genco LLC Quarterly Report to the Noteholders for the Quarterly Period Ended June 30, 2005

Attachment 2 2004 Annual Report (Form 10-K) of NRG Energy, Inc.

Attachment 3 Charter of the Nuclear Oversight Committee of the Board of Directors of NRG Energy, Inc.

Attachment 4 Projected Income Statements of Texas Genco, LP and Texas Genco LLC (Non-Proprietary Version)

Attachment 5 10 CFR 2.390 Affidavit of Jack A. Fusco and 10 CFR 2.390 Affidavit of David Crane

Proprietary Addendum

Attachment 4A Projected Income Statements of Texas Genco, LP and Texas Genco LLC (Proprietary Version)

I. INTRODUCTION

This Application requests the consent of the Nuclear Regulatory Commission (NRC) to the proposed indirect transfer of control of Texas Genco, LP's (Texas Genco) licenses to own a 44% undivided ownership interest in the South Texas Project Electric Generating Station, Units 1 and 2 (STPEGS) described herein, due to the acquisition by NRG Energy, Inc. (NRG Energy) of all of the outstanding equity of Texas Genco LLC, which indirectly owns 100% of Texas Genco. In addition to its 44% undivided ownership interest in STPEGS, Texas Genco holds a corresponding interest in STP Nuclear Operating Company (STPNOC), a not-for-profit Texas corporation, which is the licensed operator of STPEGS. Thus, the proposed transaction also entails transfer of this interest in STPNOC. However, this is not a controlling interest in STPNOC, and therefore, there will be no indirect transfer of control of STPNOC's licenses to operate STPEGS on behalf of the owners. If the NRC concludes that the indirect transfer of Texas Genco's interest in STPNOC also requires prior NRC consent, such consent is hereby requested.

STPEGS is composed of two 1,268 megawatt electric (MWe) (net) nuclear power units, each consisting of a Westinghouse four-loop pressurized water reactor and other associated plant equipment, and related site facilities. STPEGS is located in southwest Matagorda County, approximately 12 miles south-southwest of Bay City and 10 miles north of Matagorda Bay. STPNOC is the licensed operator for STPEGS, pursuant to licenses issued by the NRC. The two units currently are jointly owned by three entities in the following percentages:

Texas Genco	44%
City Public Service Board of San Antonio	40%
City of Austin, Texas	16%

These same entities hold corresponding interests in STPNOC.

A simplified organizational chart depicting the current ownership structure of Texas Genco is provided in Figure 1. Texas Genco is indirectly wholly owned by Texas Genco Holdings, Inc. One hundred percent of the capital stock of Texas Genco Holdings, Inc., is owned by Texas Genco LLC. Through its subsidiaries, Texas Genco LLC owns substantial fossil generating assets in addition to the 44% interest in STPEGS owned by Texas Genco. Texas Genco LLC is the second largest generator in the Electric Reliability Council of Texas, Inc. (ERCOT) market, the largest power market in the State of Texas. Under Texas law, Texas Genco is a registered power generation company, which is not subject to cost-based rate regulation. In addition, the Federal Energy Regulatory Commission (FERC) has certified Texas Genco as an exempt wholesale generator under Section 32 of the Public Utility Holding Company Act of 1935, as amended (PUHCA). Texas Genco LLC owns and operates a total net generating capacity of approximately 11,000 MWe, including more than 1,100 MWe from its 44% interest in STPEGS.

Approximately 99% of Texas Genco LLC is owned and controlled in four equal parts by investment fund entities affiliated with each of The Blackstone Group, Hellman & Friedman LLC, Kohlberg Kravis Roberts & Co., L.P., and Texas Pacific Group (Investment Funds). The remaining approximately one percent is owned and controlled by certain members of Texas Genco LLC management (Management). In its Order and supporting safety evaluation dated April 4, 2005, the NRC determined that Texas Genco was financially qualified to own 44% of STPEGS. In the proposed transaction, NRG Energy would acquire 100% of the membership units of Texas Genco LLC from the existing owners. A simplified organizational chart depicting the post-closing ownership structure of Texas Genco is provided in Figure 2.[1]

[1] By Order dated August 16, 2005, NRC approved plans of Texas Genco LLC to reorganize and conduct an initial public offering. Those plans have now been suspended, and the existing organizational structure of

NRG Energy is a wholesale power generation company that is publicly owned and traded on the New York Stock Exchange Inc. (Symbol: NRG). It primarily engages in the ownership and operation of power generation facilities, the transacting in and trading of fuel and transportation services, and the marketing and trading of energy, capacity and related products in the United States and internationally. NRG Energy has a diverse portfolio of electric generation facilities in terms of geography, fuel type, and dispatch levels. As of June 30, 2005, NRG Energy's principal domestic generation assets consisted of approximately 40% natural gas-, 31% coal-, and 29% and oil-fired facilities.

As of June 30, 2005, NRG Energy owned interests in 50 power projects in five countries having an aggregate net generation capacity of approximately 15,057 MWe. This included approximately 13,050 MWe of capacity in the United States, consisting of approximately 7,900 MWe in the Northeast region, 2,500 MWe in the South Central and 1,050 MWe in the Western region, and 1,600 MWe in other regions of the U.S. NRG Energy does not own any generation in Texas.

On September 30, 2005, NRG Energy, Texas Genco LLC, and the current owners of Texas Genco LLC entered into a definitive agreement for NRG Energy to acquire all the outstanding equity of Texas Genco LLC. In the transaction, the current owners of Texas Genco LLC will transfer their membership units in Texas Genco LLC to NRG Energy and receive a combination of cash, common stock, and preferred stock of NRG Energy. In addition, NRG Energy will assume the outstanding debt of Texas Genco LLC. As a result of the transaction, each of the four Investment Funds that are currently owners of Texas Genco LLC will become owners of approximately 5-7% of the common stock of NRG Energy.

Texas Genco LLC is expected to remain in place pending consummation of the proposed acquisition by NRG Energy.

The combined companies plan to undertake a comprehensive refinancing at closing, which is expected to include the sale of approximately $1.5 billion of new equity and an increase of total corporate debt of $2.5 billion. All corporate debt is expected to be incurred at the NRG Energy parent company level. It is anticipated that substantially all of NRG Energy's wholly owned subsidiaries, including Texas Genco LLC and its subsidiaries, will guarantee the parent company debt and pledge their assets as collateral for the senior bank debt. In addition, it is anticipated that the assets of Texas Genco LLC and its wholly owned subsidiaries will continue to be subject to a second priority lien to support obligations to the trading counterparties of NRG Energy and Texas Genco LLC.

Through this Application, STPNOC requests on behalf of NRG Energy and Texas Genco that the NRC consent to this indirect transfer of control of the NRC licenses in connection with the proposed transaction. The information contained in this Application demonstrates that after the indirect transfer of control, Texas Genco will continue to possess the requisite qualifications to own a 44% undivided ownership interest in STPEGS and hold a corresponding interest in STPNOC. The proposed indirect transfer of control will not result in any change in the role of STPNOC as the licensed operator of the facility and will not result in any changes to STPNOC's technical qualifications or any physical or operational changes to STPEGS.

II. STATEMENT OF PURPOSE OF THE TRANSFERS AND NATURE OF THE TRANSACTION MAKING THE TRANSFERS NECESSARY OR DESIRABLE

Through the combination of NRG Energy and Texas Genco LLC, Texas Genco will become part of the leading wholesale power generation company in the United States. Upon acquisition of Texas Genco LLC, NRG Energy will have a broad portfolio of quality power generation assets and a broad geographic reach, with a significant presence in all of the key competitive wholesale power markets in the United States. The combined company will also be

a leading fuel-diversified energy provider. This diversification will protect against changes that may adversely affect a particular region or type of generation.

The combination also strengthens both companies financially. NRG Energy and Texas Genco LLC are already, as separate companies, two of the financially strongest wholesale power generation companies in the United States. Post-closing, NRG Energy expects the transaction to be immediately and significantly accretive to both earnings per share and cash flow per share. Looking further ahead, the acquisition is expected to strengthen NRG Energy's stability and its growth of both earnings and cash flow, because Texas Genco LLC has sold forward, on average, 82% of its available baseload capacity over the next four years. As discussed above, NRG Energy will assume the debt of Texas Genco LLC, and refinance it at the corporate level. This will result in Texas Genco LLC being essentially debt-free, although its assets will be pledged as collateral for NRG Energy's corporate debt.

III. GENERAL CORPORATE INFORMATION REGARDING TEXAS GENCO AND ITS PARENTS

Detailed information regarding the business and management of Texas Genco LLC and its subsidiaries is provided in the Texas Genco LLC Quarterly Report to the Noteholders for the Quarterly Period Ended June 30, 2005. A copy of this document is provided in Attachment 1. In addition to the information provided in Attachment 1, certain key information is provided below.

A. Names

Texas Genco LLC
Texas Genco Holdings, Inc.
Texas Genco GP, LLC
Texas Genco LP, LLC
Texas Genco, LP

B. Address

1301 McKinney, Suite 2200, Houston, TX 77010.

C. Description of Business or Occupation

Texas Genco LLC and its subsidiaries constitute one of the largest wholesale electric generating companies in the United States, with 48 generating units at nine electric power generation facilities located in Texas, including a 44% interest in STPEGS. These companies sell electric generation capacity, energy, and ancillary services within the ERCOT market, which is the largest power market in the State of Texas. Since January 1, 2002, Texas Genco LLC's generation business has been operated as an independent power producer, with output sold at market prices to a variety of purchasers. As of June 30, 2005, Texas Genco LLC had a total net generating capacity of approximately 11,000 MWe.

D. Organization and Management

1. States of Establishment and Place of Business

Texas Genco LLC indirectly owns Texas Genco and the simplified ownership structure is depicted in Figure 1. Texas Genco LLC is a Delaware limited liability company, which owns 100% of the capital stock of Texas Genco Holdings, Inc. Texas Genco Holdings, Inc. was incorporated in Texas in August 2001, and it owns 100% of Texas Genco LP, LLC and Texas Genco GP, LLC. Texas Genco LP, LLC is a Delaware limited liability corporation, which directly owns 99% of Texas Genco, a Texas limited partnership. Texas Genco GP, LLC is a Texas limited liability corporation, which directly owns 1% of Texas Genco. Texas is the principal place of business for Texas Genco LLC, Texas Genco Holdings, Inc., Texas Genco GP, LLC, and Texas Genco, LP. Delaware is the principal place of business for Texas Genco LP, LLC.

2. Directors

The following individuals, all of whom are U.S. citizens, are expected to be the directors of Texas Genco LLC and Texas Genco Holdings, Inc. following the proposed transfer (STPNOC will inform NRC if there are any changes):

David Crane
Robert C. Flexon
Steve Winn

Texas Genco (the NRC licensee) is a limited partnership and does not have any officers or directors. Control of Texas Genco is exercised by its General Partner, Texas Genco GP, LLC, by and through its President, who will be David Crane following the proposed transfer.

3. Executive Officers

The following individuals, all of whom are U.S. citizens, will be the executive officers of Texas Genco LLC and Texas Genco Holdings, Inc. following the proposed transfer:

David Crane, President
Robert C. Flexon, Chief Financial Officer
Steve Winn, Vice President

NRG Energy anticipates that management personnel from the existing Texas Genco LLC organization will be integrated with NRG Energy personnel into the combined operations of the two companies. If other individuals are identified that will hold executive officer positions with the Texas Genco LLC or its subsidiaries at the time of the proposed transfer, STPNOC will provide supplemental information to NRC regarding such personnel. Any such additional officers will be US citizens.

IV. GENERAL CORPORATE INFORMATION REGARDING NRG ENERGY, INC.

NRG Energy, Inc. (NRG Energy) is incorporated in the State of Delaware. NRG Energy was formed in 1992 as the non-utility subsidiary of Northern States Power Company (NSP), which was itself merged into New Century Energies, Inc. to form Xcel Energy, Inc. (Xcel

Energy), in 2000. While owned by NSP and later by Xcel Energy, NRG Energy pursued a high growth strategy focused on power plant acquisitions and project development. During the 2002-2003 time frame, a number of factors, most notably the overall downturn in the power generation industry, combined with the NRG Energy's high levels of debt, triggered a series of credit rating downgrades which, in turn, precipitated a lack of liquidity. From May 14 to December 5, 2003, NRG Energy and a number of its subsidiaries undertook a comprehensive reorganization and restructuring under Chapter 11 of the United States Bankruptcy Code. On December 5, 2003, NRG Energy successfully emerged from Chapter 11.

As part of the reorganization, NRG Energy eliminated approximately $5.2 billion of corporate level bank and bond debt and approximately $1.3 billion of additional claims and disputes by distributing a combination of equity and cash to its unsecured creditors. NRG Energy emerged with David Crane as its new Chief Executive Officer, Robert Flexon as its new Chief Financial Officer, and a new Board comprised of independent directors with diverse backgrounds in energy, finance and corporate governance. NRG Energy was re-listed on the New York Stock Exchange on March 25, 2004, and it has subsequently become one of the most stable and financially secure companies in its industry.

Since December 2003, NRG Energy has managed its business with an emphasis on liquidity, cash flow and balance sheet discipline, and as a result the company is in strong and stable financial condition. NRG Energy's two principal operating objectives have been to optimize the performance of its assets, and to protect and enhance their value through the execution of marketing and trading strategies within well-defined risk and liquidity guidelines. NRG Energy's business also includes the reinvestment of capital in its existing assets for, among other reasons, repowering, expansion, environmental, operating efficiency, and reliability

programs. As of June 30, 2005, NRG Energy had available liquidity of approximately $1.2 billion, and a net debt to total capital ratio of 47% (NRG Energy's long term goal is a ratio of 45-55%). In connection with the acquisition of Texas Genco LLC, NRG Energy plans to refinance the combined companies through a combination of debt and equity that will include a $600 million revolving credit facility and a $1 billion letter of credit facility, thus assuring adequate liquidity of the combined companies. Further, NRG Energy is targeting a net debt to total capital ratio of just over 55% after completing the acquisition and refinancing.

Detailed general corporate information and information regarding the business and management of NRG Energy is provided in its 2004 SEC Form 10-K Annual Report (Attachment 2). Additional updated information is provided in NRG Energy's June 30, 2005 SEC Form 10-Q, which is available at <http://www.snl.com/irweblinkx/doc.aspx?iid=4057436&did=2117711>. However, certain key information regarding NRG Energy is provided below.

A. Name

NRG Energy, Inc.

B. Address

211 Carnegie Center, Princeton, NJ 08540.

C. Description of Business or Occupation

NRG Energy owns and operates a diverse portfolio of more than 15,000 MWe of power-generating facilities, primarily located in the Northeast, South Central, and Western regions of the United States. Its operations include baseload, intermediate, peaking, and cogeneration facilities, thermal energy production, and energy resource recovery facilities. NRG Energy also has ownership interests in generating facilities in Australia, Germany, and Brazil.

The combination of NRG Energy and Texas Genco LLC will create a leading wholesale power generation company in the United States. With Texas Genco LLC, NRG Energy will have a portfolio of quality power generation assets with a broad geographic reach and a significant presence in the key competitive wholesale power markets in the United States. The combined company will also be a leading fuel-diversified energy provider. Equally important, this portfolio will have a capital structure that will enhance NRG Energy's financial strength and flexibility.

D. Organization and Management

1. State of Establishment and Place of Business

NRG Energy is a Delaware corporation with its principal executive offices located in the State of New Jersey.

2. Directors, Executive Officers

The following individuals are the directors of NRG Energy:

Howard E. Cosgrove (Chairman)
John F. Chlebowski
Lawrence C. Coben
David Crane (also, President and Chief Executive Officer)
Stephen L. Cropper
Maureen Miskovic
Anne C. Schaumburg
Herbert H. Tate
Thomas H. Weidemeyer
Walter R. Young

In connection with the pending transaction, NRG Energy anticipates that it may name additional individuals as directors of NRG Energy effective at the time of the proposed indirect transfer of control of Texas Genco. If NRG Energy determines to do so, STPNOC will provide supplemental information to NRC identifying these individuals, who will be U.S. citizens.

All of the current directors are U.S. citizens except Ms. Miskovic, who is a citizen of the United Kingdom and permanent resident of the United States.

The following individuals, all of whom are U.S. citizens, are the Executive Officers of NRG Energy:

David Crane, President and Chief Executive Officer
Robert C. Flexon, Executive Vice President and Chief Financial Officer
John P. Brewster, Executive Vice President, International Operations and President, South Central Region
Scott J. Davido, Executive Vice President and President, Northeast Region
Kevin Howell, Executive Vice President, Commercial Operations
James J. Ingoldsby, Vice President, Controller
Christine A. Jacobs, Vice President, Plant Operations
Timothy W. J. O'Brien, Vice President and General Counsel
Ershel C. Redd Jr., President, Western Region
George P. Schaefer, Vice President, Treasurer
Steve Winn, Vice President, Mergers & Acquisitions

NRG Energy anticipates that management personnel from the existing Texas Genco LLC organization will be integrated with NRG Energy personnel into the combined operations of the two companies. If any additional individuals are identified that will hold executive officer positions with NRG Energy at the time of the proposed transfer, STPNOC will provide supplemental information to NRC regarding such personnel. Any such additional officers will be US citizens.

V. FOREIGN OWNERSHIP OR CONTROL

NRG Energy is a publicly traded company, and its securities are traded on the New York Stock Exchange and are widely held. Section 13(d) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78m(d), requires that a person or entity that owns or controls more than 5% of the securities of a company must file notice with the Securities and Exchange Commission (SEC). Based upon filings with the SEC, the applicants are aware of one alien, foreign corporation, or foreign government that holds or may hold more than 5% of the securities of

NRG Energy. Orbis Investment Management Ltd and Orbis Asset Management Ltd (Orbis), associated Bermuda companies with principal offices in Bermuda and the United Kingdom, have filed a statement indicating that as of December 31, 2004, Orbis owned approximately 5.8% of the NRG Energy shares outstanding at that time. Orbis does not have any representation on the NRG Energy Board of Directors and its SEC filing specifically certifies that they did not acquire these NRG Energy shares for the purpose of or with the effect of changing or influencing the control of NRG Energy. See 17 CFR 240.13d-1(c)(1) (requirements for Schedule 13G filing).

In addition, NRG Energy has identified filings indicating that that Steven A. Cohen, a U.S. citizen, and three U.S. companies (S.A.C. Capital Advisors, LLC, S.A.C. Capital Management, LLC, Sigma Capital Management) share investment and voting power with respect to securities held by four companies organized in Anguilla, British West Indies (S.A.C. Capital Associates, LLC, S.A.C. Arbitrage Fund, LLC, S.A.C. MultiQuant Fund, LLC, and Sigma Capital Associates, LLC). As of the date of their filing, these entities may be deemed to share beneficial ownership of approximately 7% of the outstanding stock of NRG Energy. Nevertheless, these entities do not have any representation on the NRG Energy Board of Directors and their SEC filings specifically certify that they did not acquire these NRG Energy shares for the purpose of or with the effect of changing or influencing the control of NRG Energy. NRG Energy has not identified any other foreign interests holding ownership interests and/or voting rights for 5% or more of the outstanding stock of NRG Energy.

The directors and executive officers of NRG Energy are United States citizens, except for one director (Maureen Miskovic) of the ten directors, who is a citizen of the United Kingdom and permanent resident of the United States. A single director with foreign citizenship is unable to exercise control over NRG Energy. However, for the avoidance of doubt, the NRG Energy

Board of Directors plans to establish a nuclear oversight committee made up solely of U.S. citizens, and the Board plans to delegate to the nuclear oversight committee the decision-making authority for all decisions that may affect the safety of any NRC-licensed facilities owned or controlled by NRG Energy. A copy of the Charter of the Nuclear Oversight Committee of the Board of Directors of NRG Energy, Inc. is provided as Attachment 3.

There is no reason to believe that NRG Energy is owned, controlled, or dominated by any alien, foreign corporation, or foreign government. Thus, the transfer of Texas Genco to NRG Energy will not result in any foreign ownership, domination, or control of Texas Genco within the meaning of the Atomic Energy Act of 1954, as amended.

VI. TECHNICAL QUALIFICATIONS

The technical qualifications of STPNOC are not affected by the proposed indirect transfer of control. There will be no physical changes to STPEGS and no changes in the officers, personnel, or day-to-day operations of STPEGS in connection with the indirect transfer of control. It is anticipated that STPNOC will at all times remain the licensed operator of STPEGS.

VII. FINANCIAL QUALIFICATIONS

A. Projected Operating Revenues and Operating Costs

Texas Genco LLC will continue to own and operate its existing portfolio of approximately 11,000 MWe of net electrical generating capacity, and the operations of Texas Genco LLC will not be materially changed by the indirect transfer of control due to the transfer of ownership to NRG Energy. Financial information regarding Texas Genco LLC is provided in the Texas Genco LLC Quarterly Report to the Noteholders for the Quarterly Period Ended June 30, 2005 appended hereto as Attachment 1 (Texas Genco 2Q2005 Report). In addition, Texas Genco LLC's financial position will be enhanced as it becomes part of the larger NRG Energy corporate family, with additional financial strength and a more diversified portfolio of

electric generating assets. Further information regarding NRG Energy is provided in its 2004 SEC Form 10-K Annual Report appended hereto as Attachment 2, and in NRG Energy's June 30, 2005 SEC Form 10-Q, which is available at <http://www.snl.com/irweblinkx/doc.aspx?iid=4057436&did=2117711>. That information and the following additional information confirms that Texas Genco will continue to possess, or have reasonable assurance of obtaining, the funds necessary to cover its pro rata share of the estimated operating costs of STPEGS for the period of the licenses in accordance with 10 CFR 50.33(f)(2) and the Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance (NUREG-1577, Rev. 1) ("Standard Review Plan").

The current Consolidated Balance Sheets for Texas Genco LLC and its subsidiaries are provided at page 3 of Texas Genco 2Q2005 Report (Attachment 1). These balance sheets reflect Texas Genco LLC's position as a strong and healthy energy company and are consistent with NRC's previous positive findings regarding the financial qualifications of Texas Genco and Texas Genco LLC. NRG Energy expects the balance sheets for Texas Genco LLC to *improve* substantially following the proposed transaction, because the assets of Texas Genco LLC will be revalued to reflect the purchase price paid in the transaction, and because NRG Energy intends to eliminate the substantial long-term debt currently held at the Texas Genco LLC level in the corporate organization. Thus, Texas Genco LLC will maintain a strong financial position and ability to fund the ongoing operations of Texas Genco.

NRG Energy has prepared Projected Income Statements for Texas Genco LLC and for Texas Genco, reflecting revenues and costs associated with its 44% interest in STPEGS, for the five-year period from January 1, 2006 until December 31, 2010. Copies of the Projected Income Statements and related information are contained in a separately bound proprietary

Attachment 4A. NRG Energy and Texas Genco LLC request that Attachment 4A be withheld from public disclosure, as described in the Affidavits provided in Attachment 5. Redacted versions of these projections, suitable for public disclosure, are provided as Attachment 4.

The Projected Income Statements show that anticipated revenues from sales of capacity and energy from STPEGS provide reasonable assurance of an adequate source of funds to meet Texas Genco's pro rata share of STPEGS's ongoing operating and maintenance expenses. In addition, Texas Genco LLC has entered into a Support Agreement with Texas Genco, LP dated April 13, 2005, pursuant to which Texas Genco LLC committed to provide up to $120 million in equity investment, capital contribution or loans, if necessary for Texas Genco, LP to satisfy the need for funding its pro rata share of STPEGS's ongoing operating and maintenance expenses. A copy of this executed agreement was provided to NRC by STPNOC's letter (NOC-AE-05001875) dated April 26, 2005. This agreement will remain in force unchanged and unaffected by the proposed transaction and will continue to provide funding in an amount that is adequate to fund approximately one year's worth of the average projected obligations of Texas Genco for its share of the fixed operations and maintenance (O&M) of STPEGS. This financial support exceeds the guidance (source of funds for six month's worth of fixed O&M) set forth in NRC's Standard Review Plan.

Following the transfer, Texas Genco LLC will continue to be financially qualified to provide financial support to Texas Genco. Texas Genco LLC will continue to sell its generation in the ERCOT wholesale power markets. The Projected Income Statements through 2010 show that anticipated revenues from sales of capacity and energy from all of Texas Genco LLC's approximately 11,000 MWe of net generating capacity, provide assurance that Texas Genco LLC

will have an adequate source of funds to support Texas Genco on an ongoing basis and to provide funding pursuant to the $120 million Support Agreement, if called upon to do so.

B. Decommissioning Funding

The financial qualifications of Texas Genco to continue to own a 44% undivided ownership interest in STPEGS are further demonstrated by the fact that Texas Genco will continue to provide financial assurance for decommissioning funding in accordance with 10 CFR 50.75(e)(1)(i) and (ii), using the external sinking fund method with access to non-bypassable charges to retail ratepayers. Texas Genco currently maintains and will continue to maintain decommissioning trust funds that have been established to provide funding for decontamination and decommissioning of its 44% undivided ownership interest in STPEGS. Texas Genco will continue to maintain these external sinking funds segregated from its assets and outside its administrative control in accordance with the requirements of 10 CFR 50.75(e)(1)(i) and (ii).

In addition, the regulated electric distribution company owned by CenterPoint Energy, a previous STPEGS owner, or its successor will continue to collect from its electric utility ratepayers costs associated with the decommissioning of a 30.8% interest in STPEGS "pursuant to a non-bypassable charge" (within the meaning of 10 CFR 50.75(e)(1)(ii)(B)), and transfer all such funds to Texas Genco or to the decommissioning trust for the benefit of Texas Genco. Texas Genco, in turn, will deposit the amounts received for this purpose into the decommissioning trust. These decommissioning funding arrangements were specifically approved by the Public Utility Commission of Texas (PUCT). See PUCT Order, Docket 21956 (March 15, 2001). Similarly, AEP Texas Central Company (TCC) will continue to collect from its electric utility ratepayers the decommissioning costs associated with Texas Genco's 13.2% interest in STPEGS that was previously owned by TCC. TCC will provide such funds for

deposit in Texas Genco's nuclear decommissioning trust funds. These arrangements assure that Texas Genco will have the total amount of funds estimated to be needed for decommissioning pursuant to 10 CFR 50.75(c), 50.75(f), and 50.82.

The status of Texas Genco's decommissioning funding as of December 31, 2004 was reported to NRC in Attachment 1 to STPNOC's letter (NOC-AE-05001859) dated March 30, 2005. Additional information regarding the decommissioning trusts is provided on page 10 of the Texas Genco 2Q2005 Report (Attachment 1). As of June 30, 2005, the decommissioning trust assets had a market value of $296.0 million, with $129 million in the trusts for Texas Genco's 44% interest in STPEGS Unit 1 and $167 million in the trusts for Texas Genco's 44% interest in STPEGS Unit 2. Texas Genco does not anticipate any amendments to the Texas Genco Nuclear Decommissioning Master Trust Fund Agreement, or the Texas Genco Nuclear Decommission Master Trust Agreement No. 2 associated with the 13.2% STPEGS interest acquired from TCC, in connection with the proposed indirect transfer of control. If any amendments are to be made in the future, the existing trust agreements require prior written notice to the NRC. Moreover, the existing NRC license conditions governing these trust agreements will remain in effect and unchanged.

As is amply demonstrated above, in accordance with 10 CFR 50.75, there is reasonable assurance that by the end of licensed operation of STPEGS, Texas Genco will have obtained the funds necessary to cover its share of the estimated decommissioning costs of STPEGS.

VIII. ANTITRUST INFORMATION

This Application post-dates the issuance of the STPEGS operating licenses, and therefore no antitrust review is required or authorized. Based upon the Commission's decision in *Kansas Gas and Electric Co., et al.* (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC 441

(1999), the Atomic Energy Act of 1954, as amended, does not require or authorize antitrust reviews of post-operating license transfer applications.

IX. RESTRICTED DATA AND CLASSIFIED NATIONAL SECURITY INFORMATION

The proposed transfers do not contain any Restricted Data or other Classified National Security Information or result in any change in access to such Restricted Data or Classified National Security Information. STPNOC's existing restrictions on access to Restricted Data and Classified National Security Information are unaffected by the proposed transfers. In compliance with Section 145(a) of the Act, the applicants agree that restricted or classified defense information will not be provided to any individual until the Office of Personnel Management investigates and reports to the NRC on the character, associations, and loyalty of such individual, and the NRC determines that permitting such person to have access to Restricted Data will not endanger the common defense and security of the United States.

X. ENVIRONMENTAL CONSIDERATIONS

The requested consent to indirect transfer of control of the STPEGS licenses is exempt from environmental review because it falls within the categorical exclusion contained in 10 CFR 51.22(c)(21), for which neither an Environmental Assessment nor an Environmental Impact Statement is required. Moreover, the proposed indirect transfer does not involve any amendment to the facility operating licenses or other change, and it will not directly affect the actual operation of STPEGS in any substantive way. The proposed transfer does not involve an increase in the amounts, or a change in the types, of any radiological effluents that may be allowed to be released off-site, and involves no increase in the amounts or change in the types of non-radiological effluents that may be released off-site. Further, there is no increase in the

individual or cumulative operational radiation exposure, and the proposed transfer has no environmental impact.

XI. PRICE-ANDERSON INDEMNITY AND NUCLEAR INSURANCE

The proposed indirect transfer of control does not affect the existing Price-Anderson indemnity agreement for STPEGS, and does not affect the required nuclear property damage insurance pursuant to 10 CFR 50.54(w) and nuclear energy liability insurance pursuant to Section 170 of the Act and 10 CFR Part 140.

XII. EFFECTIVE DATE AND OTHER REQUIRED REGULATORY APPROVALS

NRG Energy and Texas Genco LLC plan to effect the indirect transfer of control of Texas Genco and its 44% interest in STPEGS and corresponding interest in STPNOC on a closing date to take place as soon after February 1, 2006 as all required regulatory approvals and rulings are received and/or waiting periods have expired. The proposed transaction is subject to approval by the Federal Energy Regulatory Commission (FERC). Also, notifications are required to be filed with the Federal Trade Commission and the Department of Justice under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (HSR Act), and applicable rules and regulations. In addition, a filing likely will be made with the PUCT to provide notice and obtain any required approvals in connection with the proposed transaction, if any such approval is required. It is expected that FERC approval will be obtained by mid-January, that the HSR Act waiting period will have expired or been terminated by November 30, 2005, and that any approvals from the PUCT will be obtained by December 31, 2005. Therefore, NRC's approval is expected to be the last approval obtained prior to closing.

It is important to NRG Energy for it to be able to complete the transaction during the first two weeks of February 2006, when it expects to be in a position to carry out its financing plan which includes issuing stock and public debt to raise funds for the acquisition. If NRG Energy is

unable to reach a closing of the transaction by early February, then a closing during the two or more months thereafter would likely require the use of temporary "bridge" financing. A delayed closing with this bridge financing would involve substantial up front fees (amounting to tens of millions of dollars) as well as additional interest charges. Accordingly, NRG Energy and Texas Genco request that NRC review this Application on a schedule that will permit the issuance of NRC consent to the indirect transfer of control by February 1, 2006. Such consent should be made immediately effective upon issuance and should permit the indirect transfer of control at any time until December 31, 2006. STPNOC will inform the NRC if there are any significant changes in the status of any other required approvals or any other developments that have an impact on the schedule.

XIII. CONCLUSION

Based upon the foregoing information, STPNOC respectfully requests, on behalf of Texas Genco and NRG Energy, that the NRC issue an Order consenting to the indirect transfer of control of the Facility Operating Licenses, Nos. NPF-76 and NPF-80, for Texas Genco's 44% undivided ownership interest in STPEGS, as well as its interest in STPNOC to the extent NRC's consent is required.

Figure 1 – Simplified Organizational Diagram (Current)

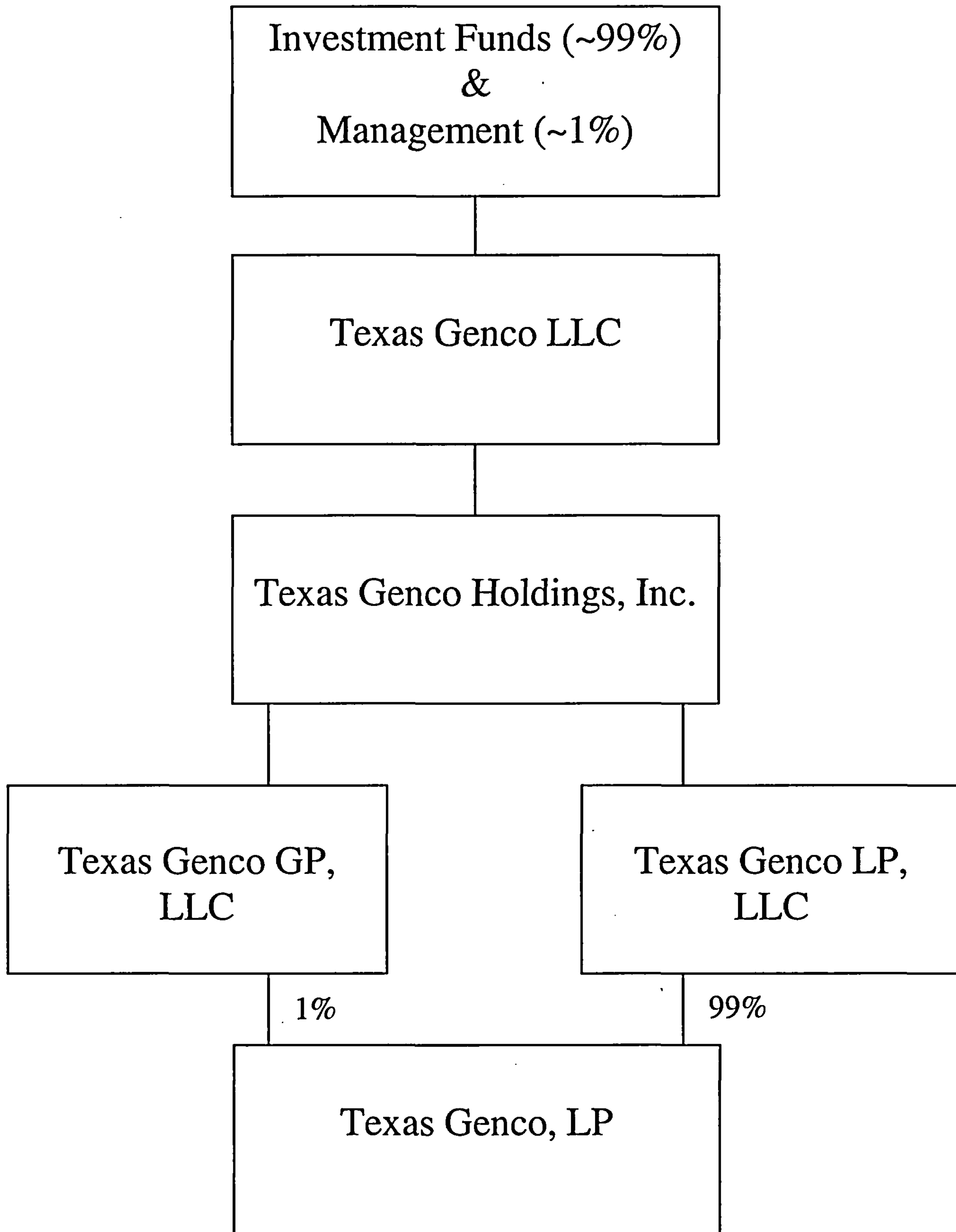
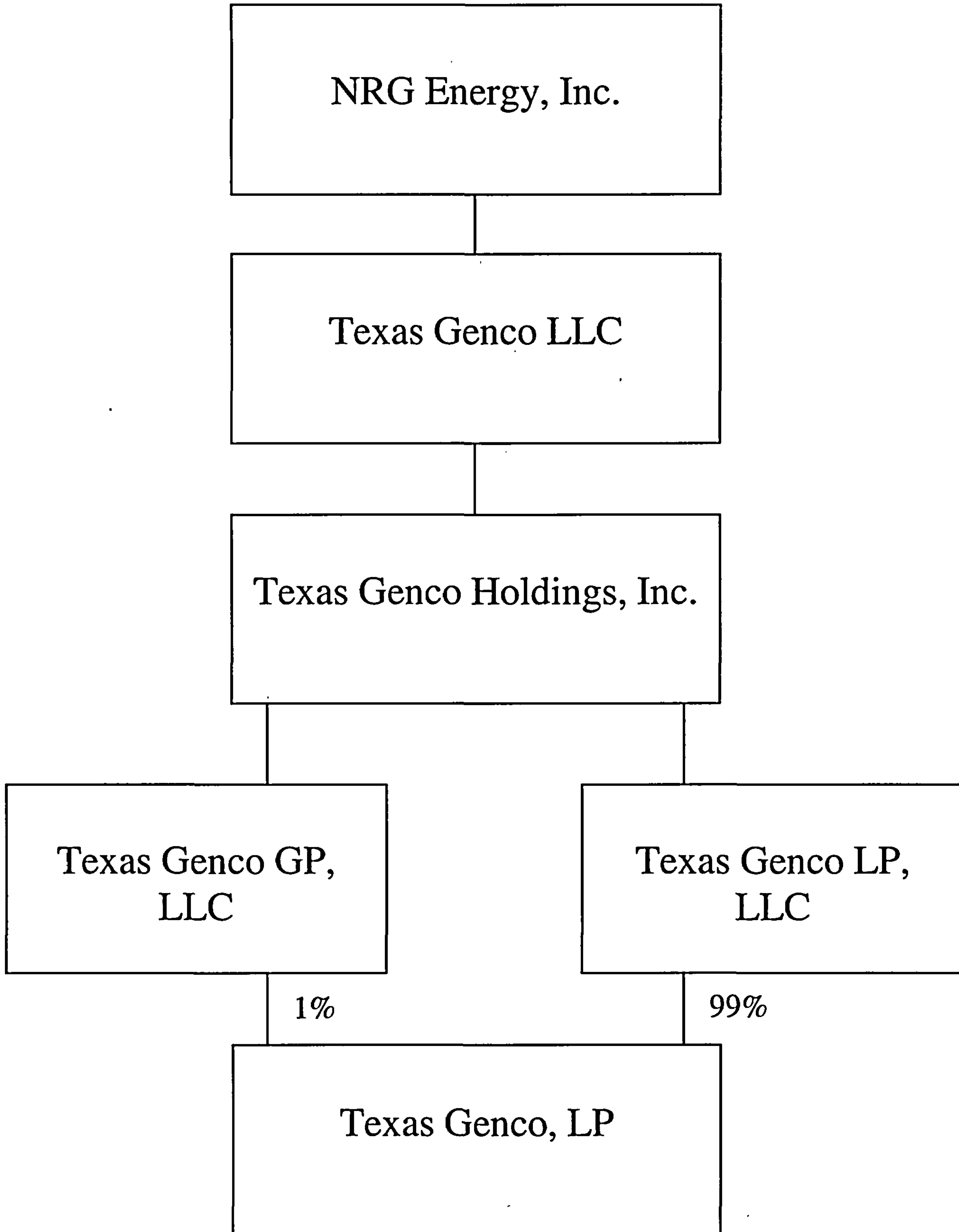


Figure 2 – Simplified Organizational Diagram (Post-Closing)



ATTACHMENT 1

Texas Genco LLC Quarterly Report to the Noteholders for the Quarterly Period Ended June 30, 2005

TEXAS GENCO LLC

Quarterly Report to the Noteholders for the Quarterly Period Ended June 30, 2005

Pursuant to Section 4.03(a)(1) of the Indenture dated as of December 14, 2004
Relating to the 6.875% Senior Notes Due 2014

Section 4.03(a)(1) Quarterly Financial Information Enclosed is the Texas Genco LLC quarterly report for the quarterly period ended June 30, 2005.

TEXAS GENCO LLC

QUARTERLY REPORT TO NOTEHOLDERS
PURSUANT TO SECTION 4.03(a)(1) OF THE INDENTURE DATED DECEMBER 14, 2004

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Financial Statements

Texas Genco LLC
Condensed Statements of Consolidated Income
(Thousands of Dollars, Except Earnings Per Unit)
(Unaudited)

	Three Months Ended June 30, 2005	Six Months Ended June 30, 2005
Revenues	619,799	1,122,935
Operating Expenses:		
Fuel and purchased power expense	250,316	479,077
Operations and maintenance	119,526	229,510
Depreciation and amortization	83,781	158,588
Taxes other than income taxes	11,943	21,064
Total Operating Expenses	465,566	888,239
Operating Income	154,233	234,696
Interest and Other Income	855	2,347
Interest Expense	(45,993)	(85,540)
Income Before Income Taxes	109,095	151,503
Income Taxes	(6,881)	(6,881)
Net Income	$ 102,214	$ 144,622
Basic Earnings Per Unit	$ 0.58	$ 0.87
Diluted Earnings Per Unit	$ 0.57	$ 0.86
Weighted Average Units Outstanding	176,920,270	166,753,722

See Notes to the Company's Unaudited Interim Financial Statements.

Texas Genco LLC
Consolidated Balance Sheets
(Thousands of Dollars)
(Unaudited)

	June 30, 2005	December 31, 2004
ASSETS		
Current Assets:		
Cash and cash equivalents	$ 92,475	$ 85,939
Trade accounts receivable	152,507	76,033
Inventory	148,108	128,404
Assets held for sale	67,300	67,300
Prepaid and other current assets	14,986	16,105
Total Current Assets	475,376	373,781
Property, Plant and Equipment (net)	3,582,979	2,445,849
Other Assets		
Goodwill	850,393	820,061
Intangibles, net	771,521	814,830
Deferred financing costs, net	112,750	117,401
Nuclear decommissioning trust	296,034	—
Price-risk management assets – non current	—	8,030
Other non current assets	1,822	7,614
Total Other Assets	2,032,520	1,767,936
Total Assets	$ 6,090,875	$ 4,587,566
LIABILITIES AND MEMBERS' EQUITY		
Current Liabilities:		
Accounts payable	$ 142,163	$ 95,008
Accrued interest and taxes	36,503	35,596
Current portion of long-term debt	17,487	13,200
Deferred revenue	91,445	75,990
Contractual obligations – power and coal	260,363	298,173
Price-risk management liabilities	29,232	—
Other current Liabilities	23,768	11,784
Total Current Liabilities	600,961	529,751
Long-Term Debt, net of current portion	2,729,843	2,266,905
Other Liabilities:		
Deferred income taxes	182,855	—
Contractual obligations – power and coal	753,106	864,081
Nuclear decommissioning reserve	288,371	—
Nuclear decommissioning trust liability	291,116	—
Benefit obligations	225,550	146,377
Price-risk management liabilities - non current	93,949	—
Other non current liabilities	8,039	8,936
Total Other Liabilities	1,842,986	1,019,394
Members' Equity	917,085	771,516
Total Liabilities and Members' Equity	$ 6,090,875	$ 4,587,566

See Notes to the Company's Unaudited Interim Financial Statements.

Texas Genco LLC
Condensed Statements of Consolidated Cash Flows
(Thousands of Dollars)
(Unaudited)

	Six Months Ended June 30, 2005
Cash Flows from Operating Activities:	
Net income	$ 144,622
Adjustments to reconcile net income to net cash provided by operating activities	
Depreciation and amortization	158,588
Amortization of deferred financing costs	4,652
Amortization of contractual obligations – power & coal	(148,785)
Unrealized loss on price risk management activities	12,635
Accrued cost of workforce reduction plan	36,758
Changes – other assets and liabilities	
Accounts receivable	(58,316)
Inventory	21,092
Prepayments and other current assets	4,159
Accounts payable	23,767
Accrued interest	(3,762)
Deferred capacity revenue	13,262
Other	(1,157)
Net cash provided by operating activities	$ 207,515
Cash Flows from Investing Activities:	
Acquisitions (net of cash acquired of $191.2 million)	(671,547)
Additions to construction in progress	(41,179)
Net cash used in investing activities	$ (712,726)
Cash Flows from Financing Activities:	
Long term borrowings	574,504
Repayment of long-term borrowings	(182,280)
Equity contributions from members	119,523
Net cash provided by financing activities	$ 511,747
Net Increase in Cash and Cash Equivalents	6,536
Cash and Cash Equivalents at Beginning of Period	85,939
Cash and Cash Equivalents at End of Period	$ 92,475
Supplemental Disclosure of Cash Flow Information:	
Estimated taxes paid	$ 4,956
Interest paid	$ 61,362

See Notes to the Company's Unaudited Interim Financial Statements.

Texas Genco LLC Consolidated Statement of Members' Equity and Other Comprehensive Income (Loss) (Thousands of Dollars) (Unaudited)

	Contributed Capital	Accumulated Other Comprehensive Income/(Loss)	Accumulated Retained Earnings/(Loss)	Total Members Equity
Balance, December 31, 2004	$ 780,013	$ 11,636	$ (20,133)	$ 771,516
Contributions from members	119,523			119,523
Net income			144,622	144,622
Other comprehensive loss (1)		(118,576)		(118,576)
Balance, June 30, 2005	$ 899,536	$(106,940)	$ 124,489	$ 917,085

(1) The balances for Other comprehensive income/(loss) relates entirely to the change in fair value of derivative financial instruments documented and designated as Cash Flow Hedges as defined by Statement of Financial Accounting Standards ("SFAS") No. 133 "Accounting for Derivative Instruments and Hedging Activities".

See Notes to the Company's Unaudited Interim Financial Statements.

Texas Genco LLC
Notes to Condensed Consolidated
Financial Statements
(Unaudited)

(1) BASIS OF PRESENTATION

General

Included in this Quarterly Report of Texas Genco LLC are the Company's consolidated interim financial statements and notes ("Interim Financial Statements"). The Interim Financial Statements have been prepared by management without audit. Accordingly, they reflect all normal recurring adjustments that are, in the opinion of management, necessary for a fair presentation of the financial results for the interim period. Certain information and notes normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted. These consolidated financial statements should be read in conjunction with the consolidated financial statements and the notes thereto included in the Texas Genco Annual Report for the year ended December 31, 2004.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America 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. The Condensed Statement of Consolidated Income is not necessarily indicative of the amounts expected for a full year period due tot the effects of, among other things, seasonal variations in the generation and sale of electricity and the timing of maintenance and other expenditures.

The Company did not exist prior to July 19, 2004, and the Company and its subsidiaries had no operations and no material activities until December 15, 2004 when the Company acquired in a merger transaction Texas Genco II, L.P. and Texas Genco Services, L.P., from Texas Genco Holdings, Inc. (the "Initial Acquisition"). Subsequent to the Initial Acquisition, the Company acquired, in a merger transaction, Texas Genco Holdings, Inc. on April 13, 2005 (the "Nuclear Acquisition") and a 13.2% undivided interest in the South Texas Project ("STP") from a subsidiary of American Electric Power ("AEP") on May 19, 2005 (the "ROFR"). Consequently, comparable results for the second quarter of 2004 are not presented.

Inventory

Inventories consist principally of materials and supplies, coal and lignite, natural gas and fuel oil. Inventories used in the production of electricity are valued at the lower of average cost or market except for coal and lignite, which are valued under the last-in, first-out method. If coal and lignite inventories were valued at their current replacement cost, at June 30, 2005, total inventory would have increased by approximately $3.9 million. The following table provides the components of inventory as of June 30, 2005.

	June 30, 2005 (in thousands)
Natural Gas	$ 25,994
Fuel Oil	6,328
Coal	25,544
Lignite	3,265
Materials & Supplies	86,977
Total Inventory	$ 148,108

Goodwill and Other Intangible Assets

The Company's intangible assets consist of goodwill resulting from the Initial Acquisition of approximately $850.4 million and other intangible assets. During the year, adjustments have been made to goodwill and other intangible assets based on revised estimates or finalization of valuations. The final purchase price allocation and estimated useful life of intangible assets are subject to refinement for changes in the Company's preliminary assumptions and analyses. The Company is in the process of obtaining a third party valuation of certain gas fired electric generating facilities, and emission allowances. Preliminary purchase price allocations for the Nuclear Acquisition and ROFR completed during the quarter did not result in any goodwill. However, intangible assets of $22.9 million related to forward sales contracts have been recognized as a part of the preliminary purchase price allocation associated with the Nuclear Acquisition. The following table presents the Company's goodwill and its intangible assets, their related amortization and estimated weighted-average useful life at June 30, 2005. The purchase price allocation for the Nuclear Acquisition and the ROFR are pending a final valuation of assumed contracts and additional information concerning the nature of certain deferred tax attributes.

	Weighted Average Life (years)	June 30, 2005 (in millions)
Goodwill		$ 850.4
Intangibles	6.5	854.7
Amortization of intangibles		(83.2)
Net Goodwill and Intangibles		$ 1,621.9

The following table presents expected amortization for the next five years and in total thereafter for the Company's amortizable intangible assets at June 30, 2005 (in millions):

	Acquired Customer Forward Sales Contracts	Decommissioning & Decontamination Enhancement Fees	Emission Allowances	Steam and Water Contracts	Total Finite-Lived Intangible Assets
2005	$ 53.2	$ 0.5	$ 13.0	$ .3	$ 67.0
2006	84.1	1.0	26.5	0.6	112.2
2007	110.2	0.8	26.5	0.6	138.1
2008	87.7	—	26.5	0.6	114.8
2009	10.5	—	26.5	0.6	37.6
Thereafter	—	—	278.0	8.8	286.8
Total	$ 345.7	$ 2.3	$ 397.0	$ 11.5	$ 756.5

The Company amortizes all finite lived intangible assets over their respective estimated useful life. Acquired forward sales contracts represents the intangible value assigned to all firm forward baseload capacity power sales resulting from the Initial Acquisition and the Nuclear Acquisition, the longest of which has a useful life of five years, which represents the number of years for which the power has been sold forward. Pursuant to the Clean Air Act Amendments of 1990, the acquired power plants are entitled to receive allowances to emit sulfur dioxide and oxides of nitrogen. These allowances or permits are transferable by the Company. The Company amortizes air emission allowances on a units of production basis as utilized. Steam and water contracts consist of a water rights agreement and a steam contract that have estimated useful lives of 22 and 11 years, respectively.

In connection with the Initial Acquisition, the Company recorded the fair value of certain power sales and coal contracts assumed. The Company estimated the fair value of these contracts using market value as of the acquisition date over the life of each contract. These contracts had negative fair values at the date of acquisition and were recorded as contractual obligations in the consolidated balance sheet. These contractual obligations are amortized as increases to revenue and decreases to fuel expense, as applicable, based on the estimated realization of the fair value established on the acquisition date over the contractual lives. Respectively, for the three months and six months ended June 30, 2005, the Company amortized approximately $62.2 million and $125.1 million of assumed out-of-

the-money contracts to increase revenue and approximately $10.6 million and $23.7 million to decrease fuel expense.

Derivative Instruments

The Company is subject to SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities", as amended by SFAS No. 138 and SFAS No. 149, "Amendment of Statement 133 on Derivative Instruments and Hedging Activities" ("SFAS No. 133"), which established accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. These statements require that derivatives be recognized at fair value on the balance sheet and that changes in fair value of such derivatives be recognized either currently in earnings or deferred as a component of other comprehensive income. For a derivative not designated as a hedging instrument, the gain or loss is recognized in earnings in the period it occurs. Cash flow hedges are those derivatives designated to hedge exposure to variability in expected future cash flows. Changes in the fair value of cash flow hedges, to the extent there is a high correlation between price movements in the derivative and the item designated as being hedged, are recognized as a component of other comprehensive income until the expected cash flow occurs. At such time, previously recognized amounts within comprehensive income are reversed, and the change in the fair value of the derivative is recognized within earnings.

The Company has entered into several natural gas swap agreements to sell approximately 162.5 million Mmbtu's of natural gas through 2010 at fixed prices, with the Company as the floating price payor. These swap agreements are considered derivatives and are treated as cash flow hedges for accounting purposes. The fair market value of the natural gas swap agreements was ($113.8) million at June 30, 2005. Previously, the Company has recognized losses associated with these swaps in the amount of $6.9 million. As a result, $106.9 million was recorded as other comprehensive loss at June 30, 2005.

Assets Held for Sale

The Company previously determined that the Texas Genco fuels pipeline, a 90 mile fuel oil pipeline system, and the North Dayton gas storage facility, in which the Company has a long-term agreement to store gas and a purchase option to buy the facility, were not strategic assets for the business. The book values of the Texas Genco fuels pipeline and the North Dayton gas storage facility were recorded at their fair value (less estimated costs to sell) of $36.3 million and $31.0 million, respectively, as of December 31, 2004, and are reflected as assets held for sale on the consolidated balance sheet.

On May 16, 2005, the Company entered into an agreement with TEPPCO Partners, L.P. for the sale of the Texas Genco fuels pipeline and its associated equipment, a 5.5 million barrel storage facility and its associated equipment along with certain oil inventory. The transaction closed on July 15, 2005 for a total purchase price of approximately $70.6 million, subject to adjustment based on the final sale price of such oil inventory.

On June 27, 2005, the Company entered into an agreement with Kinder Morgan Energy Partners, L.P. for the sale of the Company's subsidiaries that indirectly own an option to purchase the North Dayton gas storage facility in Liberty County, Texas and associated equipment. The gas storage facility was owned by HNG Dayton Storage Company, with whom the Company had a long-term storage agreement under which it was entitled to purchase the North Dayton gas storage facility.

On June 27, 2005, the Company entered into an agreement with HNG Dayton Storage Company providing for the exercise of the Company's option to purchase the gas storage facility. The closings of the acquisition of the gas storage facility from HNG Dayton Storage Company and the sale to Kinder Morgan Energy Partners, L.P. occurred on August 1, 2005. At the closings, Kinder Morgan Energy Partners, L.P. paid the Company cash of approximately $51 million, and the Company received approximately $2 million from collateral accounts held by a lender of HNG Dayton Storage Company. The Company has entered into a long-term storage capacity and transportation agreement with Kinder Morgan Energy Partners, L.P.

During the second quarter management announced that the Company would conduct an auction to sell the Deepwater, H.O. Clarke, and Webster power plants and associated land. The auction is expected to conclude prior to the end of 2005. The book value of these plants is zero since the original purchase price allocation from the Initial

Acquisition placed a value of zero on these assets. Based on third party appraisals that the fair market value of these properties would exceed the current book value including the estimated cost to demolish the plants and remediate the property, no impairment has been recognized for these properties.

Workforce Optimization Plans

On February 1, 2005, and in conjunction with the Initial Acquisition, the Company announced a workforce optimization plan (the "Plan") for its non-bargaining unit employees. The program consists of a voluntary retirement incentive and an involuntary severance.

Voluntary Retirement Incentive. On February 14, 2005, the Company announced a Voluntary Retirement Incentive Program ("VRI") for its eligible 232 non-bargaining unit employees, and on March 15, 2005, an identical program was announced for its eligible 309 bargaining unit employees. To be eligible for the VRI, employees must have been (1) employed on February 1, 2005 (on March 1, 2005 for bargaining unit employees), (2) at least age 50 with at least 15 years of service on April 1, 2005, and (3) a participant in the Texas Genco II LP retirement plan ("Retirement Plan"). In summary, the VRI offers the eligible employee (i) an annuity payment from the Retirement Plan based on the greater of (a) the cash balance account in the Retirement Plan, or from the predecessor plan benefit formula, (b) the accrued lump sum benefit paid as a monthly annuity, or (c) the present value of the immediate life annuity; (ii) the present value of two years of base salary in the form of a twenty-four month annuity payment from the Retirement Plan (or, if the employee elects, in the form of a life annuity); (iii) a lump-sum healthcare bridge payment if the employee is under age 55; and (iv) payment of earned vacation and a pro-rated 2005 discretionary bonus. The election period to participate in the VRI expired on April 7, 2005 and as of June 30, 2005, 412 employees had elected to retire and did not revoke their election. SFAS No. 88, Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits, specifies that an employer that offers special termination benefits to employees shall recognize a liability and a corresponding cost when the employees accept the offer and the amount can be reasonably estimated. During the three and six month periods ended June 30, 2005, charges of $26.3 million and $58.6 million were recognized relative to the estimated increased pension cost related to the VRI plan. Additionally, during the three and six month periods ending June 30, 2005 $1.5 million and $3.0 million were recognized as estimated liabilities for the health care bridge payment associated with the 412 electing employees.

Involuntary Severance. The second component of the Plan involves targeted workforce reductions. Employees terminated pursuant to the Plan receive a lump-sum cash severance benefit payment based on a calculation which provides three weeks of base pay for each full year of service realized with the Company (and qualified predecessor employers), with a minimum of 12 weeks and a maximum of 52 weeks of severance benefits paid to an affected individual. In addition, terminated employees receive an additional lump sum equal to the employee's target award under the Company's annual short-term incentive plan based on eligible earnings for the period commencing on January 1 of the termination year through the employee's date of termination. Affected individuals also have the ability to continue medical, dental and vision benefits at the active employee contribution rates for coverage for the number of weeks used to calculate the individual's severance benefit. As of June 30, 2005, the Company had terminated 28 employees pursuant to this component of the Plan.

During the six month period ended June 30, 2005, the Company completed an analysis that estimated the total minimum severance benefits for the total targeted workforce reduction plan. This estimated cost of the minimum severance benefits was accrued during the first quarter, and included a reduction of $29.6 million in goodwill. This estimate may be adjusted in future periods, as the total actual severance liability is determined.

During the six months ended June 30, 2005, the accrued liability for the minimum severance benefits was reduced by $24.7 million reflecting the minimum severance benefits liability associated with the 412 employees electing the VRI as of June 30, 2005. In addition, the accrued liability for the minimum severance benefits was reduced by $1.3 million associated with 18 eligible employees who were severed during the period. As a result, Operations and Maintenance expenses for the six month period ended June 30, 2005 includes a $58.6 million pension charge, and a $3.0 million health care bridge charge, which was partially offset by a $24.7 million minimum severance credit, all relating to the VRI plan.

As of June 30, 2005 the Company employed a total of 1,203 employees. Of these employees, 825 are covered by a collective bargaining agreement.

Business Segments

The Company manages the business as one reportable segment. This one reportable segment is an electric power generation business that presently conducts all of its power generation business within ERCOT.

Plant Decommissioning

On January 10, 2005, the Company filed notice with ERCOT to suspend operations at fifteen gas fired generation units located at the Company's Cedar Bayou, Webster, P.H. Robinson, H.O. Clarke, T.H. Wharton and Deepwater Stations. This is the first step in a process to retire the units permanently or to place them in mothball status for more than 180 days. ERCOT has notified the Company that it will only need P.H. Robinson Unit 2 and negotiated with the Company to maintain the unit in operation on a "Reliability Must Run" basis ("Must-Run Contract"). Under the Must-Run Contract, the Company recovers the costs of operating and activating the unit from ERCOT and in turn the unit is available to ERCOT for reliability needs. The Must-Run Contract has a term of one year starting on May 17, 2005, with a right of early termination by ERCOT. On August 1, 2005 ERCOT issued a 90 day notice of early termination that terminates this contract with ERCOT on October 29, 2005.

Nuclear Decommissioning

As a result of the Nuclear Acquisition and ROFR, the Company has become the beneficiary of decommissioning trusts that have been established to provide funding for decontamination and decommissioning of the South Texas Project in which the Company owns a 44.0% interest. CenterPoint Energy and American Electric Power collect, through rates or other authorized charges to their electric utility customers amounts designated for funding the Company's portion of the decommissioning of the facility. In the event funds from the trusts are inadequate to fund the Company's ownership portion of the actual decommissioning costs, CenterPoint Energy and American Electric Power or their successors will be required to collect through rates or other authorized charges to customers as contemplated by the Texas Utility Code all additional amounts required to fund the Company's obligations relating to the decommissioning of the facility. Following the completion of the decommissioning, if surplus funds remain in the decommissioning trust, the excess will be refunded to the ratepayers of CenterPoint Energy, American Electric Power, or their successors. The fair value of the trust assets are reflected as a non-current asset by the Company with an associated long-term liability to reflect the future obligation to fund the decommissioning from the trust assets or to refund or collect additional amounts from the ratepayers or CenterPoint Energy, American Electric Power or their successors.

In addition to the nuclear decommissioning trusts, the Company has recorded asset retirement obligations and liabilities in accordance with SFAS No. 143 "Accounting for Asset Retirement Obligations". The assets and liabilities were recorded on the respective acquisition dates based on the estimated future costs of decontamination and decommissioning of the Company's 44.0% interest in the South Texas Project. The asset is being amortized over the remaining licensing period for the South Texas Project and is reflected as a component of property plant and equipment. Accretion expense is being recognized with the associated liability.

As of June 30, 2005 the trust assets had a market value of $296.0 million. The unamortized portion of the retirement obligation asset was $283.5 million. The decommission liability was $288.4 million, and the liability to fund the decommissioning from the trust assets and payments to or from ratepayers was $291.1 million. The total value of all assets and all liabilities associated with the decommissioning and the trusts will always be equal, which is consistent with the Company not having any economic exposure for the decommissioning responsibilities.

Unit-Based Compensation

The Company has established a unit option incentive plan for key employees. Under this plan, the exercise price of the unit option is the estimated value of the underlying unit on the grant date. The options currently issued under this plan fall into three categories. The first are "Core" options that have a 10 year life and vest, subject to the participant's continued employment, in approximately 1/5 increments on each anniversary date of the grant. The

second are "Performance" options that vest upon the earlier of successful achievement of established equity return targets or seven years. The third are "Vested" options that are fully vested and have a 10 year life.

The following table reflects the outstanding option grants as of December 31, 2004 and the options granted during the six month period ended June 30, 2005:

	Total Units Granted		
Period of Grant	**Core Options**	**Performance Options**	**Vested Options**
Balance at December 31, 2004	2,565,000	1,975,500	400,000
1st Quarter Grants	1,795,574	1,256,698	51,800
Balance at March 31, 2005	4,360,574	3,232,198	451,800
2nd Quarter Grants	1,802,461	1,178,768	—
Balance At June 30, 2005	6,163,035	4,410,966	451,800

Only vested options can be exercised. None of these options can be transferred unless certain future events occur, which include equity sales by the existing equity holders of the Company.

The Company complies with the disclosure requirements of SFAS No. 123, Accounting for Stock-Based Compensation, as amended by SFAS No. 148, Accounting for Stock-Based Compensation – Transition and Disclosure; however, the Company has elected to continue to apply the provisions of Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees. The Company uses the intrinsic value method to account for stock-based employee compensation, however, there is a requirement to disclose pro forma net income or loss as if the Company had applied the fair value methods prescribed by SFAS No. 123.

In order to determine a fair value of the options granted during the quarter, a traditional option pricing model approach was employed which indicated a fair value as of the date of grant of approximately $6.2 million, based on model input assumption terms which include a term of ten years, no volatility and an interest rate of approximately 4.20%. Because the options granted by the Company have either significant vesting and/or exercise restrictions, the Company believes that the traditional option pricing model approach overstates the fair value of the options on the grant date. However, considering the traditional model-derived option fair value on the grant date, the pro forma impact on results of operations would not have been material to the consolidated results of operations, financial position or cash flows.

(2) NEW ACCOUNTING PRONOUNCEMENTS

SFAS 123R issued in January 2005, is a revision of FASB Statement No. 123, "Accounting for Stock-Based Compensation." This Statement establishes standards that account for transactions in which an entity exchanges its equity instruments for goods or services. It also addresses transactions in which an entity incurs liabilities in exchange for goods or services that are based on the fair value of the entity's equity instruments or that may be settled by the issuance of those equity instruments. This Statement focuses primarily on accounting for transactions in which an entity obtains employee services in share-based payment transactions. The Company has analyzed SFAS 123R and determined that the provisions of the statement do not have a material impact on the Company's results of operations, financial condition or cash flows.

In March 2005, the FASB issued Interpretation No. 47, "Accounting for Conditional Asset Retirement Obligations", which provides further clarification of the requirements of SFAS No. 143. This Interpretation is effective no later than the end of fiscal years ending after December 15, 2005 (December 31, 2005, for calendar-year enterprises). The Company is currently evaluating the impact of Interpretation No. 47.

In May 2005, the Financial Accounting Standards Board issued SFAS No.154 "Accounting Changes and Error Corrections", which replaces APB Opinion No. 20, "Accounting Changes," and FASB Statement No. 3, "Reporting Accounting Changes in Interim Financial Statements." The statement applies to all voluntary changes in accounting

principle and changes resulting from adoption of a new accounting pronouncement that does not specify transition requirements. SFAS No. 154 requires retrospective application to prior periods' financial statements for changes in accounting principle unless it is impracticable to determine either the period-specific effects or the cumulative effect of the change. SFAS No. 154 also requires that retrospective application of a change in accounting principle be limited to the direct effects of the change. Indirect effects of a change in accounting principle should be recognized in the period of the accounting change. SFAS No. 154 is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005 with early implementation permitted for accounting changes and corrections of errors made in fiscal years beginning after the date this statement is issued. SFAS No.154 will become effective for the Company on January 1, 2006 and will be applied when applicable.

(3) ACQUISITIONS

Nuclear Acquisition.

On April 13, 2005, the Nuclear Acquisition occurred, in which a wholly owned subsidiary of the Company merged with and into Texas Genco Holdings, Inc. As a result of the Nuclear Acquisition, Texas Genco Holdings, Inc. became a wholly owned subsidiary of the Company and the Company thereby indirectly acquired Texas Genco Holdings, Inc.'s assets and liabilities, including its 30.8% undivided interest in STP. The Company paid an affiliate of CenterPoint Energy, Inc. aggregate consideration of $700.0 million in cash in connection with the Nuclear Acquisition. The Company financed the Nuclear Acquisition with $475.0 million of borrowings under the term loan portion of the Company's senior secured credit facilities, approximately $99.5 million of revolver borrowings, an additional cash equity investment of $117.8 million by the members of the Company, investment funds affiliated with The Blackstone Group, Hellman & Friedman LLC, Kohlberg Kravis Roberts & Co. L.P. and Texas Pacific Group (collectively, the "Investors") and, to a lesser extent, by certain members of management, and the balance from cash on hand (the "Nuclear Acquisition Financing", and the Initial Acquisition Financings and the Nuclear Acquisition Financing, together, the "Formation Financings"). In addition, because Texas Genco Holdings, Inc. had approximately $75.0 million of bank debt outstanding, which became due at the closing of the Nuclear Acquisition, the Company also paid approximately $75.0 million from the Company's cash on hand in order to discharge such debt. In connection with the Nuclear Acquisition, in an order from the Nuclear Regulatory Commission ("NRC") dated April 4, 2005, approving the indirect transfer of the STP license from CenterPoint Energy to Texas Genco LLC, the NRC required Texas Genco LLC to enter into a support agreement with Texas Genco LLC's subsidiary Texas Genco, LP to provide up to $120 million to Texas Genco, LP if necessary to support operations at STP. Texas Genco LLC entered into that support agreement on April 13, 2005.

ROFR.

On May 19, 2005, the ROFR occurred, in which pursuant to the exercise of a right of first refusal by Texas Genco, LP subsequent to a third party offer to AEP in early 2004, the Company acquired from AEP an additional 13.2% undivided interest, equivalent to 339 MW, in STP for approximately $174.2 million, less adjustments for working capital and other purchase price adjustments. As a result, the Company now owns a 44.0% undivided interest, equivalent to 1,129 MW, in STP. Texas Genco, LP had deposited cash collateral to secure stand-by letters of credit posted in favor of AEP to secure the obligation to pay AEP for the ROFR. The purchase price for the ROFR was funded from that deposited cash, and on May 19, 2005, excess cash in the amount of approximately $28.9 million securing the stand-by letters of credit was released to us. Pursuant to the purchase agreement for the ROFR, Texas Genco, LP agreed with AEP that, for a period of ten years from the date of the consummation of the ROFR, Texas Genco, LP would maintain minimum partners' equity, determined in accordance with Generally Accepted Accounting Principles in the United States of America ("GAAP"), of $300 million.

(4) COMMITMENTS AND CONTINGENCIES

Long-Term Financing Obligations

Senior Notes, Credit Agreement and Funded Letter of Credit Facility. The Company's long-term financing obligations outstanding have been incurred under the Company's senior secured Credit Agreement dated as of December 14, 2004 ("Credit Agreement"), the Company's senior secured Funded L/C Credit Agreement dated as of June 24, 2005 ("Funded Letter of Credit Facility") and the Company's senior unsecured note Indenture, dated as of December 14, 2004, relating to the Company's 6.875% Senior Notes due 2014, and consisted of the following as of June 30, 2005:

Long-term debt:	June 30, 2005 (in millions)
6.875% Senior Notes, due 2014	$ 1,125.0
Term Loan Facilities, due 2011	1,618.1
Subtotal	2,743.1
Less:	
Current maturities	(16.3)
Total long-term financing obligations, less current maturities	$ 2,726.8

Aggregate maturities of the principal amounts of long-term financing obligations through 2010 and in total thereafter are as follows:	
2005 (July – December)	$ 8.1
2006	16.3
2007	16.3
2008	16.3
2009	16.3
2010	16.3
Thereafter	2,653.5
Total long-term financing obligations, including current maturities	$ 2,743.1

Borrowings under the term loan facilities of the Company's Credit Agreement bear interest, at the Company's option, at either:

- a base rate, plus the applicable interest rate margin; or
- a reserve adjusted Eurodollar rate on deposits for one-, two-, three-, six-, nine- or twelve-month periods (in the case of nine- or twelve-month periods, to the extent available to all applicable lenders), plus the applicable interest rate margin.

The following table summarizes used and available portions of the various credit facilities made available to the Company under the Credit Agreement and the Funded Letter of Credit Facility at June 30, 2005:

Texas Genco LLC

Facility	Commitment Amount	Amounts Borrowed	Face Amount of Letters of Credit Issued	Total Unused
		(in millions)		
Term Loan Facility, due 2011	$ 1,144.3	$ 1,144.3	$ N/A	$ N/A
Delayed Draw Term Loan Facility, due 2011	473.8	473.8	N/A	N/A
Revolving Credit Facility, due 2009	325.0	—	31.6	293.4
Base Letter of Credit Facility, due 2009	200.0	—	62.8	137.2
Special Letter of Credit Facility, due 2009	344.3	N/A	344.3	—
Funded Letter of Credit Facility, due 2011	150.0	N/A	150.0	—
Total	$ 2,637.4	$ 1,618.1	$ 588.7	$ 430.6

Capital Lease Obligations. Current and long-term capital lease obligations at June 30, 2005 were $1.2 million and $3.0 million respectively. The aggregate liability, both current and non-current, recorded for capital lease obligations as of June 30, 2005 was $4.2 million. This amount reflects a reduction for imputed interest on the lease payments of $0.5 million.

Collateral Agreements

The Company provides collateral to many of the counterparties to the Company's power purchase agreements, bilateral contracts, fuel purchase agreements and natural gas swap agreements in order to secure the Company's performance under these contracts. This collateral generally consists of a letter of credit which is fixed in amount and, in some cases, a second lien on the Company's assets. As of June 30, 2005 the Company's counterparties had net credit exposure to the Company of approximately $829 million that was secured by these second liens.

Commitments

Operating Lease Obligations. During the quarter the Company entered into a new 65 month leasing agreement for the Company's corporate office space in Fulbright Towers at 1301 McKinney, Houston, Texas and a 60 month leasing agreement for the Company's data center at 1301 Fannin, Houston, Texas. Together, these leases are expected to cost approximately $840,000 a year with a total commitment of approximately $4.5 million for the duration of these leases.

Nuclear Insurance. The Company and the other owners of the South Texas Project maintain nuclear property and nuclear liability insurance coverage as required by law and periodically review available limits and coverage for additional protection. The owners of the South Texas Project currently maintain $2.75 billion in property damage insurance coverage, which is above the legally required minimum, but is less than the total amount of insurance currently available for such losses.

Under the Price-Anderson Act, the maximum liability to the public of owners of nuclear power plants was $10.8 billion as of June 30, 2005. Owners are required under the Price Anderson Act to insure their liability for nuclear incidents and protective evacuations. The Company and the other owners currently maintain the required nuclear liability insurance and participate in the industry retrospective rating plan under which the owners of the South Texas Project are subject to maximum retrospective assessments in the aggregate per incident of up to $100.6 million per reactor. The owners are jointly and severally liable at a rate not to exceed $10 million per incident per year.

The U.S. Energy Policy Act of 2005, which was signed by President Bush on August 8, 2005, extends the effective date of the Price-Anderson Act for 20 years to 2025 and increases the annual retrospective premium obligations under the Price-Anderson Act from $10 million to $15 million per reactor per accident and the total amount from $63 million to $95.8 million per reactor per accident, in each case adjusted for inflation.

There can be no assurance that all potential losses or liabilities associated with the South Texas Project will be insurable, or that the amount of insurance will be sufficient to cover them. Any substantial losses not covered by insurance would have a material effect on the Company's financial condition, results of operations and cash flows.

Nuclear Decommissioning. Upon expiration of the operating licenses for the two generating units at STP (currently scheduled for 2027 and 2028), the co-owners of STP are required under federal law to decontaminate and decommission STP. External trusts have been created to fund Texas Genco, LP's share of the decommissioning costs for STP. In May 2004, an outside consultant estimated a 44.0% share of the STP decommissioning costs to be approximately $650 million in 2004 dollars. The consultant's calculation of decommissioning costs for financial planning purposes used the "DECON" methodology, one of the three alternatives acceptable to the NRC. The DECON methodology involves removal of all radioactive material from the site following permanent shutdown of the generating units.

Currently, Texas Genco, LP's funding against this decommissioning obligation is contained within two separate trusts. In accordance with the terms of its current Texas Utility Commission rate order, CenterPoint Energy Houston Electric, LLC ("CenterPoint Houston") is currently authorized to collect approximately $2.9 million per year from its transmission and distribution customers and is obligated to deposit the amount collected into the STP decommissioning trust created by Texas Genco, LP to cover decommissioning of the Company's 30.8% interest in STP. AEP is currently authorized by the Texas Utility Commission to collect approximately $4.3 million per year from its transmission and distribution customers and is obligated to deposit the amount collected into the STP decommissioning trust created by Texas Genco, LP to fund decommissioning of the 13.2% interest in STP, for the ROFR. As of June 30, 2005, the fair market value of the investments in the two separate external trusts established to fund the decommissioning of the Company's 44.0% interest in STP was $296.0 million.

On October 26, 2004, a new Texas Utility Commission rule to govern the transfer and administration of nuclear decommissioning trusts became effective. The new rule provides that the parties to the transfer of an interest in a nuclear generation facility must file for approval of all new agreements related to the decommissioning trusts prior to the closing of the transaction. In addition, the collecting utility (in this instance, both CenterPoint Houston and AEP) must file an application with the Texas Utility Commission for the establishment of a separate nonbypassable charge for collection of decommissioning costs consistent with the prior rate order of each collecting utility, not later than 30 days after the close of the transaction. On November 10, 2004, CenterPoint Houston and Texas Genco, LP jointly filed for Texas Utility Commission approval of (i) a decommissioning funds collection agreement and (ii) a separate nonbypassable decommissioning charge consistent with CenterPoint Houston's prior rate order. On February 10, 2005, AEP filed for approval of the agreements related to the transfer of the decommissioning trust funds related to the ROFR. On May 11, 2005, the Texas Utility Commission approved by separate final orders the agreements related to the transfer of the decommissioning trust funds related to the Nuclear Acquisition and the ROFR. On May 25, 2005, the Texas Utility Commission approved the establishment of a separate nonbypassable charge for CenterPoint Houston for collection of decommissioning costs consistent with the prior rate order of CenterPoint Houston. It is expected that AEP will file for establishment of a separate nonbypassable charge for collections of decommissioning costs consistent with its prior rate order in the near future now that the ROFR transaction has closed. The new rule would further require the Company to update the decommissioning cost study for STP at least once every five years, and provides for periodic adjustments to the annual decommissioning funding amount and the corresponding nonbypassable charges should the funding levels be inadequate.

In the event that the funds from the trusts are ultimately determined to be inadequate to decommission the STP facilities, CenterPoint Houston and AEP will be required to collect through their Texas Utility Commission-authorized nonbypassable charges to customers all additional amounts required to fund the decommissioning obligations relating to the Company's 44.0% share, provided that the Company has complied with the Texas Utility Commission's rules and regulations regarding decommissioning trusts. Following the completion of the decommissioning, if surplus funds remain in the decommissioning trusts, any excess will be refunded to the respective rate payers of CenterPoint Houston or AEP (or their successors).

The owners of STP must provide a report on the current status of decommissioning funding to the NRC every two years. However, if a sale, merger or acquisition occurs, the report is required each year. The report compares the current external trust funding levels to that year's minimum decommissioning amounts calculated in accordance with NRC requirements. The NRC requirements determine the decommissioning cost estimate by escalating the

NRC's estimated decommissioning cost of $105 million per unit, expressed in 1986 dollars, for the effects of inflation between 1986 and the recent year-end and then multiplying by 44.0% to reflect the Company's share of each unit of STP. This estimate is the minimum required level of funding as of the most recent year-end. The last report was submitted to the NRC in March 2005 and showed that, as of December 31, 2004, the aggregate NRC minimum funding level for the Company's 44.0% interest in STP was $121.4 million. While the trust's funding levels have historically exceeded minimum NRC funding requirements, the Company cannot assure you that the amounts held in trust will be adequate to cover the actual decommissioning costs of STP. These costs may vary because of changes in the assumed date of decommissioning and changes in regulatory requirements, technology and costs of labor, materials, equipment and waste burial.

(5) ENVIRONMENTAL AND LEGAL

Clean Air Standards

The Texas electric restructuring law and regulations adopted by the Texas Commission on Environmental Quality ("TCEQ") in 2001 require substantial reductions in emission of oxides of nitrogen ("NO_x") from electric generating units. The Company is currently installing cost-effective controls at its generating plants to comply with these requirements. From January 1, 2000 through December 31, 2004, the Company invested approximately $700 million for NO_x emission control, and the Company plans to make additional expenditures of up to approximately $17.5 million through 2006. Further NO_x requirements may result from the TCEQ's future rules, expected by 2007, implementing more stringent federal eight-hour ozone standards.

Lignite Mine Reclamation

The Company obtains lignite for its Limestone facility under an amended long-term contract with the owner/operator of the mine, Texas Westmoreland Coal Company ("TWCC") which contract was entered into in April 1999. Pursuant to the contract, TWCC is responsible for performing ongoing reclamation activities at the mine until all lignite reserves have been produced. When production is completed at the mine, the Company is responsible for final mine reclamation obligations. The Railroad Commission of Texas has imposed a bond obligation of approximately $70 million on TWCC for the reclamation of the lignite mine. Final reclamation activity is expected to commence in 2015. Pursuant to the contract with TWCC, an affiliate of CenterPoint Energy, Inc. has guaranteed $50 million of this obligation until 2010. The remaining sum of approximately $20 million has been bonded by TWCC. Under the terms of its contract with TWCC the Company is required to post a corporate guarantee of TWCC's reclamation bond when CenterPoint's obligation lapses. As of June 30, 2005 the Company had accrued $6.5 million related to the mine reclamation obligation. The Company has also identified other asset retirement obligations that cannot be estimated because the assets associated with the retirement obligations have an indeterminate life.

Asbestos

Texas Genco Holdings, Inc. has been named, along with numerous others, as a defendant in several lawsuits filed by a large number of individuals who claim injury due to exposure to asbestos while working at sites along the Texas Gulf Coast. Most of these claimants have been workers who participated in construction, renovation or repair of various industrial facilities, including power plants, and some of the claimants have worked at locations owned by Texas Genco Holdings, Inc. As of June 30, 2005, there were 4,016 claims pending against Texas Genco Holdings, Inc. For the six months ended June 30, 2005, there were 68 claims filed against Texas Genco Holdings, Inc., 72 claims settled, 906 claims dismissed or otherwise resolved with no payment and the average settlement amount for each claim was approximately $3,500. Under the terms of the separation agreement between Texas Genco Holdings, Inc. and CenterPoint Energy, ultimate financial responsibility for uninsured losses relating to such claims has been assumed by Texas Genco Holdings, Inc., and under the terms of CenterPoint Energy's agreement to sell Texas Genco Holdings, Inc. to Texas Genco LLC, CenterPoint Energy has agreed to continue to defend such claims to the extent they are covered by insurance maintained by CenterPoint Energy, subject to reimbursement of the costs of such defense from Texas Genco LLC. Texas Genco Holdings, Inc. anticipates that additional claims like those received may be asserted in the future and intends to continue vigorously contesting claims, which it does not consider to have merit.

Texas Genco LLC

Litigation

In July 2003, Texas Commercial Energy filed in federal court in Corpus Christi, Texas a lawsuit against, as the lawsuit was subsequently amended, Texas Genco, LP, CenterPoint Energy, Inc., Reliant Energy, Inc., Reliant Electric Solutions, LLC, several other CenterPoint Energy, Inc. and Reliant Energy, Inc. subsidiaries and a number of other participants in the ERCOT power market. The plaintiff, a retail electricity provider in the Texas market served by ERCOT, alleged that the defendants conspired to illegally fix and artificially increase the price of electricity in violation of state and federal antitrust laws and committed fraud and negligent misrepresentation. The lawsuit sought damages in excess of $500.0 million, exemplary damages, treble damages, interest, costs of suit and attorneys' fees. The plaintiff's principal allegations had previously been investigated by the Texas Utility Commission and found to be without merit. In June 2004, the federal court dismissed the plaintiff's claims and in July 2004, the plaintiff filed an appeal that Texas Genco, LP contested. The court of appeals affirmed the lower court's decision in June 2005. The plaintiff moved for a rehearing en banc, which was subsequently denied. The plaintiff has indicated its plans to pursue the matter to the United States Supreme Court, and the ultimate outcome of this matter cannot be predicted at this time.

In February 2005, Utility Choice Electric filed in federal court in Houston, Texas a lawsuit against CenterPoint Energy, Inc., CenterPoint Energy Houston Electric, LLC, CenterPoint Energy Gas Services, Inc., CenterPoint Energy Alternative Fuels, Inc., Texas Genco, LP and a number of other participants in the ERCOT power market. The plaintiff, a retail electricity provider with the ERCOT market, alleged that defendants conspired to illegally fix and artificially increase the price of electricity in violation of state and federal antitrust laws, intentionally interfered with prospective business relationships and contracts, and committed fraud and negligent misrepresentation. The plaintiff's principal allegations had previously been investigated by the Texas Utility Commission and found to be without merit. Texas Genco, LP is vigorously defending the case. The federal court in Houston recently lifted its stay of the matter pending the outcome of the Texas Commercial Energy matter and Texas Genco, LP plans to file a motion to dismiss the lawsuit against it. The ultimate outcome of this matter cannot be predicted at this time.

On February 20, 2004, Texas Genco, LP filed an injunction and declaratory judgment lawsuit in a Freestone County, Texas state district court seeking to enjoin Valence Operating Company ("Valence") from drilling or engaging in work to prepare for drilling a natural gas well in Texas Genco II, L.P.'s Class II Industrial Solid Waste Facility (the "Landfill") adjacent to the Limestone plant. The Landfill is used to dispose of ash byproducts from the combustion of coal and lignite at the Limestone Plant. Following a hearing in March 2004, the court granted Texas Genco, LP's request and enjoined Valence from drilling the well in the Landfill. In connection with that injunction, the court ordered, and Texas Genco, LP posted, a bond in the amount of $1.0 million to secure payment of any damages suffered by Valence should it be found to have been wrongfully enjoined. Valence filed a counter-claim against Texas Genco, LP for wrongful injunction and sought to recover the full amount of the bond. Trial on the merits in this case was held in September 2004. The jury found, among other things, that Texas Genco, LP had an existing use that would be precluded or substantially impaired if Valence drilled Well 8. Finally, the jury also found damages in the amount of $400,000 as compensation to Valence for the issuance of the temporary restraining order and temporary injunction. Both Texas Genco, LP and Valence moved to disregard certain of the jury's findings and for judgment in their respective favors. On October 24, 2004, the court accepted the jury's findings and entered judgment that Texas Genco, LP take nothing on its claim for permanent injunction, and that Valence recover $400,000 in damages, together with pre- and post-judgment interest and costs. Texas Genco, LP has appealed the final judgment. The trial court has reinstated the temporary injunction pending the resolution of Texas Genco, LP's appeal. The trial court also ordered, and Texas Genco, LP posted, a bond in the amount of approximately $860,000 in connection with the temporary injunction pending appeal. The ultimate outcome of this matter cannot be predicted at this time. In addition, a separate lawsuit was filed by Texas Genco, LP in the same court, to enjoin Valence from drilling another well (Well 9) in the Landfill. In that lawsuit, Texas Genco, LP obtained a temporary restraining order against drilling this other well. On October 26, 2004, the court signed an order granting Texas Genco, LP's requested injunctive relief and enjoining Valence from drilling Well 9 in the Landfill. The court ordered, and Texas Genco, LP posted, a bond in the amount of approximately $2.0 million to secure payment of any damages suffered by Valence should it be found to have been wrongfully enjoined. The court has rescheduled this case for trial on the merits on September 6, 2005.

Valence currently has two active applications with the Railroad Commission of Texas for drilling permits for two additional wells that would be drilled in the Landfill, one of which would be drilled through the closed cells in Texas

Genco, LP's Landfill. Texas Genco, LP has filed a protest with the Railroad Commission of Texas over these applications, and a hearing was held at the Railroad Commission in April 2005. A ruling by the Railroad Commission is expected sometime in the next few months. Texas Genco, LP is vigorously contesting these attempts to drill into the Landfill because such drilling activity impairs Texas Genco, LP's use of its property for the Landfill.

The Company is, from time to time, a party to other litigation arising in the normal course of its business, most of which involves contract disputes or claims for personal injury and property damage incurred in connection with its operations. The Company does not believe that any such existing litigation will have a material adverse effect on its consolidated financial position, results of operations or cash flows.

Regulatory

The Company is subject to regulation by various federal, state and local agencies. The Company's generation subsidiaries are registered as power generation companies with the Texas Public Utility Commission ("TPUC") subjecting the Company to limited regulation by the TPUC directly as well as indirectly by virtue of TPUC oversight of Electric Reliability Council of Texas, Inc. ("ERCOT"). The TPUC recently initiated proceedings to consider changes in the ERCOT market design, generation adequacy measures, and market power rules governing power generation companies. Specifically, the TPUC is considering changing the ERCOT market design from a zonal to a nodal design, implementing an "energy-only" market to promote the building of new generation, and revising market power rules. The Company is participating in these proceedings and expects the TPUC will commence formal rulemaking proceedings later this year or early next year.

Although the Company is not subject to regulation by the Federal Energy Regulatory Commission ("FERC") as a public utility because the Company operates solely within the ERCOT market, the Company is required to make certain filings with FERC to maintain the Company's status as an Exempt Wholesale Generator under the Public Utility Holding Company Act of 1935 ("PUHCA"). On August 8, 2005 the U.S. Energy Policy Act of 2005 was enacted. Six months after the date of enactment of the Energy Policy Act, PUHCA will be repealed and the jurisdiction of FERC will be expanded to cover a limited number of holding company activities, including the direct or indirect acquisition of an electric utility holding company by another electric utility or electric utility holding company. These changes are subject to future FERC rulemaking and interpretation. It is possible, as a result of FERC's expanded jurisdiction, that FERC approval might be required for future merger or acquisition transactions involving Texas Genco and an electric utility or an electric utility holding company even if the assets and operations of both parties are solely within ERCOT.

(6) RELATED PARTY TRANSACTIONS

Limited Liability Company Agreement of Texas Genco LLC.
The limited liability company agreement provides for cash distributions to the members of the Company on a periodic basis for the purposes of funding their tax obligations in respect of the income of the Company that is allocated to them. The amount of those distributions is calculated based on an agreed tax rate of 45% multiplied by the net taxable income of the Company, excluding the earnings of Texas Genco Holdings, Inc., for the relevant tax period. No distributions were made during the six month period ended June 30, 2005.

Transaction and Monitoring Fee Agreement
The Investors have entered into a transaction and monitoring fee agreement with the Company relating to certain monitoring, advisory and consulting services that the Investors will provide. During the six months ended June 30, 2005, the Company paid, in aggregate, $5.0 million in fees to the Investors.

(7) INCOME TAXES

Texas Genco LLC is a limited liability company that is treated as a partnership for federal income tax purposes and is therefore not subject to federal taxation. As a corporation, Texas Genco Holdings, Inc. is subject to corporate level federal income tax. Thus, prior to the Nuclear Acquisition all profit or losses were subject to taxation at the member interest level, whereas after the Nuclear Acquisition, the earnings of Texas Genco Holdings, Inc. are subject to federal income tax and all other profit or losses continue to be subject to taxation at the member interest level.

Texas Genco LLC

The Company's Consolidated Statement of Income reflects the applicable tax expense of Texas Genco Holdings, Inc. The Company's Consolidated Balance Sheet reflects the historical balances of current and deferred taxes of Texas Genco Holdings, Inc., applicable adjustments to the deferred tax liability resulting from timing differences created by the Company's purchase price allocation and the applicable changes in the current and deferred tax liabilities of Texas Genco Holdings, Inc. from the Company's acquisition date through June 30, 2005.

The Company's current and deferred components of income tax expense (benefit) are as follows:

	June 30, 2005
	(In thousands)
Current	
Federal	$ 8,445
State	11
Total current	$ 8,456
Deferred	
Federal	$ (1,573)
State	(2)
Total Deferred	(1,575)
Total Income tax expense	$ 6,881

A reconciliation of the federal statutory income tax rate to the effective income tax rate is as follows:

	June 30, 2005
	(In thousands)
Income (loss) before income taxes	$ 151,503
Federal statutory rate	35%
Income tax expense (benefit) at statutory rate	53,026
Increase (decrease) in tax resulting from:	
Partnership Income	(46,003)
Other, net	(142)
Total	(46,145)
Income tax expense (benefit)	$ 6,881
Effective Rate	4.54%

The Company's tax effects of temporary differences between the carrying amounts of assets and liabilities in the financial statements and their respective tax bases were as follows:

	June 30, 2005
	(In thousands)
Deferred tax liabilities (net):	
Non-current:	
Depreciation	181,397
Employee Benefits and Other	1,458
Total non-current deferred tax liabilities	$ 182,855

One of the provisions of the American Jobs Creation Act of 2004 was a special deduction for qualifying manufacturing activities. The Company's income tax expense includes an estimated benefit for such deductions attributable to Texas Genco Holdings, Inc.

In 2004, the Company submitted private letter ruling requests to the Internal Revenue Service seeking approval for the continued funding of certain amounts into qualified nuclear decommissioning trusts under section 486A associated with the Nuclear Acquisition and the ROFR. On August 8, 2005, the IRS approved the Company's ruling requests.

(8) EARNINGS PER UNIT

The Company's basic and diluted earnings per unit is calculated by dividing the weighted average units outstanding at the end of each period into the net income. At June 30, 2005 Texas Genco LLC had weighted average units outstanding of 176,920,270 and 166,753,722 for the three and six month periods respectively and unit options, which if converted would incrementally increase average units outstanding for the three and six month periods ended June 30, 2005 by 1,680,327 and 1,600,880 respectively on a diluted basis.

	Three Months Ended June 30, 2005	Six Months Ended June 30, 2005
Income available to unit holders	$ 102,214	$ 144,622
Units outstanding	176,920,270	166,753,722
Basic earnings per unit outstanding	$ 0.58	$ 0.87
Effect of dilutive securities		
Unit options assumed converted	1,680,327	1,600,880
Income available to unit holders after assumed conversions	$ 102,214	$ 144,622
Diluted units outstanding	178,600,597	168,354,603
Diluted earnings per unit outstanding	$ 0.57	$ 0.86

(9) SUBSEQUENT EVENTS

Proposed Initial Public Offering

Texas Genco Inc., a newly formed Delaware corporation, has filed a Registration Statement on Form S-1 (File No. 333-125524) with the U.S. Securities and Exchange Commission relating to a proposed initial public offering of Class A common stock of Texas Genco Inc. To facilitate the proposed initial public offering, the Company intends to undertake a reorganization. If the reorganization and the proposed initial public offering are consummated, the Company will become a wholly-owned subsidiary of Texas Genco Holdings LLC, a newly formed Delaware limited liability company, and Texas Genco Holdings LLC will be owned by the Company's existing equity holders and by Texas Genco Inc., which will be the sole managing member of Texas Genco Holdings LLC.

Fuel Transportation

The Company intends to either purchase or lease approximately 2,425 railcars over the next two years to replace its existing fleet of railcars. In July 2005, the Company signed a non-binding letter of intent and the Company is currently in negotiations to obtain a definitive contract with the manufacturer to produce these railcars with expected delivery between March 2006 and March 2007. The total expected cost is approximately $150 million. The Company is still evaluating whether to purchase or lease these railcars when they are delivered.

Labor Negotiations

In July 2005 the Company entered into discussions with IBEW local 66, which represents the Company's 838 union employees, regarding wages and benefits for 2006. In accordance with the terms of the Company's current labor agreement, the Company is to negotiate exclusively on the issues of wages paid and benefits delivered during the final year of the current three year agreement. The current labor agreement precludes any lock out, strike or cessation of work during the term of this agreement (which ends September 17, 2006). The Company does not foresee that these discussions will have any adverse impact on business operations and these discussions are not expected to have a material adverse effect on the Company's financial position, results of operations or cash flows.

Texas Genco LLC

Distributions to Members.

The Company made distributions to its members in the amounts of $48.7 million and $37.1 million on July 28, 2005 and August 8, 2005, respectively. These payments represent preliminary distributions of the net proceeds of the sales of the Texas Genco fuels pipeline and the North Dayton gas storage facility, respectively, net of the estimated tax distribution to be made in respect of the expected capital gain on each of these sales.

* * *

Texas Genco Holdings, Inc.
Condensed Statements of Consolidated Income
(Thousands of Dollars, Except Per Share Amounts)
(Unaudited)

	Three Months Ended June 30, 2004	Period from April 1 through April 13, 2005	Six Months Ended June 30, 2004	Period from January 1 through April 13, 2005
Revenues	$ 552,718	$ 4,577	$ 991,847	$ 61,593
Expenses:				
Fuel costs	263,992	486	450,307	5,687
Purchased power	18,098	—	26,368	—
Operation and maintenance	98,872	9,077	200,199	35,026
Depreciation and amortization	40,607	790	80,976	5,165
Taxes other than income taxes	12,122	583	24,378	3,467
Total	433,691	10,936	782,228	49,345
Operating Income (Loss)	119,027	(6,359)	209,619	12,248
Other Income	1,667	65	2,055	1,145
Interest Expense, net	(114)	(16)	(140)	(763)
Income (Loss) Before Income Taxes	120,580	(6,310)	211,534	12,630
Income Tax Benefit (Expense)	(40,464)	2,189	(70,526)	(3,514)
Net Income (Loss)	$ 80,116	$ (4,121)	$ 141,008	$ 9,116
Basic and Diluted Earnings Per Share:				
Net Income (Loss)	$ 1.00	$ (0.06)	$ 1.76	$ 0.14
Weighted Average Shares Outstanding	80,000,000	67,764,240	80,000,000	67,764,240

See Notes to Holdings' Unaudited Interim Financial Statements

Texas Genco Holdings, Inc.

Texas Genco Holdings, Inc.
Consolidated Balance Sheet
(Thousands of Dollars)
(Unaudited)

Assets	December 31, 2004
Current Assets:	
Cash and cash equivalents	$ 23,499
Restricted cash	406,705
Accounts receivable, other	70,448
Materials and supplies	27,322
Prepaid expenses and other current assets	1,154
Total current assets	529,128
Property, Plant and Equipment:	
Property, plant and equipment	3,070,929
Less accumulated depreciation and amortization	(2,596,702)
Property, plant and equipment, net	474,227
Other Assets:	
Nuclear decommissioning trust	215,849
Restricted cash	174,238
Other	1,534
Total other assets	391,621
Total Assets	$1,394,976
Current Liabilities:	
Short-term borrowings	$ —
Accounts payable – affiliated companies, net	5,045
Accounts payable, other	16,884
Payable to former shareholders	389,743
Taxes and interest accrued	96,956
Other	1,444
Total current liabilities	510,072
Other Liabilities:	
Accumulated deferred income taxes, net	70,032
Unamortized investment tax credit	40,920
Nuclear decommissioning reserve	233,278
Unrealized gain on nuclear decommissioning trust	59,062
Other	28,095
Total other liabilities	431,387
Commitments and Contingencies (Note 5)	
Shareholder's Equity:	
Common stock (64,764,240 shares outstanding at December 31, 2004 and April 13, 2005, respectively)	65
Additional paid-in capital	1,236,508
Treasury stock	(716,081)
Retained earnings (deficit)	(63,402)
Accumulated other comprehensive loss	(3,573)
Total shareholder's equity	453,517
Total Liabilities and Shareholder's Equity	$1,394,976

See Notes to Holdings' Unaudited Interim Financial Statements

Texas Genco Holdings, Inc.

Texas Genco Holdings, Inc.
Condensed Statements of Consolidated Cash Flows

(Thousands of Dollars)
(Unaudited)

	Six Months Ended June 30, 2004	Period from January 1 through April 13, 2005
Cash Flows from Operating Activities:		
Net income	$ 141,008	$ 9,116
Adjustments to reconcile income to net cash provided by operating activities:		
Depreciation and amortization	80,976	5,165
Fuel-related amortization	13,201	4,235
Amortization of deferred financing costs	549	318
Deferred income taxes	(5,357)	887
Investment tax credit	(5,769)	(972)
Changes in other assets and liabilities:		
Accounts receivable	(23,787)	(6,541)
Inventory	1,808	327
Accounts payable	36,387	(5,700)
Accounts payable, affiliate	3,715	(5,045)
Taxes and interest accrued	(45,247)	(93,242)
Accrued reclamation costs	220	—
Benefit obligations	2,316	—
Deferred revenue from capacity auctions	22,713	—
Other current assets	(1,180)	(756)
Other current liabilities	(3,709)	(488)
Other long-term assets	2,204	163
Other long-term liabilities	(2,305)	3,351
Net cash provided by (used in) operating activities	217,743	(89,182)
Cash Flows from Investing Activities:		
Capital expenditures and other	(36,342)	(8,934)
Proceeds from sale of investments	—	383,132
Increase in note receivable, affiliate	(1,283)	—
Net cash provided by (used in) investing activities	(37,625)	374,198
Cash Flows from Financing Activities:		
Increase in short-term borrowings	—	75,000
Payment of common stock dividends	(40,000)	—
Debt issuance costs	(116)	(54)
Payment to former shareholders	—	(383,132)
Net cash used in financing activities	(40,116)	(308,186)
Net Increase (Decrease) in Cash and Cash Equivalents	140,002	(23,170)
Cash and Cash Equivalents at Beginning of Period	44,558	23,499
Cash and Cash Equivalents at End of Period	$ 184,560	$ 329
Supplemental Disclosure of Cash Flow Information:		
Cash Payments:		
Interest	$ 673	$ 482
Income taxes	$ 52,732	$ 91,045

See Notes to Holdings' Unaudited Interim Financial Statements

Texas Genco Holdings, Inc.

Notes to Unaudited Consolidated Financial Statements

(1) Background and Basis of Presentation

General. Included in this Quarterly Report of Texas Genco Holdings, Inc. (Holdings) are Holdings' consolidated interim financial statements and notes (Interim Financial Statements) including its wholly owned subsidiaries. The Interim Financial Statements are unaudited, omit certain financial statement disclosures and should be read with the consolidated financial statements of Holdings for the year ended December 31, 2004 and the quarter ended March 31, 2005.

Background. Holdings is a wholly owned subsidiary of CenterPoint Energy, Inc. (CenterPoint Energy). In July 2004, Holdings entered into a definitive transaction agreement pursuant to which it agreed to be acquired by Texas Genco LLC. On December 15, 2004, Holdings completed the sale of its fossil generation assets (coal, lignite and gas-fired plants) to Texas Genco LLC for $2.813 billion in cash. Following the sale, Holdings distributed $2.231 billion in cash to CenterPoint Energy. Following that sale, Holdings' principal remaining asset was its ownership interest in a nuclear generating facility. The final step of the transaction, the merger of Holdings with a subsidiary of Texas Genco LLC in exchange for an additional cash payment to CenterPoint Energy of $700 million, was completed on April 13, 2005, following receipt of approval from the Nuclear Regulatory Commission (NRC).

Basis of Presentation. The Interim Financial Statements include the operations of Texas Genco Holdings, Inc. and its subsidiaries, which manage and operate Holdings' electric generation operations.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) 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.

Holdings' Interim Financial Statements reflect all normal recurring adjustments that are, in the opinion of management, necessary to present fairly the financial position and results of operations for the respective periods. Amounts reported in Holdings' Statements of Consolidated Operations are not necessarily indicative of amounts expected for a full-year period due to the effects of, among other things, (a) seasonal variations in energy consumption, (b) timing of maintenance and other expenditures and (c) acquisitions and dispositions of assets and other interests.

(2) New Accounting Pronouncements

In January 2003, the Financial Accounting Standards Board (FASB) issued FASB Interpretation No. (FIN) 46 "Consolidation of Variable Interest Entities, an Interpretation of Accounting Research Bulletin No. 51" (FIN 46). FIN 46 requires certain variable interest entities to be consolidated by the primary beneficiary of the entity if the equity investors in the entity do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. On December 24, 2003, the FASB issued a revision to FIN 46 (FIN 46-R). For special-purpose entities (SPE's) created before February 1, 2003, Holdings applied the provisions of FIN 46 or FIN 46-R as of December 31, 2003. The revised FIN 46-R is effective for all other entities for financial periods ending after March 15, 2004. Holdings evaluated two purchase power contracts with qualifying facilities as defined in the Public Utility Regulatory Policies Act of 1978 and concluded that it was not required to consolidate the entities that own the qualifying facilities.

On May 19, 2004, the FASB issued a FASB Staff Position (FSP) addressing the appropriate accounting and disclosure requirements for companies that sponsor a postretirement health care plan that provides prescription drug benefits. The new guidance from the FASB was deemed necessary as a result of the 2003 Medicare prescription law, which includes a federal subsidy for qualifying companies. FSP FAS 106-2, "Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (FAS 106-

2)," requires that the effects of the federal subsidy be considered an actuarial gain and treated like similar gains and losses and requires certain disclosures for employers that sponsor postretirement health care plans that provide prescription drug benefits. The FASB's related existing guidance, FSP FAS 106-1, "Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and Modernization Act of 2003," will be superseded upon the effective date of FAS 106-2. The effective date of the new FSP is the first interim or annual period beginning after June 15, 2004, except for certain nonpublic entities, which have until fiscal years beginning after December 15, 2004. The adoption of FAS 106-2 did not have a material effect on Holdings' results of operations or financial condition.

(3) Short-Term Borrowings

In February 2005, Holdings established a $75 million term loan facility under which borrowings could be made for working capital purposes at the London interbank offered rate plus 50 basis points. Two drawings aggregating $75 million were made under the facility. This facility was secured by a lien on Holdings' equity and the partnership interests in its subsidiaries and cash collateral accounts set up in connection with the sale of the Holdings' coal, lignite and gas-fired generation assets. As of April 13, 2005, borrowings outstanding under this facility totaled $75 million. In connection with the completion of the sale of Holdings on April 13, 2005, the amounts outstanding under the facility were repaid and the facility was terminated.

(4) Related Party Transactions and Major Customers

As of December 31, 2004 and April 13, 2005, Holdings had net accounts payable to affiliates of $5 million and $-0-, respectively.

During the three months ended June 30, 2004, the sales and services by Holdings to Reliant Energy, Inc., (formerly named Reliant Resources, Inc.) (RRI) and its subsidiaries totaled $340 million. During the six months ended June 30, 2004, the sales and services by Holdings to RRI and its subsidiaries totaled $594 million. During the three months and six months ended June 30, 2004, there were no sales and services by Holdings to CenterPoint Energy and its affiliates. During the three months ended June 30, 2004, the sales and services by Holdings to another major customer totaled $107 million. During the six months ended June 30, 2004, the sales and services by Holdings to that customer totaled $189 million.

During the period from January 1 through April 13, 2005, there were no sales and services by Holdings to CenterPoint Energy and its affiliates.

During the three months ended June 30, 2004, purchases of natural gas by Holdings from CenterPoint Energy and its affiliates were $10 million. During the six months ended June 30, 2004, purchases of natural gas by Holdings from CenterPoint Energy and its affiliates were $16 million.

CenterPoint Energy has previously provided some corporate services to Holdings. The costs of services have been directly charged to Holdings using methods that management believes are reasonable. These methods include negotiated usage rates, dedicated asset assignment, and proportionate corporate formulas based on assets, operating expenses and employees. These charges are not necessarily indicative of what would have been incurred had Holdings not been an affiliate. Amounts charged to Holdings for these services were $6 million and $12 million, respectively, for the three months and six months ended June 30, 2004, and are included primarily in operation and maintenance expenses. Amounts charged to Holdings for these services were $0.1 million and $0.8 million, respectively, for the period from April 1 through April 13, 2005 and the period from January 1 through April 13, 2005.

In February 2005, Utility Choice Electric filed in federal court in Houston, Texas a lawsuit against the CenterPoint Energy, CenterPoint Energy Houston Electric, LLC, CenterPoint Energy Gas Services, Inc., CenterPoint Energy Alternative Fuels, Inc., Genco LP and a number of other participants in the ERCOT power market. The plaintiff, a retail electricity provider with the ERCOT market, alleged that defendants conspired to illegally fix and artificially increase the price of electricity in violation of state and federal antitrust laws, intentionally interfered with prospective business relationships and contracts, and committed fraud and negligent misrepresentation. The plaintiff's principal allegations had previously been investigated by the Texas Utility Commission and found to be

without merit. Holdings intends to vigorously defend the case. The ultimate outcome of this matter cannot be predicted at this time.

(5) Employee Benefit Plans

(a) Pension.

For the period January 1 through August 31, 2004, Holdings' employees participated in CenterPoint Energy's pension plan. However, effective September 1, 2004, Holdings established a stand-alone pension plan for substantially all employees of Texas Genco.

(b) Postretirement Benefits.

Holdings' employees participate in CenterPoint Energy's postretirement benefit plan. Net periodic cost for the three months ended June 30, 2004 was $1 million. Net periodic cost for the six months ended June 30, 2004 was $2 million.

CenterPoint Energy used the following assumptions to determine net periodic cost relating to pension benefits allocated to Holdings:

	2004
Discount rate	6.25%
Expected return on plan assets	9.00%
Rate of increase in compensation levels	4.10%

Holdings' net periodic cost for the periods April 1 though April 13, 2005 and January 1 through April 13, 2005 was not material.

Management's Discussion and Analysis of Financial Condition and Results of Operations("MD&A")

The following discussion and analysis of financial condition should be read in combination with the interim financial statements contained in this Quarterly Report. Part A sets forth the MD&A for Texas Genco LLC for the three months and six months ended June 30, 2005 and Part B sets forth the MD&A for Texas Genco Holdings, Inc. for the periods April 1, 2005 to April 13, 2005 and January 1, 2005 to April 13, 2005.

Forward Looking Statements

This Quarterly Report includes "forward-looking statements" within the meaning of Section 27A of Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Forward-looking statements include statements concerning our expectations, plans, objectives, goals, strategies, future events, future revenue or performance, impact on estimated gross margin from our base load plants, capital expenditures, financing needs, plans or intentions relating to acquisitions, business trends and other information that is not historical information. When used in this Quarterly Report, the words "could," "estimate," "expect," "anticipate," "project," "plan," "intend," "believe," "goal," "forecast" and variations of such words or similar expressions are intended to identify forward-looking statements. All forward-looking statements, including, without limitation, management's examination of operating trends, are based upon our current expectations and various assumptions. The Company's expectations, beliefs and projections are expressed in good faith and the Company believes there is a reasonable basis for them. However, there can be no assurance that the Company's expectations, beliefs or projections will result or be achieved.

There are a number of factors that could cause our actual results to differ materially from our expectations. Our gross margins are dependent upon the market price for power in the Electric Reliability Council of Texas, Inc. ("ERCOT") market and our fuel costs. The revenue portion of our gross margins is primarily derived from the sale of power associated with our large base load generation units. The revenue associated with these units is impacted by natural gas prices. Because natural gas is the fuel of marginal plants serving the ERCOT market during most hours, its price has a significant influence on the price of electric power. As a result, the price customers are willing to pay for entitlements to our base load capacity generally rises and falls with natural gas prices. Our fuel costs for our base load units, on the other hand, are determined by prices for coal, lignite and uranium. These prices do not move in correlation with natural gas prices. In addition, the demand for power in the ERCOT market is seasonal, with higher demand occurring during warmer weather. ERCOT is primarily a bilateral market for power, and our ability to sell power is dependent on the willingness of market participants to enter into contracts to buy power from us. As a result of our high leverage, market participants may require us to provide credit support as a prerequisite to entering into power sales contracts and fuel supply contracts. The Company's ability to provide credit support is limited. If customers will not buy power from the Company on a forward basis, fuel suppliers will not sign long-term contracts with the Company, or the quantity of power the Company can sell to certain customers or the quantity of fuel the Company can buy from certain suppliers is limited, a greater proportion of the Company's power sales or fuel purchases may occur through spot or short-term power sales or fuel purchases, which will increase volatility in the prices the Company realizes for the power it sells and the prices it pays for the fuel it purchases.

There are a number of risks and uncertainties that could cause our actual results to differ materially from the forward-looking statements contained in this Quarterly Report. Such risks, uncertainties and other important factors include, among others:

- fluctuation in market prices for power and related products;
- inability to generate power due to plant outages;
- inability to meet obligations under our forward sales obligations;
- our ability to negotiate successfully and enter into advantageous bilateral power sales and fuel supply agreements, as well as to sell capacity;
- a lower rate of growth in electricity usage than currently anticipated, as a result of factors such as regional economic conditions and the implementation of conservation programs;

- risks and hazards associated with the operation and maintenance of power generation facilities;
- the inability of customers to pay amounts owed under power sales agreements;
- customer creditworthiness precluding or limiting our ability to contract with that customer;
- alternative sources and supplies of energy becoming available due to new technologies and interest in self generation and cogeneration;
- increases in the costs of generation, particularly increases in lignite, coal, uranium or uranium enrichment and processing, railcar and railcar transport costs;
- failure of power transmission facilities to provide adequate transmission capacity;
- disruption of fuel supply and fuel transportation, including the failure or unwillingness of counterparties to honor their contractual obligations to us;
- surplus of generation capacity in the ERCOT market and competition in the wholesale power market, including the extent and timing of the entry of additional competitors in the ERCOT market;
- upgrades or additions to the electricity transmission system in and around the ERCOT market;
- the timing and extent of changes in commodity prices, particularly natural gas, coal and nuclear fuel;
- lack of access to capital and the impact of our substantial leverage on our ability to raise additional capital, enter into forward contracts with counterparties in a bilateral market or reduce the effects of volatility in fuel supply costs or on our ability to react to changes in our industry and on our ability to meet our obligations under the Senior Notes, Funded Letter of Credit Facility and Credit Agreement (each as defined below);
- restrictions and/or costs imposed by laws and regulations and our ability to obtain or maintain necessary governmental permits and approvals;
- state and federal legislative and regulatory actions or developments, including deregulation, re-regulation and restructuring of the ERCOT market and changes in, or application of, environmental or other laws or regulations to which we are subject, or in the interpretation or enforcement of those laws or regulations;
- imposition of new taxes or fees related to the production of electricity imposed on our forward power sales where we have no contractual right to collect such additional cost from our customers;
- potential environmental liabilities;
- legal and administrative proceedings, settlements, investigations and claims, including claims relating to asbestos;
- insufficient insurance coverage and increased insurance costs;
- weather variations and other natural phenomena;
- our reliance on Reliant Energy, Inc. ("Reliant") as a major customer and on the ability of Reliant and other counterparties to our forward sale contracts to meet their obligations;
- our ability to operate as a stand-alone company and our reliance on CenterPoint Energy, Inc. and Reliant for transitional services;

- damage to our assets or our ability to serve our customers, market disruptions and other economic effects as a result of terrorism, military activity or war and action by the United States and other governments in reaction thereto;
- the possibility that the interests of our institutional members will conflict with our interests or the interests of our senior noteholders or secured lenders;
- costs and liabilities as a result of our undivided ownership interest in the South Texas Project Electric Generating Station ("STP") associated with the operation and decommissioning of the nuclear units;
- inability to increase, in whole or in part, the net generation capacity at our Limestone plant and STP, in which we have an undivided ownership interest, in accordance with our business plan;
- labor disputes; and
- the other market risk factors set forth under "Quantitative and Qualitative Disclosures about Market Risk."
- changes in Federal and State income and franchise tax laws

There may be other factors not presently known to us or which we currently consider to be immaterial that may cause our actual results to differ materially from those implied by the forward-looking statements.

All forward-looking statements and projections attributable to us or persons acting on our behalf apply only as of the date of this Quarterly Report and are expressly qualified in their entirety by the cautionary statements included in this Quarterly Report. We undertake no obligation to publicly update or revise forward-looking statements, including any of the projections presented herein, to reflect events or circumstances after the date made or to reflect the occurrence of unanticipated events.

Part A — Texas Genco LLC

Overview

The Company is a wholesale electric power generation company engaged in the ownership and operation of a diverse portfolio of power plants in the state of Texas. According to ERCOT, the independent system operator for the electric market that services 85% of the electric demand in Texas, the Company is the second-largest generation company within the ERCOT market and the largest owner of power plants in the Houston zone of that market based on owned MW. The Company sells power and related products to wholesale purchasers, such as retail power providers, power trading organizations, municipal utilities, electric power co-operatives and other power generation companies.

The Company currently owns 48 operating generation units at nine power generation plants, including an undivided 44.0% interest in two nuclear generation units at STP. As of June 30, 2005, the aggregate net generation capacity of the Company's portfolio of operating assets was 10,941 MW, of which 5,222 MW represented the low marginal cost generation capacity of the Company's solid-fuel baseload plants. As a wholesale generator, the Company's principal business is selling electric wholesale power produced by the Company's power plants and measured in megawatt hours, to wholesale purchasers such as retail electric providers, power trading organizations, municipal utilities, electric power co-operatives and other power generation companies. The Company primarily achieves this by selling forward under fixed price power contracts with the Company's customers. The Company's forward power sales agreements result from either bilateral negotiation or capacity auctions the Company conducts. While the terminology and payment mechanics vary in these contracts, the power sales arrangements require the Company to deliver MWh of power and/or provide ancillary services to the Company's counterparties at prearranged prices.

Unlike power pools with independent operators in other regions of the country, the ERCOT market is not a centrally dispatched power pool. Wholesale power generators sell to buyers primarily through long-term and short-term bilateral agreements and capacity auctions. Energy not sold forward may be sold into the ERCOT balancing market on a real time basis to the extent ERCOT requires additional energy to meet load demand. The ERCOT market has

only limited interconnections with other power markets in the United States and competition in the ERCOT market is affected by, among other factors, the amount of generation and transmission capacity in the market. Under the Texas Electric Restructuring Law, the Company is not subject to traditional cost-based regulation and therefore sells electric generation capacity, power and ancillary services to wholesale purchasers at prices determined by the market. As a result, the Company is not guaranteed any rate of return on its capital investments through mandated rates, and the Company's operations are impacted by changes in wholesale power prices and by changes in the prices of other commodities — in particular, natural gas prices. Due to the relatively small proportion in the ERCOT market of lower marginal cost generation capacity such as coal, lignite and nuclear plants (approximately 20,000 MW or 24% of the ERCOT market's net generation capacity), natural-gas fired plants set the market price of wholesale power more than 90% of the time. This means that power prices in the ERCOT market are highly correlated with natural gas prices.

The Company's primary expenses are energy costs, which consist primarily of fuel costs associated with consuming coal, lignite, natural gas and uranium to generate electricity, operation and maintenance costs, property taxes and the Company's incidental power purchases from the wholesale marketplace to cover the Company's obligations to customers.

Industry Trends

The wholesale electric power generation industry experienced a prolonged slump beginning in 2001 from which it has begun to emerge. For the past few years, the industry has experienced a number of challenges, including excess supply and decreased demand for electricity, the pace of economic recovery, industry consolidation and regulatory and legal uncertainties. The Company and others in the industry have experienced significant price volatility in the past several years. Wholesale power prices were relatively soft for much of 2002 and 2003 due to excess energy supply and slower electric energy demand growth nationwide due to mild weather over vast sections of the U.S. combined with slower regional economic growth. Wholesale power prices have been significantly higher in 2004 and 2005 to date due to higher priced natural gas and increased regional economic growth. This situation could change abruptly with decreases in industrial demand or a resurgence of cooler-than-normal weather during the summer season.

A surge in investment in gas-fired power generation facilities occurred in the early 2000s. Most of the recent increase in power generation capacity has been gas-fired, which exposes those generation companies' financial performance to greater risk due to fuel price volatility. Some of that investment led to an overabundance of generating capacity in certain regions of the country. In some instances, plants became financially distressed and several companies sold their plants and exited the sector. The Company expects that the power industry will continue to see corporate restructuring, debt restructuring, and consolidation over the coming years.

In addition, in recent years, state and federal regulators have been evaluating the results of energy deregulation efforts of the 1990s. These efforts were intended to encourage competition, introduce consumer choice and attract additional investment in energy resources. In many states, electric utilities were required to disaggregate traditional functions of generation, transmission, distribution and marketing of electricity in an effort to open markets to competition. Due to a number of causes, energy consumers have been exposed to significant price increases and deterioration in service in recent years, and many state regulators are now seeking new policy directions to assure greater reliability and end-user value in the future. The Company feels that the threat to its performance by regulatory intervention in Texas is low, but the Company actively participates in both the regulatory and legislative arenas.

Factors Affecting The Company's Results

The Company's earnings and cash flows may be significantly affected by: (1) market prices for power and market prices for and availability of fuel, (2) changes in the Company's cost structure, including costs associated with operation, maintenance and repair of plants and facilities and labor and, if the proposed initial public offering is consummated, public company costs, (3) operating performance of the Company's facilities below expected levels of output or efficiency, (4) the credit quality of the counterparties to the Company's forward power sales, and (5) demand for power as affected by weather conditions and economic growth.

In response to the Company's exposure to fluctuations in the market prices of power and fuel, the Company has implemented a risk management strategy whereby the Company targets selling forward on a firm basis up to 80% of available baseload capacity for at least a rolling three-year period depending on market conditions and the Company's credit capacity. In addition, the Company has coordinated its forward sales of power and natural gas swap agreements with its forward purchases of solid fuel and fuel transportation for comparable time periods and quantities to the extent practicable. Through these contractual agreements, the Company has reduced its commercial risk and increased the predictability of its cash flows.

In addition, the Company has implemented initiatives designed to reduce its costs and improve its operating performance. For example, the Company has decentralized and streamlined its business processes and operations, including adoption of a workforce optimization plan that has to date, resulted in 412 employees accepting early retirement and 49 employees resigning or being severed as of June 30, 2005 while minimizing disruption to the Company's operations. In addition, the Company has optimized its asset base by suspending operation of units that are uneconomic.

The Company's business results are dependent on the ability of its solid-fuel baseload plants to produce the amount of power the Company plans to sell. The relative operating performance of these units has been very strong. The availability of the Company's solid-fuel baseload plants exceeded industry averages and the South Texas Project nuclear facility has operated above 99% availability for the year ended December 31, 2004. However, given the Company's high percentage of forward sales, lower than expected operational performance could negatively impact the Company's financial performance, not only by reducing revenues, but also, in an extreme case, by requiring the Company to generate power from its less efficient gas-fired plants, obtain power from a third-party source at a higher cost than the Company's cost of generation to satisfy its obligations or pay to its customers the difference between the higher market price at the delivery point and the contract price.

The Company's risk management policies are designed to mitigate the impact on the Company's financial performance in the event the Company experiences a significant operational issue. First, the Company targets selling forward on a firm basis up to 80% of available baseload capacity as described above. The remaining approximately 20% provides substantial reserve generation capacity in the case of an unforeseen failure at any one of the Company's eight baseload units. Second, the Company operates significant gas generation capacity, a portion of which is reserved as backup for the baseload fleet in the very unlikely event that two baseload units would have significant and simultaneous reliability issues. Third, the Company maintains power cost replacement insurance coverage, which is designed to minimize the Company's financial exposure in the event of a long-term unforeseen outage at one of its baseload units resulting from damage to the unit.

Given the Company's forward sales obligations, the Company is subject to credit risk from its customers. Should a customer enter bankruptcy, it would have the effect of re-exposing the Company's production to the then current market pricing. However, the Company believes it is well protected from credit risks because approximately 80% of the Company's forward sales are with investment grade rated counterparties. Additionally, the Company has very limited credit exposure to its counterparties given it has been selling energy forward in a rising market. Market prices would have to move dramatically down before the Company would have any real exposure.

Recent Developments

Nuclear Acquisition and ROFR

On April 13, 2005, the Nuclear Acquisition occurred, in which a wholly owned subsidiary of the Company merged with and into Texas Genco Holdings, Inc. As a result of the Nuclear Acquisition, Texas Genco Holdings, Inc. became a wholly owned subsidiary of the Company and the Company thereby indirectly acquired Texas Genco Holdings, Inc.'s assets and liabilities, including its 30.8% undivided interest in STP. The Company paid an affiliate of CenterPoint Energy, Inc. aggregate consideration of $700.0 million in cash in connection with the Nuclear Acquisition. The Company financed the Nuclear Acquisition with $475.0 million of borrowings under the term loan portion of the Company's senior secured credit facilities, approximately $99.5 million of revolver borrowings, an additional cash equity investment of $117.8 million by the members of the Company, investment funds affiliated with The Blackstone Group, Hellman & Friedman LLC, Kohlberg Kravis Roberts & Co. L.P. and Texas Pacific Group (collectively, the "Investors") and, to a lesser extent, by certain members of management, and the balance

from cash on hand (the "Nuclear Acquisition Financing", and the Initial Acquisition Financings and the Nuclear Acquisition Financing, together, the "Formation Financings"). In addition, because Texas Genco Holdings, Inc. had approximately $75.0 million of bank debt outstanding, which became due at the closing of the Nuclear Acquisition, the Company also paid approximately $75.0 million from the Company's cash on hand in order to discharge such debt. In connection with the Nuclear Acquisition, in an order from the Nuclear Regulatory Commission ("NRC") dated April 4, 2005, approving the indirect transfer of the STP license from CenterPoint Energy to Texas Genco LLC, the NRC required Texas Genco LLC to enter into a support agreement with Texas Genco LLC's subsidiary Texas Genco, LP to provide up to $120 million to Texas Genco, LP if necessary to support operations at STP. Texas Genco LLC entered into that support agreement on April 13, 2005.

On May 19, 2005, the ROFR occurred, in which pursuant to the exercise of a right of first refusal by Texas Genco, LP subsequent to a third party offer to AEP in early 2004, the Company acquired from AEP an additional 13.2% undivided interest, equivalent to 339 MW, in STP for approximately $174.2 million, less adjustments for working capital and other purchase price adjustments. As a result, the Company now owns a 44.0% undivided interest, equivalent to 1,129 MW, in STP. Texas Genco, LP had deposited cash collateral to secure stand-by letters of credit posted in favor of AEP to secure the obligation to pay AEP for the ROFR. The purchase price for the ROFR was funded from that deposited cash, and on May 19, 2005, excess cash in the amount of approximately $28.9 million securing the stand-by letters of credit was released to us. Pursuant to the purchase agreement for the ROFR, Texas Genco, LP agreed with AEP that, for a period of ten years from the date of the consummation of the ROFR, Texas Genco, LP would maintain minimum partners' equity, determined in accordance with GAAP, of $300 million.

Proposed Initial Public Offering

On June, 6, 2005, Texas Genco Inc., a newly formed Delaware corporation, has filed a Registration Statement on Form S-1 (File No. 333-125524) with the U.S. Securities and Exchange Commission relating to a proposed initial public offering of Class A common stock of Texas Genco Inc. To facilitate the proposed initial public offering, the Company intends to undertake a reorganization. If the reorganization and the proposed initial public offering are consummated, the Company will become a wholly-owned subsidiary of Texas Genco Holdings LLC, a newly formed Delaware limited liability company, and Texas Genco Holdings LLC will be owned by the Company's existing equity holders and by Texas Genco Inc., which will be the sole managing member of Texas Genco Holdings LLC.

Asset Sales

On May 16, 2005, the Company entered into an agreement with TEPPCO Partners, L.P. for the sale of the Texas Genco fuels pipeline and its associated equipment, a 5.5 million barrel storage facility and its associated equipment along with certain oil inventory. The transaction closed on July 15, 2005 for a total purchase price of $70.6 million, subject to adjustment based on the final sale price of such oil inventory.

On June 27, 2005, the Company entered into an agreement with Kinder Morgan Energy Partners, L.P. for the sale of the Company's subsidiaries that own an option to purchase the North Dayton gas storage facility in Liberty County, Texas and associated equipment. The gas storage facility currently was owned by HNG Dayton Storage Company, with whom the Company had a long term storage agreement under which the Company was entitled to purchase North Dayton. On June 27, 2005, the Company entered into an agreement with HNG Dayton Storage Company providing for the exercise of the Company's option to purchase the gas storage facility. The closings of the acquisition of the gas storage facility from HNG Dayton Storage Company and the sale to Kinder Morgan Energy Partners, L.P. occurred on August 1, 2005. At the closings, Kinder Morgan Energy Partners, L.P. paid the Company cash of approximately $51 million and the Company received approximately $2 million from collateral accounts held by a lender of HNG Dayton Storage Company. The Company has entered into a long-term storage capacity and transportation agreement with Kinder Morgan Energy Partners, L.P.

On June 29, 2005, the Company announced that it would conduct an auction to sell its Deepwater, H.O. Clarke, and Webster power plants and associated land. The auction is expected to conclude in the third quarter of 2005.

Distributions to Members

In connection with these sales, the Company made distributions to its members in the amounts of $48.7 million and $37.1 million on July 28, 2005 and August 8, 2005, respectively. These payments represent preliminary distributions of the net proceeds of the sales of the fuel oil pipeline system and the North Dayton gas storage facility, respectively, net of the estimated tax distribution to be made in respect of the expected capital gain on each of these sales.

Resignation of Chief Financial Officer

On July 8, 2005, the Company and Thomas Boehlert agreed that Mr. Boehlert would resign as Executive Vice President and Chief Financial Officer of the Company effective August 1, 2005 which he did. The Company is conducting a search for a replacement.

Power Sales

The Company has continued to sell power forward on both a firm and non-firm basis from its solid-fuel baseload plants. These recent forward solid-fuel baseload sales were sold exclusively to investment grade counterparties and require limited collateral on the Company's part. Through April 13, 2005, the Company purchased Texas Genco Holdings, Inc.'s share of energy generated by STP's output, pursuant to a contractual "back to back" arrangement. The Company also has entered into transactions to sell capacity from its natural gas-fired facilities for 2005. Under these transactions the Company will receive monthly capacity payments and, to the extent the counterparties actually schedule energy delivery, energy payments to compensate the Company for fuel expenses. The Company will continue to evaluate opportunities for Forward Sales Obligations, as well as corresponding fuel purchases and hedging transactions where the Company believes these transactions will allow the Company to realize attractive margins on the capacity of its units.

Railcars

The Company intends to either purchase or lease approximately 2,425 railcars over the next two years to replace its existing fleet of railcars. The Company has signed a non-binding letter of intent and is currently negotiating a definitive contract with the manufacturer to produce these railcars for delivery between March 2006 and March 2007. The Company expects the total cost will be approximately $150 million, and the Company is still evaluating whether to purchase or lease these railcars.

Fuel Supply

The Company's W.A. Parish plant uses Powder River Basin coal for 100% of its fuel while the Company's Limestone plant uses a blend by heat content of approximately 30% Powder River Basin coal and 70% lignite. The Powder River Basin coal is transported from Wyoming by rail. The lignite is supplied from a mine located adjacent to the Company's Limestone facility.

Railroad delivery of Powder River Basin coal to the Company's Limestone and W.A. Parish plants has been disrupted by train derailments and other operational problems caused by deteriorated rail track beds in Wyoming resulting from adverse weather conditions earlier this year. The rail line is jointly owned by BNSF Railway Co. (BN) and Union Pacific Railroad (UP) and is operated and maintained by BN. Subsequent to the derailments, the railroads have begun major repairs to the affected tracks. These events created an initial interruption in May 2005 followed by reduced deliveries since then, and the Company expects future deliveries will be reduced by about 15% through at least November 2005 when the BN estimates the track repairs will be complete. The Company believes it has sufficient coal inventories to maintain generation at its plants through the maintenance period at the projected delivery levels. In order to reduce coal inventory shortage risk should other variations in delivery occur, the Company has implemented a coal management strategy that includes purchasing economically available coal and petroleum coke ("petcoke") in the spot market. Actual power plant performance, power market conditions, weather-induced demand for power, availability of alternative fuel and transportation could have a significant impact on the effectiveness of this strategy.

The lignite at Limestone is supplied under a long term contract at a fixed price through 2007 with price and volume to be renegotiated for the period 2008 through 2015. The mine operator has indicated that the current fixed price is

not sufficient to meet its costs and has requested early renegotiation of the price and volume terms. The operator is a single purpose subsidiary of Westmoreland Coal Company and the contract is not supported by a Westmoreland guarantee. The Company is in discussions with the operator and has agreed to interim surcharges to fund operations and certain capital expenditures required for expansion into a new area of the mine. The operator has continued to meet delivery schedules. On August 8, 2005 the operator issued a notice of force majeure for mechanical breakdown of a mine dragline which will take about two weeks to repair and return to operation. The operator has indicated it intends to continue to be able to make scheduled deliveries despite the breakdown. If the operator fails to perform or is unable to produce sufficient quantities of lignite, the Company could experience a disruption or discontinuance of supply which could result in a partial curtailment or partial shutdown of the Company's Limestone plant and cause the Company to produce power at its gas-fired plants or to acquire power in the spot market to cover its existing power sales obligations.

Texas Genco LLC

Consolidated Results of Operations

The following table sets forth the consolidated results of operations for the three months and six months ended June 30, 2005 for Texas Genco LLC, followed by a discussion of those results.

	Three Months Ended June 30, 2005	Six Months Ended June 30, 2005
Revenues	619,799	1,122,935
Operating Expenses:		
Fuel and purchased power expense	250,316	479,077
Operations and maintenance	119,526	229,510
Depreciation and amortization	83,781	158,588
Taxes other than income taxes	11,943	21,064
Total Operating Expenses	465,566	888,239
Operating Income	154,233	234,696
Interest and Other Income	855	2,347
Interest Expense	(45,993)	(85,540)
Income Before Income Taxes	109,095	151,503
Income Taxes	(6,881)	(6,881)
Net Income	$ 102,214	$ 144,622

Three Months and Six Months Ended June 30, 2005

Net income for the three months and six months ended June 30, 2005 was $102.2 million and $144.6 million respectively, which reflects the impact of favorable power prices, the effects of one planned outage and increased income resulting from the acquisition of a 30.8% interest in STP on April 13, 2005 and an additional 13.2% interest on May 19, 2005. Revenues were $619.8 million on 11,590,820 MWh sold and $1,122.9 million on 21,848,453 MWh sold for the three and six month periods respectively. The revenue increase for the three month period ended June 30, 2005 as compared to the previous quarter is primarily due to increased generation from the Company's gas generation facilities, and reduced planned outage time at the Company's baseload facilities. Revenues for the three months ended and six months ended June 30, 2005 include $62.2 million and $125.1 million respectively related to the amortization of contractual obligations for out-of- market power contracts assumed in the Initial Acquisition. Year-to-date revenues have been decreased by $9.3 million due to a fair value change in the first quarter of 2005 of a forward fixed price sales contract that was not designated as a normal sales transaction, in accordance with SFAS No. 133 until March 10, 2005. Fuel and purchased power expenses were $250.3 million and $479.1 million respectively for the three and six months periods ending June 30, 2005, which reflects lower purchased energy offset by additional fuel costs associated with STP and increased natural gas fuel costs due to the higher gas-fired generation in the three months ended June 30, 2005 and a reduction of $10.6 million and $23.7 million respectively for the three and six month periods ending June 30, 2005 related to the amortization of the Company's out-of-market purchase coal contracts assumed in the Initial Acquisition.

Operations and maintenance expenses for the three month and six month period ending June 30, 2005 of $119.5 million and $229.5 million respectively were impacted by additional operations and maintenance expenses of STP and by a net charge of $12.6 million and $36.9 million, respectively, for those periods related to the cost of the Company's workforce reduction program and an aggregate $2.5 million and $5.0 million, respectively, in transaction and monitoring fees for the Investors. Interest expense for the three month and six month period ending June 30, 2005 of $46.0 million and $85.5 million, respectively, reflects the combination of interest on the

Company's debt and $6.7 million and $14.0 million respectively for the three month and six month period ending June 30, 2005 in fees and amortization of deferred loan cost.

Baseload Capacity Sold Forward

The Company has continued to enter contracts to sell power forward on both a firm and non-firm basis from its baseload plants. These recent forward baseload contracts are exclusively with investment grade counterparties, and require limited collateral on the Company's part. As of June 30, 2005 the Company had economically hedged the market price risk exposure associated with approximately 93% of its available baseload capacity in 2005, 84% in 2006, 81% in 2007, 77% in 2008, and 54% in 2009. Through April 13, 2005, the Company purchased Texas Genco Holdings, Inc.'s share of energy generated by STP's output, pursuant to a contractual "back to back" arrangement. The Company also has entered into transactions to sell capacity from its gas-fired facilities for 2005. Under these transactions the Company will receive monthly capacity payments and, to the extent the counterparties actually schedule energy delivery, energy payments to compensate the Company for fuel expenses.

The following table summarizes the Company's forward power sales and natural gas swap agreements transacted through June 30, 2005. Approximately 80% of the Company's forward power sales and natural gas swap agreements are with investment grade rated counterparties, and the Company expects this percentage to increase over time as current contracts with below investment grade rated counterparties are fulfilled.

	2005	2006	2007	2008	2009	Average for 2005-2009
Baseload Capacity (MW) (1)	5,222	5,327	5,359	5,359	5,359	5,325
Available Baseload Capacity (MW) (2)	4,791	4,943	5,146	5,107	5,090	5,015
Forward Firm Sales (MW) (3)	3,865	3,279	3,971	3,450	1,875	3,288
Forward Gas Swaps (MW) (4)	—	527	—	344	871	348
Forward Non-firm (MW) (5)	602	350	200	150	—	260
Total Baseload Sales	4,467	4,156	4,171	3,944	2,746	3,896
Available Baseload Capacity Sold Forward – Firm	81%	77%	77%	74%	54%	73%
Available Baseload Capacity Sold Forward – non-Firm	13%	7%	4%	3%	—	5%
Total Baseload Capacity Sold Forward	93%	84%	81%	77%	54%	78%
Weighted Average Forward Price ($ per MWh)(6)	$ 43	$ 44	$ 38	$ 40	$ 46	$ 42
Total Forward Sales Revenues ($ in millions) (3) (4)(6)	$ 1,668	$ 1,603	$ 1,391	$ 1,401	$ 1,106	$ 1,434

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(1) Baseload Capacity (MW) is the sum of the net generation capacity of the Company's solid-fuel baseload plants and is based on tests performed by the Company and reported to the Electricity Reliability Council of Texas as of June 30, 2005 and includes the 44.0% undivided interest in South Texas Project Electric Generating Station the Company now owns. Actual capacity can vary depending on factors including weather conditions, operational conditions and other factors. The Electricity Reliability Council of Texas requires periodic demonstration of capability, and the capacity may vary individually and in the aggregate from time to time.

(2) Available Baseload Capacity (MW) is the average capacity of the Company's solid-fuel baseload plants adjusted for planned outages during the course of a year. It does not take into account possible unplanned outages and, for the period from January 1, 2005 through May 19, 2005, includes only a 30.8% undivided interest in South Texas Project Electric Generating Station.

(3) All forward sales attributable to Texas Genco Holding, Inc.'s share of the output of South Texas Project Electric Generating Station were passed through to Texas Genco, LP prior and subsequent to the close of the Nuclear Acquisition.

(4) The Forward Natural Gas Swap quantities reflected in equivalent MW are derived by dividing the quantity of MMBtu of natural gas hedged by the average market heat rate of the relevant Electricity Reliability Council of Texas zones as of June 30, 2005. Revenues sold forward include revenues associated with natural gas swap agreements which are estimated by multiplying the contracted fixed swap price the Company receives by the market heat rate of the relevant Electricity Reliability Council of Texas zones as of June 30, 2005. Under the terms of natural gas swap agreements, the Company receives (if the spot price of natural gas is less than the contracted fixed swap price) or pay (if the spot price of natural gas is more than the contracted fixed swap price) the difference between the cost of natural gas in the spot market and the contracted fixed swap price. Due to the high correlation between natural gas prices and power prices in the Electricity Reliability Council of Texas market, these arrangements are designed to hedge the amount of power sales revenue the Company will receive for the equivalent amount of capacity. Under these arrangements, assuming a constant market heat rate, as the price of natural gas rises, the amount the Company pays on the natural gas swap agreements is offset by an increase in the price the Company receives for power. Total

revenue will be affected by any ineffectiveness recognized in connection with the natural gas swap agreements due to a change in the correlation between natural gas prices and electricity prices.

(5) Forward Non-Firm Sales Obligations (MW) are sales for which the Company is not required to deliver electricity in the event of an outage at a baseload plant.

(6) Includes amounts under fixed price power sales contracts and amounts financially hedged under natural gas swap agreements. The table does not include 100 MW of forward power sales and 601 MW of natural gas swap agreements, representing $303 million in total revenues.

Liquidity and Capital Resources

Cash Flows

The following table sets forth selected consolidated cash flows derived from the Company's consolidated financial statements included herein, for the three months and six months ended June 30, 2005. The net cash provided by (used in) the Company's operating, investing and financing activities is as follows:

	Six Months Ended June 30, 2005
	(in millions)
Cash provided by (used in):	
Operating activities	$ 207.5
Investing activities	$ (712.7)
Financing activities	$ 511.7

Cash Provided by Operating Activities.

Net cash provided by operating activities in the six month period ended June 30, 2005 was $207.5 million. Cash provided by operating activities primarily reflects the net income of $144.6 million, price risk management activity of $12.6 million, accrued workforce reduction of $36.8 million, and changes in other balance sheet accounts for the six month period ended June 30, 2005.

Cash Used in Investing Activities.

Net cash used in investing activities in the six months ended June 30, 2005 was $712.7 million. Cash used in investing activities primarily consists of the Nuclear Acquisition and ROFR and additions to construction in progress and plant and equipment.

Cash Used in Financing Activities.

Net cash used in financing activities in the six months ended June 30, 2005 was $511.7 million, which consisted of $119.5 million from member's contributions, borrowings of $574.5 million, and the repayment of $182.3 million of long-term borrowings.

Future Sources and Uses of Cash

The Company expects that its future liquidity and capital requirements will be affected by its:

- capital requirements related to environmental compliance and other maintenance projects;
- debt service requirements; and
- working capital requirements, including the possible need to provide collateral to support the Company's commercial obligations.

On June 30, 2005, the Company had cash and cash equivalents of approximately $92.5 million.

The Company currently expects funds generated from its operating activities, together with existing cash and cash equivalents, and availability of letters of credit and borrowings under the Credit Agreement and the Funded Letter of Credit Facility, will be adequate to fund the Company's ongoing operating and debt service requirements, as well as possible collateral needs.

Long-Term Financing Obligations

Senior Notes, Credit Agreement and Funded Letter of Credit Facility. The Company's long-term financing obligations outstanding consisted of the following as of June 30, 2005:

Long-term debt:	June 30, 2005 (in millions)
6.875% Senior Notes, due 2014	$ 1,125.0
Term Loan Facilities, due 2011	1,618.1
Subtotal	2,743.1
Less:	
Current maturities	(16.3)
Total long-term financing obligations, less current maturities	$ 2,726.8
Aggregate maturities of the principal amounts of long-term financing obligations for the next five years and in total thereafter are as follows:	
2005 (July-December)	$ 8.1
2006	16.3
2007	16.3
2008	16.3
2009	16.3
2010	16.3
Thereafter	2,653.5
Total long-term financing obligations, including current maturities	$ 2,743.1

On December 14, 2004, the Company executed a Credit Agreement with several lenders ("Credit Agreement"), under which various credit facilities were made available to the Company. Substantially all of the Company's assets are pledged as collateral to the Credit Agreement lenders. All payments under the Credit Agreement are jointly and severally, and unconditionally guaranteed by the Company's existing and subsequently acquired or organized restricted domestic subsidiaries. Interest expense under the term loan facilities, including amortized financing charges, was approximately $21.7 million and $35.6 million, respectively, for the three months and six months ended June 30, 2005. The effective interest rate on the term loan facilities, after amortization of deferred financing costs, was approximately 5.4% and 5.2%, respectively, for the three months and six months ended June 30, 2005.

The Credit Agreement provides for the payment to the lenders of commitment fees equal to 0.5% per annum of the undrawn portion of the revolving credit facility, the base letter of credit facility and the special letter of credit facility and 1.25% per annum on the undrawn portion of the delayed draw term loan facility. The commitment fees are paid quarterly in arrears.

Funded Letter of Credit Facility. On June 24, 2005, Texas Genco LLC entered into a $150.0 million Funded L/C Credit Agreement ("Funded Letter of Credit Facility") with several lenders, which will expire on December 14, 2011. The Funded Letter of Credit Facility provides for the payment to the administrative agent for the benefit of each lender of fees totaling 2.08% per annum on such lender's credit-linked deposit funding amount. The Funded Letter of Credit Facility provides for the payment of fronting fees to the issuing lender in an amount equal to the stated amount of all funded letters of credit outstanding multiplied by 0.12% per annum. All fees are paid at least quarterly in arrears. The Funded Letter of Credit Facility provides for Texas Genco LLC to be able, at its option, to reduce commitments, without penalty or premium.

Texas Genco LLC

Texas Genco LLC's obligations under the Funded Letter of Credit Facility are unconditionally and irrevocably jointly and severally guaranteed by each of its existing and subsequently acquired or organized domestic subsidiaries, other than unrestricted subsidiaries, and the obligations and guarantees are secured by a perfected lien on all of its and its guarantors' assets, including all personal, real and mixed property (except for certain excluded assets).

For the three months and six months ended June 30, 2005, commitment fees for the revolving credit facility, base letter of credit facility, special letter of credit facility, delayed draw term loan facility and Funded Letter of Credit Facility, after amortization of deferred financing charges, were approximately $3.3 million and $7.3 million in the aggregate, respectively.

The following table summarizes used and available portions of the various credit facilities made available to the Company under the Credit Agreement and the Funded Letter of Credit Facility at June 30, 2005:

Facility	Commitment Amount	Amounts Borrowed	Face Amount of Letters of Credit Issued	Total Unused
		(in millions)		
Term Loan Facility, due 2011	$ 1,144.3	$ 1,144.3	$ N/A	$ N/A
Delayed Draw Term Loan Facility, due 2011	473.8	473.8	N/A	N/A
Revolving Credit Facility, due 2009	325.0	—	31.6	293.4
Base Letter of Credit Facility, due 2009	200.0	—	62.8	137.2
Special Letter of Credit Facility, due 2009	344.3	N/A	344.3	—
Funded Letter of Credit Facility, due 2011	150.0	N/A	150.0	—
Total	$ 2,637.4	$ 1,618.1	$ 588.7	$ 430.6

Capital Lease Obligations. Current and long-term capital lease obligations at June 30, 2005 were $1.2 million and $3.0 million respectively.

Senior Notes. On December 14, 2004, the Company and Texas Genco Financing Corp., the Company's wholly owned subsidiary, co-issued unsecured 6.875% Senior Notes due December 15, 2014 (the "Senior Notes"), in an aggregate principal amount of $1,125.0 million. Interest on the Senior Notes is payable semiannually in arrears on December 15 and June 15, commencing June 15, 2005. Interest expense related to the Senior Notes was approximately $19.3 million and $38.7 million for the three month and six month period ended June 30, 2005. The effective interest rate on the Senior Notes, after amortization of deferred financing costs, was approximately 7.2 % for the three month and six month period ending June 30, 2005.

Estimated Capital Expenditure Requirements

During the second quarter of 2005, approval was granted by the Owners' committee of STP to proceed with significant uprate and fuel projects for 2006 and beyond. These projects include the acquisition of a strategic reserve of uranium, replacement of LP turbine rotors and the replacement of nuclear reactor vessel heads.

The following table reflects approved or projected capital expenditures for the Company through 2009 (in millions) as of June 30, 2005:

Estimated Capital Expenditure Requirements:	Total	2005	2006	2007	2008	2009
Environmental expenditures	$ 17.5	$ 12.0	$ 5.5	$ —	$ —	$ —
Capital and other expenditures	526.7	86.2	154.4	107.1	85.2	93.8
Total expenditure requirements	$544.2	$ 98.2	$159.9	$107.1	$ 85.2	$ 93.8

The estimated capital expenditure requirements in the above table include capital costs for plant upgrade projects of $19.1 million, $51.3 million and $23.5 million in 2005, 2006 and 2007, respectively. These projects are expected to

increase baseload plant capacity by 182 MW as the projects are completed in 2006 and 2007. The capital and other expenditure requirements also include expenditures for nuclear fuel of $14.9 million, $51.6 million, $29.2 million, $41.4 million and $42.2 million for the years 2005 through 2009, respectively.

Reclamation and Retirement Obligations

An affiliate of CenterPoint provided a $50.0 million guarantee to the Railroad Commission of Texas with respect to the reclamation obligations. The Company has agreed with CenterPoint to cause the guarantee to be released within five years, which may require the Company to provide a bond or other security.

Tax Distributions

The Company's limited liability company agreement provides for cash distributions to the members of the Company on a periodic basis for the purposes of funding their tax obligations in respect of the income of the Company that is allocated to them. The amount of those distributions is calculated based on an agreed tax rate of 45% multiplied by the net taxable income of Texas Genco LLC, excluding the earnings of Texas Genco Holdings, Inc., for the relevant tax period. No distributions were made during the six month period ended June 30, 2005.

Pension Plan, Retirement Benefits and Compensation Obligations

Based on an expected return on plan assets of 8.5% and a discount rate of 5.75% as of December 31, 2004, pension expense for the six months ended June 30, 2005 was $64.4 million, which included $58.6 million related to the Company's Voluntary Retirement Incentive program. Future changes in plan assets, returns, assumed discount rates and various other factors related to the pension will also impact the Company's future pension expense and liabilities. The Company cannot predict with certainty what these factors will be in the future. The plan assets were invested in marketable securities for which an active market existed. In accordance with SFAS 87, "Employers' Accounting for Pensions," the fair value at the measurement date for each investment was determined by utilizing the market prices for each investment. The sum of these fair values was reflected as the "Fair value of the assets."

Employees of Texas Genco II, LP ("Genco II") participate in a retiree medical plan that provides certain healthcare benefits for retired employees on a contributory basis. Employees become eligible for these benefits if they have met certain age and service requirements at retirement, as defined in the plan. Employer contributions for medical coverage for certain healthcare benefits are limited by the plan's benefit design. Such benefit costs are accrued over the active service period of employees. The Company funds all of these obligations on a pay-as-you-go basis. Under an agreement between CenterPoint and the Company, CenterPoint has retained the obligation to pay retiree medical benefits for all Genco II employees who subsequently retire and had attained either age 55 with five years of service or 50 to 54 years of age with 20 years of service as of December 15, 2004. The Company's benefit payments under this plan are expected to be $25 thousand in 2005, $0.1 million in 2006, $0.1 million in 2007, $0.2 million in 2008, $0.2 million in 2009 and $8.8 million in the aggregate for 2010 through 2014.

Nuclear Acquisition and ROFR

On April 13, 2005, a wholly owned subsidiary of the Company merged with and into Texas Genco Holdings, Inc. (the "Nuclear Acquisition"). As a result of the Nuclear Acquisition, Texas Genco Holdings, Inc. became a wholly owned subsidiary of the Company and the Company thereby indirectly acquired Texas Genco Holdings, Inc.'s assets and liabilities, including its 30.8% undivided interest in STP. The Company paid an affiliate of CenterPoint Energy, Inc. aggregate consideration of $700.0 million in cash in connection with the Nuclear Acquisition. The Company financed the Nuclear Acquisition with $475.0 million of borrowings under the term loan portion of its senior secured credit facilities, approximately $99.5 million of revolver borrowings, an additional cash equity investment of $117.8 million by existing equityholders, investment funds affiliated with The Blackstone Group, Hellman & Friedman LLC, Kohlberg Kravis Roberts & Co. L.P. and Texas Pacific Group (collectively, the "Investors") and, to a lesser extent, by certain members of management, and the balance from cash on hand (the "Nuclear Acquisition Financing" and the Initial Acquisition Financings and the Nuclear Acquisition Financing, together, the "Formation Financings"). In addition, because Texas Genco Holdings, Inc. had approximately $75.0 million of bank debt outstanding, which became due at the closing of the Nuclear Acquisition, the Company also paid approximately $75.0 million from its cash on hand in order to discharge such debt.

The following table sets forth the calculation and adjustments made in connection with the preliminary allocation of the purchase price with respect to the Nuclear Acquisition (in millions):

Current assets	$ 49.8
Property, plant and equipment	731.8
Nuclear decommissioning trust	214.4
Other non-current assets	26.5
Restricted investments	191.2
Total assets acquired	1,213.7
Current liabilities	(23.7)
Debt assumed	(75.0)
Nuclear decommissioning reserve	(191.2)
Other non-current liabilities	(40.7)
Deferred Tax Liability	(184.4)
Total liabilities assumed	(515.0)
Net assets acquired	$ 698.7

On May 19, 2005, pursuant to the exercise of a right of first refusal by Texas Genco, LP subsequent to a third party offer to AEP in early 2004, the Company acquired from AEP an additional 13.2% undivided interest, equivalent to 339 MW, in STP for approximately $174.2 million, less adjustments for working capital and other purchase price adjustments (the "ROFR"). As a result, the Company now owns a 44.0% undivided interest, equivalent to 1,129 MW, in STP. Texas Genco, LP had deposited cash collateral to secure stand-by letters of credit posted in favor of AEP to secure the obligation to pay AEP for the ROFR. The purchase price for the ROFR was funded from that deposited cash, and on May 19, 2005, excess cash in the amount of approximately $28.9 million securing the stand-by letters of credit was released to us. The following table sets forth the estimated fair values of the assets acquired and liabilities assumed in connection with the consummation of the ROFR (in millions):

Current assets	$ 13.1
Property, plant and equipment	163.3
Other intangibles	0.1
Nuclear decommissioning trust	75.8
Other non-current assets	7.5
Total assets acquired	259.8
Nuclear decommissioning reserve	(82.0)
Other liabilities	(13.8)
Total liabilities assumed	(95.8)
Net assets acquired	$ 164.0

The final purchase price allocation and estimated useful life of intangible assets are subject to refinement for changes in the Company's preliminary assumptions and analyses. The Company is in the process of obtaining a third party valuation of certain natural gas-fired electric generating facilities, emission allowances, customer-related intangible assets, goodwill and plant decommissioning costs or retirement obligations. Additionally, the Company is in the process of implementing a plan to reduce its workforce. The Company expects that involuntary termination costs associated with the workforce optimization plan will be included in the allocation of the acquisition cost when such amounts are estimable. The Company will utilize this information to make a final assessment of its purchase price allocation.

Suspension of Plant Operations

On January 10, 2005, the Company filed notice with ERCOT to suspend operations at fifteen gas fired generation units located at the Company's Cedar Bayou, Webster, P.H. Robinson, H.O. Clarke, T.H. Wharton and Deepwater

Stations. This is the first step in a process to retire the units permanently or to place them in mothball status for more than 180 days. ERCOT has notified the Company that it would only need P.H. Robinson Unit 2 and negotiated with the Company to maintain the unit in operation on a "Reliability Must Run" basis ("Must-Run Contract"). Under the Must-Run Contract, the Company recovers the costs of operating and activating the unit from ERCOT and in turn the unit is available to ERCOT for reliability needs. The Must-Run Contract has a term of one year starting on May 17, 2005, with a right of early termination by ERCOT. On August 1, 2005 ERCOT issued a 90 day notice of early termination that terminates this contract with ERCOT on October 29, 2005.

Nuclear Decommissioning

As a result of the Nuclear Acquisition and ROFR, the Company has become the beneficiary of decommissioning trusts that have been established to provide funding for decontamination and decommissioning of the South Texas Project in which the Company owns a 44.0% interest. CenterPoint Energy and American Electric Power collect, through rates or other authorized charges to their electric utility customers, amounts designated for funding the decommissioning of the facility. In the event funds from the trusts are inadequate to fund the Company's ownership portion of the actual decommissioning costs, CenterPoint Energy and American Electric Power or their successors will be required to collect through rates or other authorized charges to customers as contemplated by the Texas utility Code all additional amounts required to fund the Company's obligations relating to the decommissioning of the facility. Following the completion of the decommissioning, if surplus funds remain in the decommissioning trust, the excess will be refunded to the ratepayers of CenterPoint Energy, American Electric Power, or their successors. The fair value of the trust assets are reflected as a non-current asset by the Company with an associated long-term liability to reflect the future obligation to fund the decommissioning from the trust assets.

In addition to the nuclear decommissioning trusts, the Company has recorded asset retirement obligations and liabilities in accordance with SFAS No. 143 "Accounting for Asset Retirement Obligations". The assets and liabilities were recorded on the respective acquisition dates based on the estimated future costs of decontamination and decommissioning of the Company's 44.0% interest in the South Texas Project. The asset is being amortized over the remaining licensing period for the South Texas Project and is reflected as a component of property plant and equipment. Accretion expense is being recognized associated with the liability.

As of June 30, 2005 the trust assets had a market value of $296.0 million. The unamortized portion of the retirement obligation asset was $283.5 million. The decommissioning liability was $288.4 million, and the liability to fund decommissioning from the trust assets and payments to or from ratepayers was $291.1 million. The total value of all assets and all liabilities associated with the decommissioning and the trusts will always be equal, which is consistent with the Company not having any economic exposure for the decommissioning responsibilities.

State Auction Application

Texas Genco Holdings, Inc., when it was a subsidiary of CenterPoint Energy, Inc., was required by Texas regulation to auction firm entitlements to 15% of its installed generation capacity and related ancillary services on a forward basis to non-affiliates (the "Texas Utility Commission state-mandated auctions"). The Company has filed with the Texas Utility Commission for a declaratory ruling that the Company is not required to conduct Texas Utility Commission state-mandated auctions. The Texas Utility Commission ruled at an open meeting in June 2005 that the Company is required to conduct the auction, although it indicated that if the Company sells generation units in the interim the Company may be excused from the auction. The Texas Utility Commission issued a declaratory order on July 29, 2005 stating that the Company is still required to conduct the state-mandated auctions. The Company is currently contemplating the submittal of a request for rehearing, in light of the Company's announcement that it is offering for sale the natural gas-fired generation plants at Deepwater, H. O. Clarke and Webster. The Company recently filed a notice of auction to sell approximately 775 MWs of capacity starting on September 12, 2006 and in the quarterly auctions thereafter and it is uncertain whether the Company would be able to obtain a ruling on the motion for reconsideration in advance of the September auction. If the Company is required to conduct Texas Utility Commission state-mandated auctions, that obligation will continue through December 31, 2006.

Workforce Optimization Plans.

On February 1, 2005, and in conjunction with the Initial Acquisition, the Company announced a workforce optimization plan (the "Plan") for its non-bargaining unit employees. The program consists of a voluntary retirement incentive and an involuntary severance.

Voluntary Retirement Incentive. On February 14, 2005, the Company announced a Voluntary Retirement Incentive Program ("VRI") for its eligible 232 non-bargaining unit employees, and on March 15, 2005, an identical program was announced for its eligible 309 bargaining unit employees. To be eligible for the VRI, employees must have been (1) employed on February 1, 2005 (on March 1, 2005 for bargaining unit employees), (2) at least age 50 with at least 15 years of service on April 1, 2005, and (3) a participant in the Texas Genco II LP retirement plan ("Retirement Plan"). In summary, the VRI offers the eligible employee (i) an annuity payment from the Retirement Plan based on the greater of (a) the cash balance account in the Retirement Plan, or from the predecessor plan benefit formula, (b) the accrued lump sum benefit paid as a monthly annuity, or (c) the present value of the immediate life annuity; (ii) the present value of two years of base salary in the form of a twenty-four month annuity payment from the Retirement Plan (or, if the employee elects, in the form of a life annuity); (iii) a lump-sum healthcare bridge payment if the employee is under age 55; and (iv) payment of earned vacation and a pro-rated 2005 discretionary bonus. The election period to participate in the VRI expired on April 7, 2005 and as of June 30, 2005, 412 employees had elected to retire and did not revoke their election. SFAS No. 88, Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits, specifies that an employer that offers special termination benefits to employees shall recognize a liability and a corresponding cost when the employees accept the offer and the amount can be reasonably estimated. During the three and six month periods ended June 30, 2005, charges of $26.3 million and $58.6 million were recognized relative to the estimated increased pension cost related to the VRI plan. Additionally, during the three and six month periods ending June 30, 2005 $1.5 million and $3.0 million were recognized as estimated liabilities for the health care bridge payment associated with the 412 electing employees.

SFAS No. 88, Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits, specifies that an employer that offers special termination benefits to employees shall recognize a liability and a corresponding cost when the employees accept the offer and the amount can be reasonably estimated. During the six month period ended June 30, 2005, a charge of $58.6 million was recognized relative to the estimated increased pension cost related to the VRI plan. Additionally, $3.0 million was recognized as an estimated liability for the health care bridge payment associated with the 191 electing employees.

Involuntary Severance. The second component of the Plan is being achieved by targeted workforce reductions. Employees terminated pursuant to the Plan receive a lump-sum cash severance benefit payment based on a calculation which provides three weeks of base pay for each full year of service realized with the Company (and qualified predecessor employers), with a minimum of 12 weeks and a maximum of 52 weeks of severance benefits paid to an affected individual. In addition, the terminated employee would receive an additional lump sum equal to the employee's target award under the Company's annual short-term incentive plan based on eligible earnings for the period commencing on January 1 of the termination year through the employee's date of termination. Affected individuals will also have the ability to continue medical, dental and vision benefits at the active employee contribution rates for coverage for the number of weeks used to calculate the individual's severance benefit. As of June 30, 2005, the Company has terminated 28 employees pursuant to this component of the Plan.

During the six month period ended June 30, 2005, the Company completed an analysis that estimated the total minimum severance benefits for the total targeted workforce reduction. This estimated cost of $29.6 million was accrued during the quarter ended March 31, 2005 and included a reduction of $29.6 million in goodwill. This estimate will may be adjusted in future periods, as the total actual severance liability is determined.

During the six months ended June 30, 2005, the accrued liability for severance benefits was reduced by $24.7 million reflecting the minimum severance benefits liability associated with the 412 employees electing the VRI as of June 30, 2005. As a result, Operations and Maintenance expenses for the six month period ended June 30, 2005 includes a $58.6 million pension charge, and a $3.0 million health care bridge charge, which was partially offset by a $24.7 million minimum severance credit, all relating to the VRI plan.

Off-Balance Sheet Arrangements

The Company has no off-balance sheet arrangements.

Part B — Texas Genco Holdings, Inc.

Consolidated Results of Operations

The following table sets forth the consolidated results of operations of Texas Genco Holdings, Inc. and its subsidiaries ("Holdings") for the period from January 1, 2005 to April 13, 2005 and six months ended June 30, 2004, followed by a discussion of Holdings' consolidated results of operations.

	Three Months Ended June 30, 2004	Period from April 1 through April 13, 2005	Six Months Ended June 30, 2004	Period from January 1 through April 13, 2005
Revenues	$ 552,718	$ 4,577	$ 991,847	$ 61,593
Expenses:				
Fuel costs	263,992	486	450,307	5,687
Purchased power	18,098	—	26,368	—
Operation and maintenance	98,872	9,077	200,199	35,026
Depreciation and amortization	40,607	790	80,976	5,165
Taxes other than income taxes	12,122	583	24,378	3,467
Total	433,691	10,936	782,228	49,345
Operating Income (Loss)	119,027	(6,359)	209,619	12,248
Other Income	1,667	65	2,055	1,145
Interest Expense, net	(114)	(16)	(140)	(763)
Income (Loss) Before Income Taxes	120,580	(6,310)	211,534	12,630
Income Tax Benefit (Expense)	(40,464)	2,189	(70,526)	(3,514)
Net Income (Loss)	$ 80,116	$ (4,121)	$ 141,008	$ 9,116
Basic and Diluted Earnings Per Share:				
Net Income (Loss)	$ 1.00	$ (0.06)	$ 1.76	$ 0.14
Weighted Average Shares Outstanding	80,000,000	67,764,240	80,000,000	67,764,240

Period from April 1 through April 13, 2005 and January 1 through April 13, 2005

For the period from April 1 through April 13, 2005, Holdings reported a net loss of $3 million as compared to net income of $80 million for the three months ended June 30, 2004. For the period from January 1 through April 13, 2005, Holdings reported net income of $10 million as compared to $141 million for the six months ended June 30, 2004. On December 15, 2004, Texas Genco Holdings, Inc. sold its coal, lignite and gas-fired generation assets to the Company. In 2005, Texas Genco Holdings, Inc.'s only remaining asset was its 30.8% interest in the South Texas Electric Generating Project nuclear generating facility. Texas Genco Holdings, Inc. was sold to Texas Genco LLC on April 13, 2005. Therefore, there is no meaningful comparison between 2004 and 2005.

Texas Genco Holdings, Inc.

Liquidity and Capital Resources

Historical Cash Flows

The net cash provided by/used in Holdings' operating, investing and financing activities for the six months ended June 30, 2004 and the period from January 1 through April 13, 2005 is as follows (in millions):

	Six Months Ended June 30,	Period from January 1 through April 13,
	2004	2005
Cash provided by (used in):		
Operating activities	$ 218	$ (89)
Investing activities	(38)	374
Financing activities	(40)	(308)

Cash Provided by (Used in) Operating Activities

Net cash provided by operating activities decreased $307 million for the period from January 1 through April 13, 2005 as compared to the six months ended June 30, 2004 primarily due to increased income taxes paid related to the sale of Holdings' fossil generation assets.

Cash Provided by (Used in) Investing Activities

Net cash provided by investing activities increased $412 million for the period from January 1 through April 13, 2005 as compared to the six months ended June 30, 2004. The settlement of notes receivable from affiliates position in the first quarter of 2005 and a decrease in restricted cash of $383 million related to payments to former shareholders contributed to the increase as compared to the six months ended June 30, 2004. Additionally, there were decreased capital expenditures due to the sale of the fossil generation assets on December 15, 2004.

Cash Used in Financing Activities

Cash used in financing activities increased $268 million for the period January 1 through April 13, 2005 as compared to the six months ended June 30, 2004. Holdings borrowed $75 million under its revolving credit facility during the first quarter of 2005. Additionally, the dividend payment was eliminated in the first quarter of 2005, and payments for $383 million in the period from January 1 through April 13, 2005 were made for previously purchased treasury shares.

Quantitative and Qualitative Disclosures about Market Risk

Interest Rate Risk

Changes in interest rates affect the interest expense the Company incurs on the Company's variable-rate debt and the fair value of the Company's fixed-rate debt. In addition, changes in interest rates used in the estimation of the fair value of the Company's derivative positions can result in increases or decreases in the unrealized value of those positions; however, at June 30, 2005 the Company had no such derivative positions.

The table below shows the maturity for the carrying amount and related weighted-average interest rate on the Company's term loan facilities under the Credit Agreement and on the Senior Notes, by expected maturity date, and the fair value of the outstanding debt at June 30, 2005.

	Expected Fiscal Year of Maturity of Carrying Amounts (in millions)						
Long-Term Financing Obligations, including current portion	**2005**	**2006**	**2007**	**2008**	**2009**	**Thereafter**	**Fair Value**
Senior Notes (due December 15, 2014)	$ –	$ –	$ –	$ –	$ –	$1,125.0	$1,181.3
Average interest rate	6.875%	6.875%	6.875%	6.875%	6.875%	6.875%	6.875%
Term Loan Facilities	$ 8.1	$ 16.3	$ 16.3	$ 16.3	$ 16.3	$1,544.9	$1,640.0
Average interest rate (1)	6.03%	5.85%	5.86%	5.88%	5.89%	5.82%	5.57%

(1) Based on the Company's weighted average term loan interest rate of 5.41% at June 30, 2005

At June 30, 2005, a 1% change in interest rates on the term loan facilities of the Credit Agreement would have resulted in a $16.2 million change in pretax income on an annual basis.

Commodity Price Risk

The Company actively manages the risks associated with volatility in power prices and fuel costs through a combination of fixed price forward power sales, natural gas swaps, and long-term fuel and fuel transportation arrangements. In addition, the Company's long-term rail transportation contracts for the W.A. Parish and Limestone plants' coal requirements provide for delivery to the plants at contracted prices.

The Company is subject to SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities", as amended by SFAS No. 138 and SFAS No. 149, "Amendment of Statement 133 on Derivative Instruments and Hedging Activities" ("SFAS No. 133"), which established accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. These statements require that derivatives be recognized at fair value on the balance sheet and that changes in fair value of such derivatives be recognized either currently in earnings or deferred as a component of other comprehensive income. For a derivative not designated as a hedging instrument, the gain or loss is recognized in earnings in the period it occurs. Cash flow hedges are those derivatives designated to hedge exposure to variability in expected future cash flows. Changes in the fair value of cash flow hedges, to the extent there is a high correlation between price movements in the derivative and the item designated as being hedged, are recognized as a component of other comprehensive income until the expected cash flow occurs. At such time, previously recognized amounts within comprehensive income are reversed, and the change in the fair value of the derivative is recognized within earnings.

The Company has entered into several natural gas swap agreements to sell approximately 162.5 million Mmbtu's of natural gas through 2010 at fixed prices, with the Company as the floating price payor. These transactions hedge the Company's exposure to variability in expected future cash flows from fluctuations in the sale of power, which is highly correlated with natural gas prices in ERCOT. These swap agreements are considered derivatives and are treated as cash flow hedges for accounting purposes. The fair market value of the natural gas swap agreements was

($113.8) million at June 30, 2005. In 2004, the Company had recognized losses associated with these swaps in the amount of $6.9 million. As a result, $106.9 million was recorded as an other comprehensive loss at June 30, 2005.

The table below presents the hypothetical sensitivity to immediate selected potential changes in the quoted market price of natural gas of the derivative commodity instrument the Company used to mitigate market risks that was outstanding at June 30, 2005 (in millions).

Impact of changes in commodity prices on derivative commodity instrument as of June 30, 2005:		10% Increase		10% Decrease	
	Current Fair Value	Fair Value	Increase (Decrease)	Fair Value	Increase (Decrease)
Natural gas swap agreement	$(113.8)	$(216.5)	$(102.6)	$ (11.2)	$102.6

ATTACHMENT 2

2004 Annual Report (Form 10-K) of NRG Energy, Inc.

FORM 10-K

NRG ENERGY, INC. - NRG

Filed: March 30, 2005 (period: December 31, 2004)

Annual report which provides a comprehensive overview of the company for the past year

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

☑ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Fiscal Year ended December 31, 2004.

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the Transition period from to .

Commission file No. 001-15891

NRG Energy, Inc.

(Exact name of Registrant as specified in its charter)

Delaware	**41-1724239**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*
211 Carnegie Center Princeton, New Jersey	**08540**
(Address of principal executive offices)	*(Zip Code)*

(609) 524-4500
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Exchange on Which Registered
None	None

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, par value $0.01 per share

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

Indicate by check mark if 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 the Registrant's knowledge, in definitive proxy or information statements 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 by Rule 12b-2 of the Act. Yes ☑ No ☐

As of the last business day of the most recently completed second fiscal quarter, the aggregate market value of the common stock of the registrant held by non-affiliates was approximately $1,943,806,466.

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes ☑ No ☐

Indicate the number of shares outstanding of each of the registrant's classes of common stock as of the latest practicable date.

Class	Outstanding at March 28, 2005
Common Stock, par value $0.01 per share	87,045,104

Documents Incorporated by Reference:
Portions of the Proxy Statement for the 2005 Annual Meeting of Stockholders

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Financial Statements of West Coast Power LLC

PART I

Item 1 — *Business*

General

NRG Energy, Inc., or "NRG Energy", the "Company", "we", "our", or "us" is a wholesale power generation company, primarily engaged in the ownership and operation of power generation facilities, the transacting in and trading of fuel and transportation services and the marketing and trading of energy, capacity and related products in the United States and internationally. We have a diverse portfolio of electric generation facilities in terms of geography, fuel type and dispatch levels. Our principal domestic generation assets consist of a diversified mix of natural gas–, coal– and oil–fired facilities, representing approximately 40%, 31% and 29% of our total domestic generation capacity, respectively. In addition, 23% of our domestic generating facilities have dual– or multiple–fuel capacity, which may allow plants to dispatch with the lowest cost fuel option.

We seek to maximize operating income through the generation of energy, marketing and trading of energy, capacity and ancillary services into spot, intermediate and long–term markets and the effective transacting in and trading of fuel supplies and transportation–related services. We perform our own power marketing (except with respect to our West Coast Power and Rocky Road affiliates), which is focused on maximizing the value of our North American and Australian assets through the pursuit of asset–focused power and fuel marketing and trading activities in the spot, intermediate and long–term markets. Our principal objectives are the management and mitigation of commodity market risk, the reduction of cash flow volatility over time, the realization of the full market value of the asset base, and adding incremental value by using market knowledge to effectively trade positions associated with our asset portfolio. Additionally, we work with markets, independent system operators and regulators to promote market designs that provide adequate long–term compensation for existing generation assets and to attract the investment required to meet future generation needs.

As of December 31, 2004, we owned interests in 52 power projects in five countries having an aggregate net generation capacity of approximately 15,400 MW. Approximately 7,900 MW of our capacity consisted of merchant power plants in the Northeast region of the United States. Certain of these assets are located in transmission constrained areas, including approximately 1,400 MW of "in–city" New York City generation capacity and approximately 750 MW of southwest Connecticut generation capacity. We also own approximately 2,500 MW of capacity in the South Central region of the United States, with approximately 1,900 MW of that capacity supported by long–term power purchase agreements.

As of December 31, 2004, our assets in the West Coast region of the United States consisted of approximately 1,300 MW of capacity with the majority of such capacity owned via our 50% interest in West Coast Power LLC, or West Coast Power. Our assets in the West Coast region were supported by a power purchase agreement with the California Department of Water Resources that expired on December 31, 2004. One–year term reliability must–run, or RMR, agreements with the California Independent System Operator, or Cal ISO, for approximately 568 MW in the San Diego area have been renewed for 2005. On January 1, 2005, a new RMR agreement for the 670 MW gross capacity of the West Coast Power El Segundo generating facility became effective. In January 2005, that generating facility entered into a tolling agreement for its entire gross generating capacity of 670 MW commencing May 1, 2005 and extending through December 31, 2005. During the term of this agreement, the purchaser will be entitled to primary energy dispatch right for the facility's generating capacity. The agreement is subject to the amendment of the El Segundo RMR agreement to switch to RMR Condition I and to otherwise allow the purchaser to exercise its primary dispatch rights under this agreement while preserving Cal ISO's ability to call on the El Segundo facility as a reliability resource under the RMR agreement, if necessary. Approximately 265 MW of capacity at the Long Beach generating facility was retired January 1, 2005.

We own approximately 1,600 MW of net generating capacity in other regions of the U.S. We also own interests in plants having a net generation capacity of approximately 2,100 MW in various international

markets, including Australia, Europe and Brazil. We operate substantially all of our generating assets, including the West Coast Power plants.

We were incorporated as a Delaware corporation on May 29, 1992. In March 2004, our common stock was listed on the New York Stock Exchange under the symbol "NRG". Our headquarters and principal executive offices are located at 211 Carnegie Center, Princeton, New Jersey 08540. Our telephone number is (609) 524-4500. The address of our website is www.nrgenergy.com. Our recent annual reports, quarterly reports, current reports and other periodic filings are available free of charge through our website. Our Corporate Governance Guidelines and the charters of our Audit, Compensation and Governance and Nominating Committees are also available on our website at www.nrgenergy.com/investor/corpgov.htm. These charters are available in print to any shareholder who requests them.

Strategy

We are a significant owner and operator of a diverse portfolio of electric generation facilities. We are focused on owning, operating and maximizing the value of our generation assets in our core regions, which are the Northeast, South Central and West Coast regions of the United States, as well as Australia. Our two principal objectives are: (i) to maximize the operating performance of our entire portfolio, and (ii) to protect and enhance the market value of our physical and contractual assets through the execution of asset-based risk management, marketing and trading strategies within well-defined risk and liquidity guidelines.

To achieve our principal objectives, we intend to pursue the following strategies, among others:

- Develop the assets in our core regions into integrated businesses well suited to serve the requirements of the load-serving entities in our core markets;
- Reinvest our capital in our existing assets for reasons of repowering, expansion, environmental remediation, operating efficiency, reliability programs, greater fuel optionality, greater merit order diversity, enhanced portfolio effect or alternative use, among others; and
- Where consistent with our "core region" strategy, pursue selective acquisitions to complement the assets and portfolios in our core regions.

From time to time we may also consider and undertake other merger and acquisition transactions that are consistent with our strategy. We continue to market our interest in our remaining non-core assets. Thereafter, we have no current plans to market actively any of our core assets, although our intention to maximize over time the value of all of our assets could lead to additional asset sales.

Competition

Wholesale power generation is a capital-intensive, commodity-driven business with numerous industry participants. Many of our large competitors are facing restructuring, bankruptcy or liquidation. Many U.S. markets have a glut of generation capacity. New sources of capital have entered the industry, including well-capitalized financial players seeking to acquire assets at distressed prices. Regulatory bodies, including the Federal Energy Regulatory Commission, or FERC, regional independent system operators, state public utility commissions and other regulatory participants are considering significant changes to the structure of certain wholesale utility markets.

Many companies in the regulated utility industry, with which the wholesale power industry is closely linked, are also restructuring or reviewing their strategies. Several of those companies are discontinuing their unregulated activities, seeking to divest their unregulated subsidiaries or attempting to have their regulated subsidiaries acquire assets out of their or other companies' unregulated subsidiaries. This may lead to increased competition between the regulated utilities and the unregulated power producers within certain markets.

Competitive Strengths

We believe that we benefit from the following competitive strengths:

Plant Diversity. Our generation fleet in core regional markets includes plants dispatched as baseload generation, on an intermediate basis and during peak periods. Approximately 4,300 MWs of domestic baseload capacity provide stability of cash flows, while 5,500 MWs of domestic peaking capacity give us significant upside optionality. Our generation facilities include a diversified fuel mix of natural gas, coal and oil. A significant percentage of our core domestic portfolio, approximately 31%, is fueled by coal, which is a distinct advantage at a time of historically high natural gas prices. We believe that our Huntley, Dunkirk, Big Cajun II and Indian River coal–fired facilities will continue, for the foreseeable future, to have competitive advantages in terms of their marginal cost of production relative to the gas–fired plants with which they compete. In addition, a significant portion of our non–coal domestic generation facilities have dual or multiple fuel capability, which allows most of these plants to dispatch with the lowest cost fuel option. The volatility in oil and gas prices versus the stability of low–sulfur western coal prices creates opportunities for us because of our ability to use low–sulfur coal in certain of our plants.

Locational Advantages. Owning multiple power plants in a particular market provides greater dispatch flexibility and increases power marketing and trading opportunities. We have achieved this goal to a certain extent in the Northeast (New York, New England Power Pool, or NEPOOL, and Pennsylvania, Jersey, Maryland Interconnection, or PJM) and South Central (Entergy) markets.

Transmission constraints and other market factors give certain of our power plants locational advantages over the competition. For example, the Astoria and Arthur Kill plants serve the New York City market. Competitors outside the city limits are at a disadvantage because transmission constraints restrict the importation of power into New York City, providing an advantage to "in–city" generation physically located within city limits. Construction of new power plants in New York City is limited because of the difficulties in finding sites for new plants, obtaining the necessary permits and arranging fuel delivery. In California, our facilities are located in the Los Angeles and San Diego load basins where, similar to New York City, transmission constraints restrict the import of power from remotely located plants.

In some locations, a facility's advantage is enhanced by the potential for repowering or site expansion or alternative use. Certain Connecticut facilities, for example, have attractive locations in transmission–constrained areas in southern Connecticut. The El Segundo plant located in the west Los Angeles load basin is well positioned to serve the needs of that region well into the future. Our California facilities utilize ocean water cooling, which gives them competitive advantages, especially during water shortages in California, and provides a competitive advantage in the potential siting of desalination projects or for other alternative uses. We are working to preserve our options to expand or repower these facilities when economically justifiable.

Risk Mitigation. As a wholesale generator, we are subject to the risks associated with volatility in fuel and power prices. We seek to mitigate these risks by managing a portfolio of contractual relationships for power supply, fuel needs and transportation services. We reduce spot price volatility exposure via mid– and long–term contractual arrangements when these markets economically justify such transactions. We plan to trade around the contractual commitments consistent with our market view in an effort to produce enhanced value from market volatility.

Improved Financial Position. As part of our reorganization (discussed below), we eliminated approximately $5.2 billion of corporate level bank and bond debt and approximately $1.3 billion of additional claims and additional disputes. Since January 1, 2004, we have successfully sold select non–core assets and eliminated approximately $989.9 million of consolidated debt related to those assets. We continued managing our balance sheet throughout 2004 with the tack–on bond offering in January and the refinancing of our credit facility in December.

Reorganization

We were formed in 1992 as the non–utility subsidiary of Northern States Power Company, or NSP, which was itself merged into New Century Energies, Inc. to form Xcel Energy, Inc., or Xcel Energy, in 2000. While

owned by NSP and later by Xcel Energy, we pursued an aggressive high growth strategy focused on power plant acquisitions, high leverage and aggressive development, including site development and turbine orders. In 2002, a number of factors, most notably the aggressive prices paid by us for our acquisitions of turbines, development projects and plants, combined with the overall downturn in the power generation industry, triggered a series of credit rating downgrades which, in turn, precipitated a severe liquidity crisis at the Company. From May 14 to December 23, 2003, we and a number of our subsidiaries undertook a comprehensive reorganization and restructuring under chapter 11 of the United States Bankruptcy Code. With the exception of one subsidiary that remains in bankruptcy to effect its liquidation, all NRG entities had emerged from chapter 11 as of December 31, 2004.

As part of our reorganization, Xcel Energy relinquished its ownership interest in us, and we became an independent public company. We no longer have any material affiliation or relationship with Xcel Energy. As part of the reorganization, we eliminated approximately $5.2 billion of corporate level bank and bond debt and approximately $1.3 billion of additional claims and disputes by distributing a combination of equity and $1.04 billion in cash to our unsecured creditors.

As part of our restructuring, on December 23, 2003, we used the proceeds of a new $1.25 billion offering of 8% second priority senior secured notes due 2013, and borrowings under a new $1.45 billion secured credit facility, to retire approximately $1.7 billion of project-level debt. In January 2004, we used proceeds of a tack-on bond offering of the same notes to repay $503.5 million of the outstanding borrowings under the secured credit facility.

In 2004, we completed our post-confirmation bankruptcy initiatives, including the liquidation of the chapter 11 subsidiaries deemed to be of no value to NRG Energy (LSP-Nelson Energy LLC and NRG Nelson Turbines LLC); the collection and distribution to creditors of amounts owing by our pre-bankruptcy parent company, Xcel Energy, Inc., under the plan of reorganization and related documents; and the settlement of several large disputed claims. We are still litigating or seeking to settle a number of unresolved disputed claims, for which we believe we have established an adequate disputed claims reserve pursuant to the NRG plan of reorganization. In all other respects, the reorganization process was completed in 2004.

On December 24, 2004, we entered into an amendment and restatement of our $1.45 billion seven-year secured credit facility, recasting it as a $950 million seven-year secured credit facility with more favorable covenants and interest rates, scheduled to expire in December 2011. On December 27, 2004, we completed the issuance of $420 million of perpetual convertible preferred stock, and used the proceeds to redeem $375 million of our 8% second priority senior secured notes on February 4, 2005. In January 2005 and in March 2005, we purchased $25 million and $15.8 million, respectively, of the notes.

Fresh Start Reporting

As a result of our emergence from bankruptcy, we adopted Fresh Start Reporting, or Fresh Start. Under Fresh Start, our confirmed enterprise value was allocated to our assets and liabilities based on their respective fair values. See Item 7 — Management's Discussion and Analysis of Financial Condition and Results of Operation — Reorganization and Emergence from Bankruptcy for

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Performance Metrics

The following table contains a summary of our North American power generation revenues from majority-owned subsidiaries for the year 2004:

Region	Energy Revenues	Capacity Revenues	Alternative Energy Revenues	O&M Fees	Other Revenues***	Total Revenues
			(In thousands)			
Northeast	$ 853,454	$264,624	$ 49	$ —	$133,026	$1,251,153
South Central	219,112	183,483	—	—	15,550	418,145
West Coast*	9,276	(3,709)	—	(2)	(3,096)	2,469
Other	27,816	84,097	1,748	186	(8,203)	105,644
Total North America Power Generation**	$1,109,658	$528,495	$1,797	$184	$137,277	$1,777,411

* Consists of our wholly-owned subsidiary, NEO California LLC. Does not include revenues which were produced by assets in which we have a 50% equity interest, primarily West Coast Power, and are reported under the equity method of accounting.

** For additional information — see Item 15 — Note 23 of the Consolidated Financial Statements for our consolidated revenues by segment disclosures.

*** Includes miscellaneous revenues from the sale of natural gas, recovery of incurred costs under reliability must- run agreements, revenues received under leasing arrangements, revenues from maintenance, revenues from the sale of ancillary services and revenues from entering into certain financial transactions, offset by contract amortization.

In understanding our business, we believe that certain performance metrics are particularly important. These are industry statistics defined by the North American Electric Reliability Council and are more fully described below:

Annual Equivalent Availability Factor, or EAF: is the total available hours a unit is available in a year minus the sum of all partial outage events in a year converted to equivalent hours (EH), where EH is partial megawatts lost divided by unit net available capacity times hours of each event, and the net of these hours is divided by hours in a year to achieve EAF in percent.

Average gross heat rate: We calculate the average heat rate for our fossil-fired power plants by dividing (a) fuel consumed in Btus by (b) KWh generated. The resultant heat rate is a measure of fuel efficiency.

Net Capacity Factor: Net actual generation divided by net maximum capacity for the period hours.

The table below presents the North American power generation performance metrics for owned assets discussed above for the year ended December 31, 2004.

Region	Net Owned Capacity (MW)	Net Generation (MWh)	Annual Equivalent Availability Factor	Average Gross Heat Rate Btu/KWh	Net Capacity Factor
Northeast*	7,884	13,205,017	85.6%	10,174	19.8%
South Central	2,469	10,470,786	92.1%	9,965	52.9%
West Coast**	1,315	2,354,668	80.0%	10,121	20.4%
Other North America	1,591	2,925,653	96.3%	N/A	12.0%

* Net Generation and the other metrics do not include Keystone and Conemaugh.

** Includes 50% of the generation owned through our West Coast Power partnership.

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The table below presents the Australian power generation performance metrics discussed above for the year ended December 31, 2004.

Region	Net Owned Capacity (MW)	Net Generation (MWh)	Annual Equivalent Availability Factor	Average Gross Heat Rate Btu/KWh	Net Capacity Factor
Flinders Northern Power Station	520	3,924,196	93.2%	11,400	93.1%
Flinders Playford Power Station	240	365,642	46.0%	16,300	18.9%
Gladstone*	630	3,065,044	83.2%	9,600	55.4%

* Includes 37.5% of the generation owned through our Gladstone partnership.

Power Generation

Northeast Region

Facilities. As of December 31, 2004, we owned 7,884 MW of net generation capacity in the Northeast region of the United States, primarily in New York, Connecticut and Delaware. These generation facilities are diversified in terms of dispatch level (base–load, intermediate and peaking), fuel type (coal, natural gas and oil) and customers.

The Northeast region's power generation assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Power Market	Net Owned Capacity (MW)	NRG's Percentage Ownership Interest	Fuel Type
Oswego, New York	NYISO	1,700	100%	Oil/Gas
Huntley, New York	NYISO	760	100%	Coal
Dunkirk, New York	NYISO	600	100%	Coal
Arthur Kill, New York	NYISO	842	100%	Gas/Oil
Astoria Gas Turbines, New York	NYISO	600	100%	Gas/Oil
Somerset, Massachusetts	ISO–NE	136	100%	Coal/Oil
Middletown, Connecticut	ISO–NE	786	100%	Oil/Gas/Jet Fuel
Montville, Connecticut	ISO–NE	498	100%	Oil/Gas/Diesel
Devon, Connecticut	ISO–NE	401	100%	Gas/Oil/Jet Fuel
Norwalk Harbor, Connecticut	ISO–NE	353	100%	Oil
Connecticut Jet Power, Connecticut	ISO–NE	127	100%	Jet Fuel
Indian River, Delaware	PJM	784	100%	Coal/Oil
Vienna, Maryland	PJM	170	100%	Oil
Conemaugh, Pennsylvania	PJM	64	4%	Coal/Oil
Keystone, Pennsylvania	PJM	63	4%	Coal/Oil

Market Framework. Our largest asset base is located in the Northeast region. This asset base is comprised of investments in generation facilities primarily located in the physical control areas of the New York Independent System Operator, or NYISO, the ISO New England, Inc., or ISO–NE, and the Pennsylvania, Jersey, Maryland Interconnection, or PJM.

Although each of the three northeast ISOs and their respective energy markets are functionally, administratively and operationally independent, they all follow, to a certain extent, the FERC–endorsed model for Standard Market Design, or SMD. The physical power deliveries in these markets are financially settled by Locational Marginal Prices, or LMPs, which reflect the value of energy at a specific location at the specific

time it is delivered. This value is determined by an ISO– administered auction process, which evaluates and selects the least costly supplier offers or 'bids' to fill the specific locational requirement. The ISO–sponsored LMP energy marketplaces consist of two separate and characteristically distinct settlement time frames. The first is a security–constrained, financially firm, "Day Ahead" unit commitment market. The second is a security–constrained, financially settled, "Real–time" dispatch and balancing market. In addition to energy delivery, the ISOs manage secondary markets for installed capacity, ancillary services and financial transmission rights.

Market Developments. ISO–NE and NEPOOL operate a centralized energy market with "Day–Ahead" and "Real–time" energy markets. On August 23, 2004, ISO–NE filed its proposal for locational installed capacity, or LICAP, with FERC, which will decide the issue in a litigated proceeding before an administrative law judge. Under the proposal, separate capacity markets would be created for distinct areas of New England, including southwest Connecticut. While we view this proposal as a positive development, as it is currently proposed it would not permit us to recover all of our fixed costs. In response, we have submitted testimony which includes an alternative proposal. FERC's goal is to make a decision on the precise terms of the NEPOOL LICAP market in the fall of 2005, to be effective January 1, 2006.

On January 27, 2005, FERC approved the settlement of various reliability must–run, or RMR, agreements between some of our Connecticut generation and ISO–NE. Under the settlement, we will receive monthly payments for the Devon 11–14, Montville and Middletown facilities until December 31, 2005, the day before the expected implementation date for LICAP. The settlement also requires the payment of third party maintenance expenses by NEPOOL participants incurred by Devon 11–14, Middletown, Montville and Norwalk Harbor and are capped at $30 million for the period April 1, 2004 through December 31, 2005. The settlement also approves prior RMR agreements involving Devon 7 and 8, both of which are on deactivated reserves.

The NYISO operates an energy market that is structurally the same as the New England energy markets. In April 2003, NYISO implemented a demand curve in its capacity market and scarcity pricing improvements in its energy market. The New York demand curve eliminated the previous market structure's tendency to price capacity at either its cap (deficiency rate) or near zero. FERC had previously approved the demand curve, but on December 19, 2003, the Electricity Consumers Resource Council appealed the FERC decision to the United States Court of Appeals for the District of Columbia Circuit. On December 3, 2004, NRG Energy and other suppliers filed a brief in opposition. An adverse decision by the Court of Appeals could require the elimination of the demand curve for the capacity market, and would negatively impact the development of LICAP in New England and PJM in addition to New York.

On January 7, 2005, NYISO filed proposed LICAP demand curves for the following capacity years: 2005–06, 2006–07 and 2007–08. Under the NYISO proposal, the LICAP price for New York City generation would be $126 per KW–year for the capacity year 2006–07. On January 28, 2005, we filed a protest at FERC asserting the LICAP price for this period should be at least $140 per KW–year.

Our New York City generation is presently subject to price mitigation in the installed capacity market. When the capacity market is tight, the price we receive is limited by the mitigation price. However when the New York City capacity market is not tight, such as during the winter season, the proposed demand curve price levels should increase our revenues from capacity sales.

On January 25, 2005, FERC issued an order approving the PJM proposal to increase the compensation for generators which are located in load pockets and are mitigated at least 80% of their running time. Specifically, when a generator would be subject to mitigation, the generator would have the option of recovering its variable cost plus $40 or a negotiated rate with PJM, based on the facility's going forward costs. If the generator declines both options, it could file for an alternative rate with FERC. FERC also substantially revised the exemption of facilities built after 1996 from the energy price capping mitigation rule. Several of our facilities are presently mitigated 80% of the time and, therefore, are impacted by the change.

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South Central Region

Facilities. As of December 31, 2004, we owned 2,469 MW of net generating capacity in the South Central region of the United States. The South Central region's generating assets consist primarily of our power generation facilities in New Roads, Louisiana, referred to as the Cajun Facilities, and the Sterlington and Bayou Cove generating facilities.

Our portfolio of plants in Louisiana comprises the third largest generator in the Southeastern Electric Reliability Council/ Entergy, or SERC–Entergy region. Our primary assets are the Cajun Facilities, which are primarily coal–fired assets supported by long–term power purchase agreements with regional cooperatives.

The South Central region's power generation assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Power Market	Net Owned Capacity (MW)	NRG's Percentage Ownership Interest	Fuel Type
Big Cajun II, Louisiana*	SERC–Entergy	1,489	86%	Coal
Big Cajun I, Louisiana	SERC–Entergy	458	100%	Gas/Oil
Bayou Cove, Louisiana	SERC–Entergy	320	100%	Gas
Sterlington, Louisiana	SERC–Entergy	202	100%	Gas

* We own 100% of Units 1 and 2 and 58% of Unit 3.

Market Framework. Our South Central region's assets are located within the franchise territory of Entergy, a vertically–integrated utility. Entergy performs the scheduling, reserve and reliability functions that are administered by ISOs in certain other regions of the United States and Canada. We operate a North American Electric Reliability Council, or NERC, certified–control area within the Entergy franchise territory, which is comprised of our generating assets and our cooperatives' customer loads. In the South Central region, including Entergy's franchise territory, the energy market is not a centralized market and it does not have an independent system operator as is found in the northeast markets. All power sales and purchases are consummated bilaterally between individual counter–parties, and physically delivered either within or across the physical control areas of the transmission owners. Transacting counter–parties are required to reserve and purchase transmission services from the intervening transmission owners at their FERC–approved tariff rates. Included with these transmission services are the reserve and ancillary costs. Energy prices in the South Central region are determined and agreed to in bilateral negotiations between representatives of the transacting counter–parties, using market information gleaned by the individual marketing agents arranging the transactions.

Market Developments. We have long–term "all requirements" contracts with 11 Louisiana distribution cooperatives, serving approximately 350,000 retail customers, and long–term contracts with the Municipal Energy Agency of Mississippi, South Mississippi Electric Power Association and Southwestern Electric Power Company. With limited exceptions, the all–requirements nature of certain of the power supply agreements between Louisiana Generating and its cooperative customers requires Louisiana Generating to serve future expansion of those cooperative loads at existing contract rates. Additionally, at times of maximum demand, our generating facilities do not produce enough power to serve their customers, and we purchase power in the market to make up the shortfall.

Entergy has filed an Independent Coordinator of Transmission, or ICT, proposal at FERC and with the public service commissions of the states of Louisiana, Mississippi and Arkansas. Entergy states that this proposal will achieve greater oversight of its transmission system operation and provide greater efficiency for providing and pricing transmission service. On March 22, 2005, FERC approved the ICT proposal for a two–year period, subject to certain conditions.

On December 17, 2004, FERC ordered that an investigation and evidentiary hearing be held to determine whether Entergy is providing access to its transmission system on a short–term basis and in a just and

reasonable manner. On March 22, 2005, FERC suspended the hearing until Entergy indicates whether it will accept the FERC's conditional approval of its ICT proposal. On March 25, 2005, FERC permitted Entergy's proposal regarding reserving 2,900 MWs of import capacity on its transmission system for emergency purposes to go into effect subject to refund. The case was set for hearing, which was then suspended pending settlement discussions.

In December 2004, we entered into a long-term coal transport agreement with the Burlington Northern and Santa Fe Railway Company and affiliates of American Commercial Lines LLC to deliver low sulfur coal to our Big Cajun II facility in New Roads, Louisiana beginning April 1, 2005. In December 2004, we also entered into coal purchase contracts extending through 2007. In March 2005, we entered into an agreement to purchase 23.75 tons of coal over a period of four years and nine months from Buckskin Mining Company, or Buckskin. The coal will be sourced from Buckskin's mine in the Powder River Basin, Wyoming, and will be used primarily in NRG Energy's coal-burning generation plants in the South Central region.

In August 2004, we entered into a contract to purchase 1,540 aluminum railcars from Johnston America Corporation to be used for the transportation of low sulfur coal from Wyoming to NRG Energy's coal burning generating plants, including the Cajun Facilities. On February 18, 2005, we entered into a ten-year operating lease agreement with GE Railcar Services Corporation, or GE, for the lease of 1,500 railcars and delivery commenced in February 2005. We have assigned certain of our rights and obligations for 1,500 railcars under the purchase agreement with Johnston America to GE. Accordingly, the railcars which we lease from GE under the arrangement described above will be purchased by GE from Johnston America in lieu of our purchase of those railcars.

West Coast Region

Facilities. As of December 31, 2004, we owned 1,315 MW of net generating capacity in the West Coast region, primarily in California and Nevada. Our West Coast generation assets consist primarily of a 50% interest in West Coast Power LLC, or West Coast Power. Effective January 1, 2005, the Long Beach Generating Station was permanently retired, reducing our net generating capacity by 265 MW, to 1,050 MW. The ultimate disposition of the Long Beach plant and property has yet to be determined. However, site demolition and remediation costs, if required, are expected to approximate the market value of the property. The Company has been negotiating a sale of the Saguaro plant and closing is expected to take place sometime during 2005.

In May 1999 we formed West Coast Power, along with Dynegy, Inc., to serve as the holding company for a portfolio of operating companies that own generation assets in Southern California in the California Independent System Operator, or Cal ISO, market. This portfolio currently consists of the El Segundo Generating Station, the Encina Generating Station and 13 combustion turbines in the San Diego area. Dynegy provides power marketing and fuel procurement services to West Coast Power, and we provide operations and management services. On December 23, 2004, California Energy Commission, or CEC, approved our application for a permit to repower the existing El Segundo site and replace retired units 1 and 2 with 630 MW of new generation. On January 19, 2005, the CEC voted unanimously to reconsider its December 23, 2004 decision to certify the repowering project. The reconsideration hearing took place on February 2, 2005 and the permit was approved by unanimous vote of the CEC. The reconsideration extended the 30-day period in which parties may petition for rehearing or seek judicial review to March 4, 2005. A petition seeking review of the CEC final order was filed with the California Supreme Court on March 14, 2005. We believe this filing to be untimely.

Our West Coast Power assets were supported by a power purchase agreement with the California Department of Water Resources that expired on December 31, 2004. We do not anticipate that we can replace that contract with one that has similar or more attractive terms and conditions. One-year term RMR contracts with Cal ISO for 576 MW of net owned capacity in the San Diego area have been renewed for 2005. On January 1, 2005, a new RMR agreement for the 670 MW gross capacity of the West Coast Power El Segundo generating facility became effective. In January 2005, that generating facility entered into a tolling agreement for its entire gross generating capacity of 670 MW commencing May 1, 2005 and extending through

December 31, 2005. During the term of this agreement, the purchaser will be entitled to primary energy dispatch right for the facility's generating capacity. The agreement is subject to the amendment of the El Segundo RMR agreement to switch to RMR Condition I and to otherwise allow the purchaser to exercise its primary dispatch rights under this agreement while preserving Cal ISO's ability to call on the El Segundo facility as a reliability resource under the RMR agreement, if necessary. The RMR contract on approximately 45 MW of generating capacity at Red Bluff expired on December 31, 2004 and will not be renewed for 2005.

The West Coast region's power generation assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Power Market	Net Owned Capacity (MW)	NRG's Percentage Ownership Interest	Fuel Type
Encina, California	Cal ISO	483	50%	Gas/Oil
El Segundo Power, California	Cal ISO	335	50%	Gas
Long Beach Generating, California*	Cal ISO	265	50%	Gas
San Diego Combustion Turbines, California	Cal ISO	85	50%	Gas/Oil
Saguaro Power Co., Nevada	WECC	53	50%	Gas/Oil
Chowchilla, California	Cal ISO	49	100%	Gas
Red Bluff, California	Cal ISO	45	100%	Gas

* Retired effective January 1, 2005

Market Framework. Our West Coast region assets are primarily located within the control area of Cal ISO. Cal ISO operates a financially settled "Real–time" balancing market similar to the regional ISOs in the northeast area of the U.S. Cal ISO's "Day Ahead" energy markets are similar to those in the South Central region, with all power sales and purchases consummated bilaterally between individual counter–parties and scheduled for physical delivery with Cal ISO.

Market Developments. In California, Cal ISO continues with its plan to move toward markets similar to PJM, NYISO and ISO–NE, with its Market Redesign & Technology Upgrade, or MRTU, formerly known as MD02 (market design 2002). The proposed changes will re–establish a "real–time" market and allow for multiple settlements. NRG Energy views this as an improvement to the existing structure. In general, Cal ISO is continuing along a path of small incremental changes, rather than implementing a comprehensive market restructuring. The effect of the new MRTU changes on NRG Energy cannot be determined at this time.

In addition to the Cal ISO's market changes, numerous legislative initiatives in California create uncertainty and risk for us. Most significantly, SB39XX mandates that the California Public Utilities Commission, or CPUC, exercise jurisdiction over the operating and maintenance procedures of wholesale power generators including the setting of operating, maintenance and logbook standards. On October 28, 2004, the CPUC issued draft orders directing in–state utilities to meet a 15–17% reserve requirement by no later than June 2006, and establishing a requirement that the utilities acquire 90% of their capacity needs a year in advance. This order may present opportunities for West Coast Power to enter into new bilateral agreements.

In September 2004, Governor Schwarzenegger vetoed AB2006, commonly referred to as the "re–regulation" initiative, with a promise to the people of California to create a competitive energy market in California that will attract the investment capital required to meet growing load obligations.

Other North America

Facilities. As of December 31, 2004, we owned approximately 1,591 MW of net generating capacity in other regions of the U.S.

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Our Other North America power generation assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Power Market	Net Owned Capacity (MW)	NRG's Percentage Ownership Interest	Fuel Type
Audrain, Missouri*	MAIN	640	100%	Gas
Rockford I, Illinois	MAIN	342	100%	Gas
Rockford II, Illinois	MAIN	171	100%	Gas
Rocky Road Power, Illinois	PJM	175	50%	Gas
Ilion, New York	NYISO	60	100%	Gas/Oil
Dover, Delaware	PJM	106	100%	Gas/Oil
James River, Virginia*	SERC–TVA	55	50%	Coal
Paxton Creek Cogeneration	PJM	12	100%	Gas
Other — 3 projects*	Various	30	Various	Various

* May sell or dispose of in the next 12 months.

Australia

Facilities. As of December 31, 2004, we owned approximately 1,390 MW of net generating capacity in Australia. The Flinders assets are comprised of the Northern Power Station which provides 520 MW, the refurbished Playford Power Station, which provides 240 MW and the Leigh Creek Coal Mine which supplies coal to both plants. The 1,680 MW Gladstone Plant, of which we own 37.5%, is operated by NRG Energy.

Our Australian power generation assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Purchaser/ Power Market	Net Owned Capacity (MW)	NRG's Percentage Ownership Interest	Fuel Type
Flinders, South Australia	National Electricity Market	760	100%	Coal
Gladstone Power Station, Queensland	Enertrade/Boyne Smelters	630	37.5%	Coal

Market Framework

The National Electricity Market operates across the interconnected states of southern and eastern Australia. The market represents a physical wholesale trading exchange based on merit order generation dispatch and gross pool settlement, within an energy–only market design. The physical market is managed by National Electricity Market Management Co. Ltd., or NEMMCO, as the independent market operator, with spot prices determined on a regional basis in half–hourly trading intervals, capped at a maximum of AUD 10,000/ MWh. The majority of wholesale trading occurs through bilateral financial (hedge) contracts between counter–parties on a regional basis, with some limited financial trading through exchange traded futures.

The Flinders plant operates within the market as a merchant portfolio. Northern Power Station (520 MW base load) and Playford Power Station (240 MW mid merit) are the only coal–fired units in South Australia. Their output, together with the output of the gas fired Osborne Power Station (output purchased under long–term power purchase agreements, or PPAs) supply over 40% of the state's electricity. All output is market traded, with revenue streams protected by hedge contracts for a large proportion of forward output.

The output of Gladstone is fully contracted under long–term PPAs to an adjacent aluminum smelter and a government entity that trades its portion into the market.

Market Development

In late 2003, the governments spanning the National Electricity Market embarked upon a series of reforms to address perceived deficiencies in the governance and institutional structure of the market. These reforms are proceeding under cooperative legislation expected to be in operation by mid–2005, and include the creation of a new national energy regulator and the establishment of a more efficient process to change and administer the rules governing the operation of the market.

These reforms are not intended to alter the operation or fundamental design of the market, but are designed to streamline the administration of the wholesale market, increase regulatory certainty for investors, and improve rule change and decision–making processes in both the electricity and gas sectors.

Further policy announcements are expected in the near future in relation to electricity transmission planning and regulation, trading region boundary change arrangements, and funding arrangements for the new institutional bodies.

Other International

Facilities. Over the past decade, through our foreign subsidiaries, we invested in international power generation projects in Australia, Europe and Latin America. During 2002, 2003 and 2004, we sold international generation projects with an aggregate total generating capacity of approximately 600 MW, 1,640 MW and 833 MW, respectively. As of December 31, 2004, we had investments in power generation projects located in the United Kingdom, Germany and Brazil with approximately 768 MW of net generating capacity.

Our Other International power generation assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Purchaser/ Power Market	Net Owned Capacity (MW)	NRG's Percentage Ownership Interest	Fuel Type
Europe:				
Enfield Energy Centre, UK*	UK Electricity Grid	95	25%	Gas
Schkopau Power Station, Germany	Vattenfall Europe	400	42%	Coal
MIBRAG mbH, Germany**	ENVIA/MIBRAG Mines	119	50%	Coal
Brazil:				
Itiquira Energetica, Brazil*	COPEL	154	99%	Hydro

* NRG may sell or dispose of in the next 12 months.

** Primarily a coal mining facility.

Alternative Energy and Services

We own alternative energy generation facilities through NEO Corporation, or NEO, and through our NRG Resource Recovery business division, which converts municipal solid waste, or MSW, into refuse derived fuel suitable to burn in third party power plants.

NEO Corporation. NEO is a wholly–owned subsidiary that was formed to develop power generation facilities ranging in size from one to 49 MW in the United States. As of December 31, 2004, NEO had 41 MW of net ownership interests in 15 hydroelectric facilities and 98.6 MW of net ownership interests in four distributed generation facilities including 94 MW of gas–fired peaking engines in California (referred to as the Red Bluff and Chowchilla facilities and included in our summary of the West Coast region). Certain of the assets owned by NEO are currently being marketed. See "Significant Dispositions of Non–Strategic Assets" under this Item 1 for more information.

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Resource Recovery Facilities. Our Resource Recovery business is focused on owning and operating alternative fuel/"green power" generation and fuels processing projects. The alternative fuels currently processed and combusted are municipal solid waste, urban wood waste (pallets, clean construction debris, etc.), and non-recyclable waste paper and compost. Our Resource Recovery business has municipal solid waste processing capacity of approximately 2,800 tons per day. Our Resource Recovery business owns and operates municipal solid waste processing facilities in Minnesota, as well as NRG Processing Solutions, including ten composting and biomass fuel processing sites in Minnesota, three of which are permitted to operate as municipal solid waste transfer stations.

Our significant Resource Recovery assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Purchaser/ MSW Supplier	Net Owned Capacity	NRG's Percentage Ownership Interest	Fuel Type
Newport, MN*	Ramsey and Washington Counties	1,500 tons/day	100%	Refuse Derived Fuel
Elk River, MN**	Anoka, Hennepin and Sherburne Counties; Tri-County Solid Waste Management Commission	1,275 tons/day	85%	Refuse Derived Fuel

* The Newport facilities are related strictly to municipal solid waste processing (MSW).

** Our 85% interest in the Elk River facility is related strictly to municipal solid waste processing.

Non-Generation

In addition to our traditional power generation facilities discussed above, we have interests in district heating and cooling systems and steam transmission operations through our subsidiary, NRG Thermal LLC. NRG Thermal's steam and chilled water businesses have a steam and chilled water capacity of approximately 1,225 megawatt thermal equivalents, or MWt.

As of December 31, 2004, NRG Thermal owned five district heating and cooling systems in Minneapolis, Minnesota; San Francisco, California; Pittsburgh, Pennsylvania; Harrisburg, Pennsylvania; and San Diego, California. These systems provide steam heating to approximately 565 customers and chilled water to 90 customers. In addition, NRG Thermal owns and operates three projects that serve industrial/government customers with high-pressure steam and hot water, an 88 MW combustion turbine peaking generation facility and an 18 MW coal-fired cogeneration facility in Dover, Delaware (included in the summary of the Other North America region).

Our thermal and chilled water assets as of December 31, 2004 are summarized in the table below.

Name and Location of Facility	Customers	Net Owned Capacity*	NRG's Percentage Ownership Interest	Fuel Type
NRG Energy Center Minneapolis, Minnesota	Approx. 100 steam customers and 45 chilled water customers	Steam: 1,203 mm Btu/hr. (353 MWt) Chilled water: 41,630 tons (146 MWt)	100%	Gas/Oil
NRG Energy Center San Francisco, California	Approx. 170 steam customers	Steam: 482 mm Btu/hr. (141 MWt)	100%	Gas
NRG Energy Center Harrisburg, Pennsylvania	Approx. 270 steam customers and 3 chilled water customers	Steam: 440 mm Btu/hr. (129 MWt) Chilled water: 2,400 tons (8 MWt)	100%	Gas/Oil
NRG Energy Center Pittsburgh, Pennsylvania	Approx. 25 steam and 25 chilled water customers	Steam: 266 mm Btu/hr. (78 MWt) Chilled water: 12,580 tons (44 MWt)	100%	Gas/Oil
NRG Energy Center San Diego, California	Approx. 20 chilled water customers	Chilled water: 7,425 tons (26 MWt)	100%	Gas
NRG Energy Center St. Paul, Minnesota	Rock–Tenn Company	Steam: 430 mm Btu/hr. (126 MWt)	100%	Coal/Gas/Oil
Camas Power Boiler Washington	Georgia–Pacific Corp.	Steam: 200 mm Btu/hr. (59 MWt)	100%	Biomass
NRG Energy Center Dover, Delaware	Kraft Foods, Inc.	Steam: 190 mm Btu/hr. (56 MWt)	100%	Coal
NRG Energy Center Bayport, Minnesota	Andersen Corporation and Minnesota Correctional Facility	Steam: 200 mm Btu/hr. (59 MWt)	100%	Coal/Gas/Propane

* Thermal production and transmission capacity is based on 1,000 Btus per pound of steam production or transmission capacity. The unit mmBtu is equal to one million Btus.

Energy Marketing

Our wholly–owned energy marketing subsidiary, NRG Power Marketing, Inc., or PMI, began operations in 1998. PMI provides a full range of energy management services for our domestic generation facilities. These services are provided under bilateral contracts or agreements pursuant to which PMI engages in the sale,

purchase and trading of energy, capacity and ancillary services from the facilities, transacts in and trades the fuel (coal, oil and natural gas) and associated transportation, and manages and trades the emission allowance credits for these facilities. A significant responsibility of PMI is to recommend to senior management commercial hedge transactions in an effort to manage risk and to maximize earnings and cash flow for NRG Energy. In addition, PMI provides all necessary ISO bidding, dispatch, and transmission scheduling for the facilities. PMI also utilizes its contractual arrangements with third parties to procure fuel, to sell energy, capacity and ancillary services to minimize administrative costs and burdens and reduce the collateral requirements imposed by third party suppliers and purchasers.

NRG Worldwide Operations

Our wholly–owned subsidiary, NRG Worldwide Operations, or NRG Operations, provides operating and maintenance services to our generation facilities. These services include providing experienced personnel for the operation and administration of each facility and oversight out of the corporate office to balance resources, share expertise and best practices, and to ensure the optimum utilization of resources available to the facilities. In addition, NRG Operations provides overall facilities management, strategic planning, and the development and dissemination of consistent Company policies and practices relating to operations.

Financial Information About Segments and Geographic Areas

For financial information on our operations on a geographical and on a segment basis, see Item 15 — Note 23 to the Consolidated Financial Statements.

Dispositions of Non–Strategic Assets

We continue to market our interest in our remaining non–core assets. Since 2003, we sold or made arrangements to sell a number of consolidated businesses and equity investments in an effort to reduce our debt, improve liquidity and rationalize our investments. Dispositions completed during 2004 are summarized in the following chart:

Asset (Location)	Segment	Closing Date	Proceeds	Gain/(Loss) on Disposition	Debt Reduction
				(In thousands)	
Calpine Cogeneration	Other North America	3/07/2004	$ 3.0	$ 0.7	$ —
Loy Yang (Australia)	Australia	4/08/2004	26.7	(1.3)	—
PERC (Maine)	Other North America	4/16/2004	18.4	3.2	25.2
Cobee (Bolivia)	Other International	4/27/2004	50.0	2.8	24.1
Hsin Yu (Taiwan)	Other International	5/13/2004	1.0	10.3	46.4
McClain (Oklahoma)	Other North America	7/09/2004	160.2	(3.0)	156.5
Batesville (Mississippi)	Other North America	7/24/2004	27.6	11.0	289.3
NEO projects	Alternative Energy	9/30/2004	5.8	6.0	—
NEO equity projects	Alternative Energy	9/30/2004	6.1	(3.8)	—
CALP, Virginia	Other North America	11/30/2004	14.9	(4.6)	—
Kendall, Illinois	Other North America	12/01/2004	1.0	(26.5)	448.4
Total			$314.7	$ (5.2)	$989.9

Significant Customers

Reorganized NRG

For the year ended December 31, 2004, we derived approximately 49.8% of our total revenues from majority–owned operations from four customers: NYISO accounted for 28.5%, ISO New England accounted for 9.1%, National Electricity Market Management Co. Ltd (Australia) accounted for 6.8% and Vattenfall Europe (Germany) accounted for 5.4%. We account for the revenues attributable to NYISO and ISO–NE as

part of our North American power generation segment. We account for the revenues attributable to National Electricity Market Management and Vattenfall Europe as part of our International segment. For the period December 6, 2003 through December 31, 2003, we derived approximately 39.0% of our total revenues from majority–owned operations from two customers: NYISO accounted for 26.5% and ISO–NE accounted for 12.5%. ISO–NE and NYISO are ISOs or RTOs and are FERC–regulated entities that administer a residual (spot) energy market and manage transmission assets collectively under their respective control to provide non–discriminatory access to the transmission grid. The NYISO exercises operational control over most of New York State's transmission facilities. We anticipate that NYISO will continue to be a significant customer given the scale of our asset base in the NYISO control area.

Predecessor Company

For the period January 1, 2003 through December 5, 2003 and for the year ended December 31, 2002, sales to one customer, NYISO, accounted for 33.4% and 26.0% of our total revenues from majority–owned operations, respectively.

Seasonality and Price Volatility

Annual and quarterly operating results can be significantly affected by weather and price volatility. Significant other events, such as the demand for natural gas and relative levels of hydroelectric capacity can increase seasonal fuel and power price volatility. We derive a majority of our annual revenues in the months of May through September, when demand for electricity is the highest in our North American markets. Further, volatility is generally higher in the summer months due to the effect of temperature variations. Our second most important season is winter when volatility and price spikes in underlying fuel prices have tended to drive seasonal electricity prices. Issues related to seasonality and price volatility are fairly uniform across our business segments.

Sources and Availability of Raw Materials

Our raw material requirements primarily include various forms of fossil fuel, including oil, natural gas and coal. We obtain our oil, natural gas and coal from multiple sources and availability is generally not an issue, although localized shortages, transportation availability and supplier financial stability issues can and do occur. The prices of oil, natural gas and coal are subject to macro– and micro–economic forces that can change dramatically in both the short–term and the long–term. For example, the price of natural gas was particularly volatile in mid–January 2004 due to the extreme temperatures experienced in the Northeast. Additionally, throughout 2004, oil prices were extremely high due to the geo–political uncertainty in the Middle East and increased demand by China and India. The total cost of oil, natural gas and coal represented approximately 41.6%, 37.5%, 42.4% and 15.1% of our total operating costs and expenses for the year ended December 31, 2004, the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003, and for the year ended December 31, 2002, respectively. Issues related to the sources and availability of raw materials are fairly uniform across our business segments.

Employees

As of December 31, 2004, we had 2,644 employees, approximately 555 of whom are employed directly by us and approximately 2,089 of whom are employed by our wholly–owned subsidiaries and affiliates. Approximately 1,011 employees are covered by bargaining agreements. During 2004, we experienced no significant labor stoppages or labor disputes at our facilities.

Federal Energy Regulation

Federal Energy Regulatory Commission. The FERC is an independent agency that regulates the transmission and wholesale sale of electricity in interstate commerce under the authority of the Federal Power Act, or FPA. In addition, FERC determines whether a generation facility qualifies for Exempt Wholesale Generator, or EWG, status under Public Utility Holding Company Act of 1935, or PUHCA. FERC also

determines whether a generation facility meets the ownership and technical criteria of a Qualifying Facility, or QF, under Public Utility Regulatory Policies Act of 1978, or PURPA.

Federal Power Act. The FPA gives FERC exclusive rate–making jurisdiction over wholesale sales of electricity and transmission of electricity in interstate commerce. FERC regulates the owners of facilities used for the wholesale sale of electricity or transmission in interstate commerce as "public utilities." The FPA also gives FERC jurisdiction to review certain transactions and numerous other activities of public utilities. Our QFs are exempt from the FERC's FPA rate regulation.

Public utilities are required to obtain FERC's acceptance of their rate schedules for wholesale sales of electricity. Because our non–QF generating companies are selling electricity in the wholesale market, such generating companies are deemed to be public utilities for purposes of the FPA. FERC has granted our generating and power marketing companies the authority to sell electricity at market–based rates. Usually, the FERC's orders that grant our generating and power marketing companies market–based rate authority reserve the right to revoke or revise that authority if FERC subsequently determines that we can exercise market power in transmission or generation, create barriers to entry or engage in abusive affiliate transactions. If our generating and power marketing companies were to lose their market–based rate authority, such companies may be required to obtain FERC's acceptance of a cost–of–service rate schedule and may become subject to the accounting, record–keeping and reporting requirements that are imposed on utilities with cost–based rate schedules.

In addition, the FPA gives FERC jurisdiction over a public utility's issuance of securities or assumption of liabilities. However, FERC usually grants blanket approval for future securities issuances or assumptions of liabilities to entities with market–based rate authority. In the event that one of our public utility generating companies were to lose its market–based rate authority, our future securities issuances or assumptions of liabilities could require prior approval of the FERC.

The FPA also requires the FERC's prior approval for the transfer of control over assets subject to FERC's jurisdiction. FERC has jurisdiction over certain facilities used to interconnect our generating projects to the transmission grid, and over the filed rate schedules and tariffs of our EWG generating projects and power marketing operating companies. Thus, transferring these assets would require FERC approval.

In New England, New York, the Mid–Atlantic region, the Midwest and California, FERC has approved independent system operators or regional transmission organizations, or ISOs or RTOs. Most of these ISOs or RTOs administer a wholesale centralized bid–based spot market in their regions pursuant to tariffs approved by FERC. These tariffs/market rules dictate how the day–ahead and real–time markets operate and how entities with market–based rates shall be compensated within those markets. The ISOs or RTOs in these regions also control access to and the operation of the transmission grid within their footprint. Outside of ISO or RTO–controlled regions, we are allowed to sell energy at market–based rates as determined by willing buyers and sellers. Access to, pricing for, and operation of the transmission grid in such regions is controlled by the local transmission owning utility according to its Open Access Transmission Tariff approved by FERC.

Public Utility Holding Company Act. PUHCA defines as a "holding company" any entity that owns, controls or has the power to vote 10% or more of the outstanding voting securities of a "public utility company." Unless exempt, a holding company is required to register with the Securities and Exchange Commission, or the SEC, and it and its Subsidiaries (i.e., a company with 10% of its voting securities held by the registered holding company) become subject to extensive regulation. Registered holding companies under PUHCA are required to limit their utility operations to a single, integrated utility system and divest any other operations that are not functionally related to the operation of the utility system. In addition, a company that is a Subsidiary of a registered holding company is subject to financial and organizational regulation, including approval by the SEC of certain financings and transactions. Domestic generating facilities that qualify as QFs and/or that have obtained EWG status from FERC are exempt from PUHCA. Each of our domestic generating subsidiaries has been designated by FERC as an EWG or is otherwise exempt from PUHCA because it is a QF under PURPA. Because our generating subsidiaries have EWG or QF status, we do not qualify as a "holding company" under PUHCA. We will not be subject to regulation under PUHCA as long as (a) we do not become a Subsidiary of another registered holding company and (b) the projects in which we

have an interest (1) qualify as QFs under PURPA, (2) obtain and maintain EWG status under Section 32 of PUHCA, (3) obtain and maintain Foreign Utility Company, or FUCO, status under Section 33 of PUHCA, or (4) are subject to another exemption or waiver. If our projects were to cease to be exempt and we were to become subject to SEC regulation under PUHCA, it would be difficult for us to comply with PUHCA absent a substantial corporate restructuring.

Regulatory Developments. FERC is attempting to spur deregulation of the wholesale markets by requiring transmission owners to provide open, non–discriminatory access to electricity markets and the transmission grid. In April 1996, FERC issued Orders 888 and 889, which required all public utilities to file "open access" transmission tariffs that give wholesale generators, as well as other wholesale sellers and buyers of electricity, access to transmission facilities on a non–discriminatory basis. This led to the formation of the ISOs described above. On December 20, 1999, FERC issued Order 2000, encouraging the creation of RTOs. On July 31, 2002, FERC issued its Notice of Proposed Rulemaking regarding Standard Market Design, or SMD. All three orders were intended to eliminate market discrimination by incumbent vertically integrated utilities and to provide for open access to the transmission grid. The status of FERC's RTO and SMD initiatives is uncertain. On April 28, 2003, FERC issued a white paper describing proposed changes to the proposed SMD rulemaking that would, among other things, allow for more regional differences. In addition, the Energy Bill pending before Congress could restrict FERC's ability to implement these initiatives.

The full effect of these changes on us is uncertain at this time, because in many parts of the United States it has not been determined how entities will attempt to comply with FERC's initiatives. At this time, five ISOs have been approved and are operational: ISO–NE in New England; the NYISO in New York; PJM in the Mid–Atlantic region; the Midwest Independent System Operation, or MISO, in the Central Midwest region; and the Cal ISO in California. Three of these ISOs: PJM, MISO and ISO–NE, have been found to also qualify as RTOs.

We are affected by rule/tariff changes that occur in the existing ISOs and RTOs. The ISOs and RTOs that oversee most of the wholesale power markets have in the past imposed, and may in the future continue to impose, price limitations and other mechanisms to address some of the volatility in these markets. For example, ISO–NE, NYISO, PJM and Cal ISO have imposed price limitations. These types of price limitations and other regulatory mechanisms may adversely affect the profitability of our generation facilities that sell energy into the wholesale power markets. In addition, the regulatory and legislative changes that have recently been enacted in a number of states in an effort to promote competition are novel and untested in many respects. These new approaches to the sale of electric power have very short operating histories, and it is not yet clear how they will operate in times of market stress or pressure, given the extreme volatility and lack of meaningful long–term price history in many of these markets and the imposition of price limitations by independent system operators.

Environmental Matters

We are subject to a broad range of foreign, federal, state and local environmental and safety laws and regulations in the development, ownership, construction and operation of our domestic and international projects. These laws and regulations impose requirements on discharges of substances to the air, water and land, the handling, storage and disposal of, and exposure to, hazardous substances and wastes and the cleanup of properties affected by pollutants. These laws and regulations generally require that we obtain governmental permits and approvals before construction or operation of a power plant commences, and after completion, that our facilities operate in compliance with those permits and applicable legal requirements. We could also be held responsible under these laws for the cleanup of pollutants released at our facilities or at off–site locations where we may have sent wastes, even if the release or off–site disposal was conducted in compliance with the law.

Environmental laws have become increasingly stringent over time, particularly the regulation of air emissions from our plants. Such laws generally require regular capital expenditures for power plant upgrades, modifications and the installation of certain pollution control equipment. In addition, regulatory compliance for the construction of new facilities is a costly and time–consuming process. Intricate and rapidly changing

environmental regulations may require major capital expenditures for permitting and create a risk of expensive delays or material impairment of project value if projects cannot function as planned due to changing regulatory requirements or local opposition. In all cases, we seek to reflect environmental impacts and mitigants in every business decision we make, and by doing so, strive to improve our competitive advantage by meeting or exceeding environmental and safety requirements in the management and operation of our assets.

It is not possible at this time to determine when or to what extent additional facilities or modifications to existing or planned facilities will be required as a result of potential changes to environmental and safety laws and regulations, regulatory interpretations or enforcement policies. In general, future laws and regulations are expected to require the addition of pollution control equipment or the imposition of certain restrictions on our operations. We expect that future liability under, or compliance with, environmental and safety requirements could have a material effect on our operations or competitive position.

Domestic Environmental Regulatory Matters

Power projects are subject to stringent environmental and safety protection and land use requirements in the U.S. These laws and regulations generally require lengthy and complex processes to obtain licenses, permits and approvals from federal, state and local agencies. If such laws and regulations become more stringent and our facilities are not exempted from coverage, we could be required to make extensive modifications to further reduce potential environmental impacts.

We establish accruals where it is probable that we will incur environmental costs under applicable law or contract and it is possible to reasonably estimate those costs. We adjust the accruals when new remediation or other environmental liability responsibilities are discovered and probable costs become estimable, or when current liability estimates are adjusted to reflect new information or a change in the law.

U.S. Federal Environmental Initiatives

Several federal regulatory and legislative initiatives to further limit and control pollutant emissions from fossil fuel–fired combustion units are currently underway. Although neither the exact impact of these initiatives nor their final form is known at this time, all of our power plants will likely be affected in some manner by the expected changes in federal environmental laws and regulations. In Congress, legislation has been proposed that would impose annual caps on U.S. power plant emissions of nitrogen oxides, or NO_X, sulfur dioxide, or SO_2, mercury and, in some instances, carbon dioxide, or CO_2.

In December 2003, the U.S. Environmental Protection Agency, or USEPA, proposed rules governing mercury emissions from power plants. On March 15, 2005, USEPA issued the Clean Air Mercury Rule, or CAMR, to permanently cap and reduce mercury emissions from coal–fired power plants. CAMR imposes limits on mercury emissions from new and existing coal–fired plants and creates a market–based cap–and–trade program that will reduce nationwide utility emissions of mercury in two phases (2010 and 2018), to achieve an ultimate reduction level of approximately 70%. The cap–and–trade program for mercury is expected to be structured like the federal Acid Rain Program, allowing generators to decide in each particular case the most effective means for their compliance (i.e., install control technologies and/or purchase emissions allowances in the market). As there has been significant debate on whether USEPA has authority to regulate mercury emissions through the proposed cap–and–trade mechanism (as opposed to a command–and–control requirement to install "maximum achievable control technology", or MACT, on a unit basis), it is reasonable to expect that the new rule may be subject to legal challenge. Each of our coal–fired electric power plants will be subject to mercury regulation. However, since the final rule has yet to be implemented by individual states pursuant to state–specific legislation, it is not possible to identify in detail how the final mercury rules will affect our operations located in those states. Nevertheless, we continue to actively review emerging mercury monitoring and mitigation technologies and assess appropriate options for the Company in future.

The USEPA has also proposed MACT standards for nickel from oil–fired units. The proposed nickel rule would accept the use of an electrostatic precipitator, or ESP, as the appropriate MACT control, with an implementation date of three years after rule promulgation. Eight of the Company's oil–fired generating units are not equipped with an ESP: Middletown Unit 4, Montville Unit 6, Vienna and Encina Units 1–5. While

USEPA's final decision regarding nickel emissions from oil–fired units is still pending, USEPA is reconsidering whether, based on the scientific data, any new controls on nickel emissions from oil–fired generators are in fact needed. Given the current situation, we do not consider any material expenditure for nickel emission mitigation by the Company to be probable at this time.

The USEPA has finalized federal rules governing ozone season NO_X emissions across the eastern U.S. Current ozone season rules are being implemented within two programs. Restrictions exist in the Ozone Transport Region, or OTR, through annual ozone seasons (May – September) and all of the Company's generating units located in the OTR are included in this program (which was effective in 2003). NO_X allowance allocations are based on an equivalent emissions rate of 0.15 lbs/MMBtu, with each OTR state managing its own NO_X Budget Program and specific rules for allowance distribution. The second program, in effect from May 2004, is similar to the OTR program, and extends to states within the Ozone Transport Assessment Group, or OTAG, region. This restricts 2004 and subsequent ozone season NO_X emissions in most states east of the Mississippi River. These rules essentially require one NO_X allowance to be held for each ton of NO_X emitted from fossil fuel–fired stationary boilers, combustion turbines, or combined cycle systems. NO_X allowance allocation is similar to the OTR and each of the Company's facilities that is subject to these rules has been allocated NO_X emissions allowances. While the portfolio total is currently sufficient to cover operations at these facilities, if at any point allowances are insufficient for the anticipated operation of each of these facilities, the Company must purchase NO_X allowances. Any need to purchase additional NO_X allowances could have a material adverse effect on our operations.

On March 10, 2005, the USEPA announced the Clean Air Interstate Rule, or CAIR, originally proposed in January 2004. The new rule applies to 28 eastern states and the District of Columbia and caps SO_2 and NO_X emissions from power plants in two phases: 2010 and 2015 for SO_2 and 2009 and 2015 for NO_X. CAIR will reduce such emissions in aggregate by just over 70% in the case of SO_2 and just under 70% in the case of NO_X and will apply to certain of the Company's power plants located in New York, Massachusetts, Connecticut, Delaware (NO_X only) and Louisiana. States must achieve the required emission reductions using one of two compliance options: (a) meet the state's emission budget by requiring power plants to participate in a USEPA–administered interstate cap–and–trade system; or (b) meet an individual state emissions budget through measures selected by individual states. While the Company's current business plans include initiatives (for example, the conversion of Huntley and Dunkirk to burn low sulfur coal) in part to address the new emissions caps, until the final rule as issued by USEPA is actually implemented by specific state legislation, it is not possible to identify with greater specificity the effect of CAIR on the Company.

In 2004, USEPA reproposed the 1999 Regional Haze Rule, designed to improve air quality in national parks and wilderness areas. This rule requires regional haze controls (by targeting SO_2 and NO_X emissions from sources including power plants) through the installation of Best Available Retrofit Technology, or BART, for certain sources put into operation between 1962 and 1977. The so–called BART rule is expected to be finalized in April 2005, with states required to submit their implementation plans by 2008. It is likely that the BART rule, if implemented, will affect many of the Company's facilities. However, it is also expected that required actions taken for compliance with CAIR (when it is fully implemented) and certain state initiatives will also achieve compliance with the BART rule as currently proposed.

During the first quarter of 2002, USEPA proposed new rules governing cooling water intake structures at existing power facilities (the Phase II 316(b) Rules). These rules were finalized in February 2004. The Phase II 316(b) Rules specify certain location, design, construction, and capacity standards for cooling water intake structures at existing power plants using the largest amounts of cooling water. These rules will require implementation of the Best Technology Available, or BTA, for minimizing adverse environmental impacts unless a facility shows that such standards would result in very high costs or little environmental benefit. The Phase II 316(b) Rules require the Company's facilities that withdraw water in amounts greater than 50 million gallons per day to submit certain surveys, plans, operational measures, and restoration measures (with wastewater permit applications or renewal applications) that would minimize certain adverse environmental impacts of impingement or entrainment. The Phase II 316(b) Rules affect a number of the Company's plants, specifically those with once–through cooling systems. Compliance options include the addition of control technology, modified operations, restoration, or a combination of these, and are subject to a

comparative cost and cost/benefit justification. While we have conducted a number of the requisite studies (and in one case already budgeted to install BTA), until all the needed studies throughout our fleet have been completed and consultations on the results have occurred with USEPA (or its delegated state or regional agencies), it is not possible to estimate the capital costs that will be required for compliance with the Phase II 316(b) Rules.

Federal legislation, such as the Clear Skies Act, or Clear Skies, has been proposed that would impose annual caps on U.S. power plant emissions of NO_X, SO_2, mercury, and, in some instances, CO_2. Under Clear Skies, these caps would go into effect in two phases: 2010 and 2016 for SO_2; 2008 and 2016 for NO_X; and 2010 and 2016 for mercury, with the proposed final reduction level in 2016 for SO_2, NO_X and mercury being approximately 70%. Clear Skies was first proposed in 2002 and while the bill stalled in Senate Committee on March 9, 2005, the Bush Administration continues to support, and work with Congress to achieve, passage of Clear Skies in 2005. Clear Skies overlaps to a significant degree with the USEPA CAIR and CAMR, and would modify or supersede those rules if enacted as federal legislation.

While the Bush Administration has publicly stated that it does not support mandatory national restrictions on greenhouse gas, or GHG, emissions, it supports a number of initiatives with respect to voluntary reductions of "carbon intensity" (a measure of carbon emissions per unit of GDP). A number of members of the Senate and Congress continue to call for federal GHG regulation and to propose legislation. Additionally, there have been several petitions from states and other parties to compel USEPA to regulate GHGs under the Clean Air Act, or CAA. On September 3, 2003, USEPA denied a petition by Massachusetts, Maine and Connecticut to require USEPA to establish a National Ambient Air Quality Standard, or NAAQS, for CO_2. Since that time, twelve states and other territorial entities have filed suit against USEPA asking the Court to address whether USEPA has an existing obligation to regulate GHGs under the CAA. Oral arguments in the case are scheduled for April, 2005. Additionally, eight states and the City of New York filed suit on July 21, 2004 against American Electric Power Company, Southern Company, Tennessee Valley Authority, Xcel Energy, Inc. and Cinergy Corporation, alleged to be the nation's five largest emitters of GHGs and all of which are owners of electric generation. On the same day, a similar complaint was filed in the same court against the same defendants by the Natural Resources Defense Council on behalf of certain special interest groups. In both cases, the complaint seeks an injunction against each defendant forcing it to abate its contribution to the "global warming nuisance" by requiring it to cap its CO_2 emissions and then reduce them by a specified percentage each year for at least a decade. The outcome of this litigation and proposed legislation cannot be predicted. The Company's compliance costs with any mandated GHG reductions in the future could be material.

Other federal initiatives that could affect the Company's generating facilities with respect to fine particulate matter (PM2.5), and ozone are underway, with compliance implementation timeframes expected from 2009.

Regional U.S. Regulatory Initiatives

Northeast Region. Connecticut rules on air regulation require certain reductions in emissions of SO_2 (in two steps: 2002 and 2003). The Company's Connecticut plants have operated in compliance with both phases of the rule. The Company also complies with Connecticut's NO_X emission rules (restricting the average, non–ozone season NO_X emission rate to 0.15 lbs/ MMBtu), through selective firing of natural gas, use of selective non–catalytic reduction, or SNCR, technology presently installed at the Norwalk Harbor and Middletown Power Stations, improved combustion controls, use of emission reduction credits, and purchase of allowances. In 2002, the Connecticut legislature passed a law further tightening air emission standards by eliminating emissions credit purchases after January 1, 2005 as a means of meeting Department of Environmental Protection, or DEP, regulatory standards for SO_2 emissions from older power plants. The Company plans to comply with the legislation through the use of lower sulfur oil.

Massachusetts air regulations prescribe schedules under which six existing coal–fired power plants in–state are required to meet stringent emission limits for NO_X, SO_2, mercury, and CO_2. The state has reserved the issue of control of carbon monoxide and particulate matter emissions for future consideration. Consistent

with a permit to install natural gas reburn technology to meet the NO_X and SO_2 limits received in early 2003 from the Massachusetts Department of Environmental Protection, or MADEP, the Company has implemented that technology at Somerset station. On June 4, 2004, MADEP issued its regulation on the control of mercury emissions. The effect of this regulation is that starting October 1, 2006, Somerset will be capped at 13.1 lbs/year of mercury and as of January 1, 2008, Somerset must achieve a reduction in its mercury inlet-to-outlet concentration of 85%. The Company plans to meet the requirements through the management of its fuels, and the use of early and off-site reduction credits. Additionally, the Company has entered into an agreement with MADEP to retire or repower the Somerset station by the end of 2009. The Company is currently considering its options with respect to how it will address MADEP's CO_2 emission standards; part of this analysis depends upon the outcome of the model rule process currently underway for the Regional Greenhouse Gas Initiative, or RGGI, discussed below.

New York State Department of Environmental Conservation, or NYSDEC, rules reducing allowable SO_2 and NO_X emissions from large, fossil-fuel-fired combustion units in New York State became effective October 2004. The reductions are achieved through an allowance-based cap-and-trade program that affects only New York sources. Specifically, New York electric generators have to reduce SO_2 emissions to 25% below the levels allowed in the federal Acid Rain Program starting January 2005 and 50% below the levels allowed by federal Acid Rain Program starting in January 2008. Under this Acid Rain Deposition Program, or ADRP, electric generators also have to meet the ozone season NO_X emissions limit of 0.15 lbs/MMBtu year-round, starting October 2004. The Company's strategy for complying with the ADRP is to generate early reductions of SO_2 and NO_X emissions associated with fuel switching and use such reductions to extend the timeframe for implementing technological controls, which could ultimately include the addition of flue gas desulfurization, or FGD, and selective catalytic reduction, or SCR, equipment. On January 11, 2005, the Company reached an agreement with the State of New York and the NYSDEC in connection with voluntary emissions reductions at the Huntley and Dunkirk facilities, as discussed in Item 3 — Legal Proceedings. The Company does not anticipate that any material capital expenditures, beyond those already planned, will be required for our Huntley and Dunkirk plants to meet the current compliance standards in New York (including under the recent settlement) through the end of the decade.

While no rules affecting the Company's existing facilities have been formally proposed, Delaware has foreshadowed the development of MACT-comparable standards for SO_2, NO_X and mercury. Delaware is considering such rule-making based on recent determinations that portions of the state are in non-attainment for NAAQS for fine particulates, or PM2.5, and all of the state is in non-attainment for the NAAQS for 8-Hour Ozone. The Company is evaluating voluntary emissions reductions opportunities which may include blending low sulfur western coals. While Delaware has not yet issued a proposed rule, the Company is currently participating as a stakeholder in such policy-making efforts along with the Governor's Energy Task Force, legislators, the PSC and the Delaware Department of Natural Resources and Environmental Control, or DNREC. Further, Delaware has begun rule-making in regard to developing emissions standards for small combustion turbines and distributive generation sources and implementing USEPA's New Source Review, or NSR, revisions. In addition to air emission initiatives, Delaware has also established Total Maximum Daily Loading, or TMDL, standards for temperature in its watersheds and intends to establish one for mercury as well. The Company continues to participate in these developments and has filed comments with the relevant agencies.

In July 2003, nine northeastern states announced a regional initiative to establish a cap-and-trade GHG program for electric generators, referred to as the Regional Greenhouse Gas Initiative, or RGGI. The model RGGI rule is to be announced in 2005, with an estimate of two to three years for participating states to finalize implementing regulations. A proposed level of the RGGI cap has not been determined at this time. If implemented, our plants in New York, Delaware, Massachusetts, and Connecticut may be affected and our compliance costs with any mandated GHG reductions in the future could be material.

The Ozone Transport Commission, or OTC, was established by Congress and governs ozone and the NO_X budget program in certain eastern states, including Massachusetts, Connecticut, New York and Delaware. In January 2005, the OTC stepped up its efforts to develop a multi-pollutant regime (SO_2, NO_X, mercury and CO_2) that is expected to be completed by mid-2006 (with individual state implementation to

follow), particularly if Clear Skies does not eventuate in 2005 or CAIR is perceived to be lenient. The Company continues to be engaged in the OTC stakeholder process. While it is not possible to predict the outcome of this regional legislative effort, to the extent that the OTC seeks to effect emissions requirements that are more stringent than currently proposed or existing regimes (including the recently reached New York settlement), the Company could be materially impacted.

South Central Region. The Louisiana Department of Environmental Quality, or LADEQ, has promulgated State Implementation Plan revisions to bring the Baton Rouge ozone non-attainment area into compliance with applicable NAAQS. The Company participated in development of the revisions, which require the reduction of NO_X emissions at the gas-fired Big Cajun I Power Station and coal-fired Big Cajun II Power Station to 0.1 lbs/ MMBtu and 0.21 lbs/ MMBtu NO_X, respectively (both based on heat input). This revision of the Louisiana air rules would constitute a change-in-law covered by agreement between Louisiana Generating LLC and the electric cooperatives (power offtakers) allowing the costs of added combustion controls to be passed through to the cooperatives. The capital cost of combustion controls required at the Big Cajun II Generating Station to meet the state's NO_X regulations will total about $10.0 million for Unit 1 and will be undertaken in 2005. Units 2 and 3 have already made such changes.

In the 1990s, the USEPA commenced an industry-wide investigation of coal-fired electric generators to determine compliance with environmental requirements under the CAA associated with repairs, maintenance, modifications and operational changes made to the facilities over the years. USEPA focused on whether the changes were subject to NSR regulations which require companies to obtain permits before making major modifications to their facilities and if deemed necessary, install control equipment to reduce air emissions. As a result of this ongoing investigation USEPA and several states have filed suits against a number of coal-fired power plants in mid-western and southern states alleging violations of the CAA NSR requirements. The U.S. District Court for the Southern District of Ohio issued a decision in August 2003 finding Ohio Edison Company in violation of the NSR provisions of the CAA. In United States v. Duke Energy Company, however, the U.S. District Court for the Middle District of North Carolina rejected the USEPA's interpretation, concluding that the exclusion for routine maintenance should be defined relative to what is routine for the particular industry, not what is routine for the particular unit at issue. On October 27, 2003, the USEPA's NSR rule on routine maintenance was published in the Federal Register. The new regulations, which are not retroactive, would establish an equipment replacement cost threshold of 20% for determining when major NSR requirements are triggered. An appeal opposing the rule was filed with the U.S. Court of Appeals. The effective date of the rule has been delayed pending review. In June 2004, the USEPA filed an appeal with the U.S. Court of Appeals for the Fourth Circuit from the decision in the Duke Energy case which is currently being heard with a ruling expected by summer 2005.

On January 27, 2004, Louisiana Generating, LLC and Big Cajun II received a request for information under Section 114 of the CAA from USEPA seeking information primarily related to physical changes made at Big Cajun II. Throughout 2004 Louisiana Generating, LLC and Big Cajun II submitted several responses to the USEPA's follow-up requests. On February 15, 2005, we received a Notice of Violation, or NOV, alleging violations of the NSR provisions of the CAA at Big Cajun 2 Units 1 and 2 from 1998 through the NOV date. Given the preliminary stage of this NOV process, the Company cannot predict the outcome of this matter at this time, but it is actively engaged with USEPA to address these issues.

West Coast Region. The El Segundo Generating Station is regulated by the South Coast Air Quality Management District, or SCAQMD. Before its retirement as of January 1, 2005, the Long Beach Generating Station was also regulated by SCAQMD. SCAQMD approved amendments to its Regional Clean Air Incentives Market, or RECLAIM, NO_X regulations on January 7, 2005. RECLAIM is a regional emission-trading program targeting NO_X reductions to achieve state and federal ambient air quality standards for ozone. Among other changes, the amendments reduce the NO_X RECLAIM Trading Credit, or RTC, holdings of El Segundo Power, LLC and Long Beach Generation LLC facilities by certain amounts. Notwithstanding these amendments, retained RTCs are expected to be sufficient to operate El Segundo Units 3 and 4 as high as 100% capacity factor.

Domestic Site Remediation Matters

Under certain federal, state and local environmental laws and regulations, a current or previous owner or operator of any facility, including an electric generating facility, may be required to investigate and remediate releases or threatened releases of hazardous or toxic substances or petroleum products at the facility. We may also be held liable to a governmental entity or to third parties for property damage; personal injury and investigation and remediation costs incurred by the party in connection with hazardous material releases or threatened releases. These laws, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986, or SARA, impose liability without regard to whether the owner knew of or caused the presence of the hazardous substances, and courts have interpreted liability under such laws to be strict (without fault), and joint and several. The cost of investigation, remediation or removal of any hazardous or toxic substances or petroleum products could be substantial. Although we have been involved in on-site contamination matters, to date, we have not been named as a potentially responsible party with respect to any off-site waste disposal matter.

Northeast Region. Ash is produced as a by-product of coal combustion at the Dunkirk, Huntley, Indian River and Somerset Generating Stations. The Company attempts to direct its coal ash to beneficial uses. Even so, significant amounts of ash are landfilled. At Dunkirk and Huntley ash is disposed of at landfills owned and operated by the Company and it maintains financial assurance to cover costs associated with landfill closure, post-closure care and monitoring activities. On April 30, 2003, the Company funded a trust in the amount of approximately $5.9 million to provide such financial assurance. The Company is also responsible for the costs associated with closure, post-closure care and monitoring of the ash landfill owned and operated by the Company at the Indian River facility. Financial assurance to provide for closure and post-closure costs at that location is currently maintained by a trust fund collateralized in the amount of approximately $6.7 million. The Company seeks to commence a project to utilize a quarter of its ash production in 2005 for beneficial local use. Additionally, the Company is working with DNREC to modify current landfill slope design to gain significant additional capacity at the existing landfill, thus delaying pending closure and expansion of the landfill. The Company must also maintain financial assurance for closing interim status Resource Conservation and Recovery Act, or RCRA, facilities at the Devon, Middletown, Montville and Norwalk Harbor Generating Stations. On April 30, 2003, the Company funded a trust in the amount of $1.5 million to provide RCRA financial assurance.

The Company inherited historical clean-up liabilities when it acquired the Somerset, Devon, Middletown, Montville, Norwalk Harbor, Arthur Kill and Astoria Generating Stations. During installation of a sound wall at Somerset Station in 2003, oil contaminated soil was encountered. The Company has delineated the general extent of contamination, determined it to be minimal, and has placed an activity use limitation on that section of the property. Site contamination liabilities arising under the Connecticut Transfer Act at the Devon, Middletown, Montville and Norwalk Harbor Stations have been identified. The Company has proposed a remedial action plan to be implemented over the next two to eight years (depending on the station) to address historical coal ash contamination at the facilities. The total estimated cost of this remedial action plan is not expected to exceed $1.5 million. Remedial obligations at the Arthur Kill generating station have been established in discussions between the Company and the NYSDEC and are estimated to cost between $1 million and $2 million. Remedial investigations continue at the Astoria generating station with long-term clean-up liability expected to be within the range of $2.5 million to $4.3 million. While installing groundwater-monitoring wells on the Astoria site to track remediation of a historical fuel oil spill, the drilling contractor encountered deposits of coal tar in two borings. The Company reported the coal tar discovery to the NYSDEC in 2003 and delineated the extent of this contamination. The Company may also be required to remediate the coal tar contamination and/or record a deed restriction on the property if significant contamination is to remain in place.

The Company has been put on notice that the prior owner of the Huntley, Dunkirk and Oswego plants is seeking indemnification and defense in connection with several lawsuits alleging liability for damages to persons allegedly exposed to asbestos-containing materials at the plants. The prior owner alleges that the Company is liable by the terms of the Asset Sales Agreements pursuant to which the Company acquired the

plants, which allegations are disputed. To date, the prior owner has not filed suit against the Company with respect to its claim for indemnification with respect to these cases.

South Central Region. Liabilities associated with closure, post–closure care and monitoring of the ash ponds owned and operated at the Big Cajun II Generating Station are addressed through the use of a trust fund maintained by the Company. The value of the trust fund is approximately $5.0 million and the Company is making annual payments to the fund in the amount of approximately $116,000.

West Coast Region. The Asset Purchase Agreements for the Long Beach, El Segundo, Encina, and San Diego gas turbine generating facilities provide that Southern California Edison, or SCE, and San Diego Gas & Electric, or SDG&E, retain liability, and indemnify the Company, for existing soil and groundwater contamination that exceeds remedial thresholds in place at the time of closing. The Company and its business partner conducted Phase I and Phase II Environmental Site Assessments at each of these sites for purposes of identifying such existing contamination and provided the results to the sellers. SCE and SDG&E have agreed to address contamination identified by these studies and are undertaking corrective action at the Encina and San Diego gas turbine generating sites. Spills and releases of various substances have occurred at these sites since the Company established the historical baseline, all of which have been, or will be, completely remediated. An oil leak in 2002 from underground piping at the El Segundo Generating Station contaminated soils adjacent to and underneath the Unit 1 and 2 powerhouse. The Company excavated and disposed of contaminated soils that could be removed in accordance with existing laws. Following the Company's formal request, the Los Angeles Regional Water Quality Control Board, or LARWQCB, will allow contaminated soils to remain underneath the building foundation until the building is demolished.

A diesel fuel spill to on–site surface containment occurred at the Cabrillo Power II LLC Kearny Combustion Turbine facility (San Diego) in February 2003. Emergency response and subsequent remediation activities were completed. Confirmation sampling for the site was completed in 2004 and submitted to the San Diego County Department of Environmental Health. Three San Diego Combustion Turbine facilities, formerly operating pursuant to land leases with the U.S. Navy, are currently being decommissioned with equipment being removed from the sites and remediation activities occurring where necessary. All remedial activities are being completed pursuant to the requirements of the U.S. Navy and the San Diego County Department of Environmental Health. Remediation activities were completed in 2004 at the Naval Training Center and North Island facilities. At the 32nd Street Naval Station facility, additional contamination delineation is necessary and additional unquantified remediation in inaccessible areas may be required in the future.

International Environmental Matters

Most of the foreign countries in which we own or may acquire or develop independent power projects have environmental and safety laws or regulations relating to the ownership or operation of electric power generation facilities. These laws and regulations, like in the U.S., are constantly evolving, and have a significant impact on international wholesale power producers. In particular, our international power generation facilities will likely be affected by emissions limitations and operational requirements imposed by the Kyoto Protocol, which is an international treaty related to greenhouse gas emissions which entered into force on February 16, 2005, and country–based restrictions pertaining to global climate change concerns.

We retain appropriate advisors in foreign countries and seek to design our international asset management strategy to comply with each country's environmental and safety laws and regulations. There can be no assurance that changes in such laws or regulations will not adversely effect our international operations.

Australia. With respect to Australia, climate change is considered a long–term issue (e.g. 2010 and beyond) and the Australian government's response to date has included a number of initiatives, all of which have had no impact or minimal impact on the Company's operations. The Australian government has stated that Australia will achieve its Kyoto Protocol target of 8% below 1990 greenhouse gas emission levels for the 2008 to 2012 reporting period but that Australia will not ratify the Kyoto Protocol. Each Australian state government is considering implementing a number of climate change initiatives that will vary considerably state to state.

The asset purchase documentation for the NRG Flinders assets in South Australia provides protections to buyer with respect to historical soil and ground water contamination. Although NRG Flinders has some ongoing obligations with respect to historic site contamination management at Augusta Power Station, Clause 5 of the Environment Compliance Agreement between the South Australian Minister for Environment and Heritage and NRG Flinders dated September 20, 2000, referred to as the EC Agreement, removed any obligation for clean–up or remediation of existing contamination.

While new legislation on contamination is being introduced in South Australia, with particular emphasis on groundwater contamination (regardless of the existing quality of the groundwater), the Company considers it unlikely that any of the proposed amendments will materially negatively impact NRG Flinders' operations. Specifically, despite the proposed "Soil Contamination Amendments to the Environment Protection Act 1993", Flinders will not be obligated to take any action to clean up or remediate any historical groundwater contamination caused by disposal of ash as a seawater slurry to the ash ponds by virtue of the EC Agreement (referenced above).

NRG Flinders disposes of ash to slurry ponds at Port Augusta in South Australia. At the end of life of the power station, NRG Flinders has an obligation to remediate these ponds in accordance with a plan accepted by the South Australian EPA and confirmed in the EC Agreement. The estimated cost of remediation according to the Plan is AUD 1.7 million. There is no timeline associated with the obligation but the EC Agreement extends to 2025. Under these arrangements, required remediation relates to surface remediation and does not entail any groundwater remediation.

A number of other changes in South Australian legislation are proposed; for example a new Water Quality Policy, which may have some minor implications for the Company's operations (e.g., especially mine operations). The Company continues to be involved in the legislative stakeholder process and does not expect the proposed amendments to have a materially adverse effect on its assets or operations.

MIBRAG/ Schkopau, Germany. The Company's facilities in Germany are likely to be impacted by evolving emissions limitations imposed as a result of the ratification of the Kyoto Protocol. The Company expects that CO_2 emissions trading will begin in Germany in 2005. Allocations of allowances have now been made by the government, but are being challenged by most recipients. Irrespective of the final allocation amounts, the Company does not expect the CO_2 trading program to be a material constraint on its business in Germany. In addition, changes to the German Emission Control Directive will result in lower NO_X emission limits for plants firing conventional fuels (Section 13 of the Directive) and co–firing waste products (Section 17 of the Directive). The new regulations will require the Mumsdorf and Deuben Power stations to install additional controls to reduce NO_X emissions in 2006.

The European Union's Groundwater Directive and Mine Wastewater Management Directive are in the rule–making stage with the final outcome still under debate. Given the uncertainty regarding the possible outcome of the debate on these directives, we cannot quantify at this time the possible effect such requirements would have on our future coal mining operations in Germany.

A new law specifically dealing with the relocation of residents of Heuersdorf in the path of the mining plan was enacted by the legislature of Saxony in 2004 and there are numerous potential court challenges still outstanding in this process. We cannot predict the outcome of these actions at this time. MIBRAG continues its political and legal work in an effort to obtain a favorable resolution.

The supply contracts under which MIBRAG mines lignite from the Profen mine expire on December 31, 2021. The contracts under which MIBRAG mines lignite from the Schleenhain mine expire in 2041. At the end of each mine's productive lifetime, MIBRAG will be required to reclaim certain areas. MIBRAG accrues for these eventual expenses and estimates the cost of the final reclamation to approach €175 million in the instance of the Schleenhain mine and €132 million for Profen.

Enfield Energy Centre Limited, United Kingdom. The first phase of Europe's CO_2 emissions trading scheme, or EU ETS, beginning in 2005, also affects our assets in the U.K. Participants will be required to surrender emissions allowances equal to the amount of CO_2 they have emitted in each year of the scheme. Allowances will be tradable and a market has already developed in this product. For the U.K. it is not yet

possible to quantify the possible effect of this scheme on our operations because final installation level details for the scheme have yet to be released. The second phase of the program will run between 2008 and 2012 and may be extended to cover other GHGs. Additionally, the integrated pollution prevention and control directive, or IPPC, which sets out a framework for the environmental regulation of industrial activities, will be implemented in March 2006. As Enfield Energy Centre is a latest design combined cycle gas turbine, implementing this directive is not expected to require any major changes or expenditures.

Risks Related to NRG Energy, Inc.

Future decreases in gas prices may adversely impact our financial performance.

Certain of our facilities, particularly our coal generation assets, are currently benefiting from higher electricity prices in their respective markets as a result of high gas prices compared to historical levels. Gas–fired facilities set the marginal cost of energy in most of our domestic markets. A decrease in gas prices may lead to a corresponding decrease in electricity prices in these markets, which could materially and adversely impact our financial performance.

Our revenues are unpredictable because most of our power generation facilities operate, wholly or partially, without long–term power purchase agreements. Further, because wholesale power prices are subject to significant volatility, the revenues that we generate are subject to significant fluctuations.

Most of our facilities operate as "merchant" facilities without long–term agreements. An oversupply of generating capacity has depressed wholesale power prices in many regions of the country and increased the difficulty of obtaining long–term contracts. Without the benefit of long–term power purchase agreements, we cannot be sure that we will be able to sell any or all of the power generated by our facilities at commercially attractive rates or that our facilities will be able to operate profitably. This could lead to future impairments of our property, plant and equipment or to the closing of certain of our facilities resulting in economic losses and liabilities.

We sell all or a portion of the energy, capacity and other products from many of our facilities to wholesale power markets, including energy markets operated by independent system operators, or ISOs, or regional transmission organizations, or RTOs. The prices of energy products in those markets are influenced by many factors outside of our control, including fuel prices, transmission constraints, supply and demand, weather, economic conditions and the rules, regulations and actions of the ISOs or RTOs and state and federal regulators. In addition, unlike most other commodities, electric power can only be stored on a very limited basis and generally must be produced concurrently with its use. As a result, the wholesale power markets are subject to significant and unpredictable price fluctuations over relatively short periods.

Competition in wholesale power markets may have a material adverse effect on our results of operations and cash flows.

We have numerous competitors in all aspects of our business, and additional competitors may enter the industry. Our wholesale energy operations compete with other providers of electric energy in the procurement of fuel and transportation services, and the sale of capacity, energy and related products. In order to successfully compete, we seek to aggregate fuel supplies at competitive prices from different sources and locations and to efficiently utilize transportation services from third–party pipelines, railways and other fuel transporters and transmission services from electric utilities.

We also compete against other energy merchants on the basis of our relative skills, financial position and access to credit sources. Energy customers, wholesale energy suppliers and transporters often seek financial guarantees and other assurances that their energy contracts will be satisfied. As a result, our business is constrained by our liquidity, our access to credit and the reduction in market liquidity. Other companies with which we compete may have greater resources in these areas.

Other factors may contribute to increased competition in wholesale power markets. The future of the wholesale power generation industry is unpredictable, but may include consolidation within the industry, the

sale, bankruptcy or liquidation of certain competitors, the re-regulation of certain markets or a long-term reduction in new investment into the industry. New capital and competitors have entered the industry in the last three years, including financial investors who perceive that asset values may have bottomed out at levels below their true replacement value. A number of generation facilities in the United States are now in the hands of lenders. Under any scenario, we anticipate that we will continue to face competition from numerous companies in the industry. We anticipate that FERC will continue its efforts to facilitate the competitive energy marketplace throughout the country on several fronts but particularly by encouraging utilities to voluntarily participate in RTOs or ISOs.

Many companies in the regulated utility industry, with which the wholesale power industry is closely linked, are also restructuring or reviewing their strategies. Several of those companies are discontinuing their unregulated activities, seeking to divest their unregulated subsidiaries or attempting to have their regulated subsidiaries acquire assets out of their or other companies' unregulated subsidiaries. This may lead to increased competition between the regulated utilities and the unregulated power producers within certain markets.

A substantial portion of our historical cash flow has been derived from a CDWR contract in California and we do not expect to be able to enter into comparable agreements beyond 2004.

In March 2001, certain affiliates of West Coast Power entered into a contract with the California Department of Water Resources, or CDWR, pursuant to which the affiliates agreed to sell up to 2,300 MW from January 1, 2002 through December 31, 2004, any of which may be resold by the CDWR to utilities such as Southern California Edison Company, PG&E Corp. and San Diego Gas and Electric Company. This contract contributed $108.6 million for the year ended December 31, 2004 and $102.6 million for the full year 2003 to our reported equity earnings in West Coast Power, which were decreased by the non-cash impact of fresh start accounting of $115.8 million for the year ended December 31, 2004 and $8.8 million for the period December 6, 2003 through December 31, 2003. West Coast Power made distributions to NRG Energy of $114.2 million for the year ended December 31, 2004 and $122.2 million during calendar year 2003. The contract and the corresponding earnings and cash flow terminated on December 31, 2004. The CDWR contract accounted for a majority of West Coast Power's revenues during these periods. Beginning January 2005, all of the West Coast Power assets have been negotiated and will operate under reliability must-run, or RMR, agreements. In January 2005, the El Segundo generating facility entered into a tolling arrangement for its entire gross generating capacity of 670 MW commencing May 1, 2005 and extending through December 31, 2005. During the term of this agreement, the purchaser will be entitled to primary energy dispatch rights for the facility's generating capacity. The agreement is subject to the amendment of the El Segundo RMR agreement to switch to RMR Condition I and to otherwise allow the purchaser to exercise its primary dispatch rights under this agreement while preserving Cal ISO's ability to call on the El Segundo facility as a reliability resource under the RMR agreement, if necessary.

Construction, expansion, refurbishment and operation of power generation facilities involve significant risks that cannot always be covered by insurance or contractual protections and could have a material adverse effect on our revenues and results of operations.

Many of our facilities are old. Newer plants owned by our competitors are often more efficient than our aging plants, which may put some of our plants at a competitive disadvantage. Over time, our plants may be squeezed out of their markets, or be unable to compete, because of the construction of new, more efficient plants. Older equipment, even if maintained in accordance with good engineering practices, may require significant capital expenditures to keep it operating at optimum efficiency. This equipment is also likely to require periodic upgrading and improvement. Any unexpected failure, including failure associated with breakdowns, forced outages or any unanticipated capital expenditures could result in reduced profitability. In addition, if we make any "major modifications" to our power generation facilities, as defined under the new source review provisions of the federal Clean Air Act, we may be required to install "best available control technology" or to achieve the "lowest achievable emissions rate." Any such modifications would likely result in substantial additional capital expenditures.

In general, environmental laws and regulations, particularly with respect to air emissions, are becoming more stringent, which may require us to install expensive plant upgrades and/or restrict or modify our operations to meet more stringent standards. An example of this is RGGI, the regional greenhouse gas initiative in the Northeast, discussed previously in the Northeast section under Regional U.S. Regulatory Initiatives. There are many key unknowns with respect to this initiative, including the applicable baseline, initial allocations, required emissions reductions, availability of offsets, the extent to which states will adopt the program, and the timing for implementation. There can be no assurance at this time that a carbon dioxide cap–and–trade program, if implemented by the states in which we operate, would not have a material adverse effect on our operations in this region.

We cannot predict the level of capital expenditures that will be required due to frequently changing environmental and safety laws and regulations, deteriorating facility conditions and unexpected events (such as natural disasters or terrorist attacks). The unexpected requirement of large capital expenditures could have a material adverse effect on our financial performance and condition. Further, the construction, expansion, modification and refurbishment of power generation facilities involve many risks, including:

- interruptions to dispatch at our facilities;
- supply interruptions;
- work stoppages;
- labor disputes;
- weather interferences;
- unforeseen engineering, environmental and geological problems; and
- unanticipated cost overruns.

The ongoing operation of our facilities involves all of the risks described above, as well as risks relating to the breakdown or failure of equipment or processes, performance below expected levels of output or efficiency and the inability to transport our product to our customers in an efficient manner due to a lack of transmission capacity. While we maintain insurance, obtain warranties from vendors and obligate contractors to meet certain performance levels, the proceeds of such insurance, warranties or performance guarantees may not be adequate to cover our lost revenues, increased expenses or liquidated damages payments should we experience equipment breakdown or non–performance by contractors. Any of these risks could cause us to operate below expected capacity or availability levels, which in turn could result in lost revenues, increased expenses, higher maintenance costs and penalties.

We are exposed to the risk of fuel and fuel transportation cost increases and volatility and interruption in fuel supply because some of our facilities do not have long–term natural gas, coal or liquid fuel supply agreements.

Most of our domestic natural gas–, coal– and oil–fired power generation facilities purchase their fuel requirements under short–term contracts or on the spot market. Although we attempt to purchase fuel based on our known fuel requirements, we still face the risks of supply interruptions and fuel price volatility as fuel deliveries may not exactly match energy sales due in part to our need to prepurchase fuel inventories for reliability and dispatch requirements. The price we can obtain for the sale of energy may not rise at the same rate, or may not rise at all, to match a rise in fuel costs. This may have a material adverse effect on our financial performance. Moreover, changes in market prices for natural gas, coal and oil may result from the following:

- weather conditions;
- seasonality;
- demand for energy commodities and general economic conditions;

- disruption of electricity, gas or coal transmission or transportation, infrastructure or other constraints or inefficiencies;
- additional generating capacity;
- availability of competitively priced alternative energy sources;
- availability and levels of storage and inventory for fuel stocks;
- natural gas, crude oil, refined products and coal production levels;
- the creditworthiness or bankruptcy or other financial distress of market participants;
- changes in market liquidity;
- natural disasters, wars, embargoes, acts of terrorism and other catastrophic events; and
- federal, state and foreign governmental regulation and legislation.

The volatility of fuel prices could materially and adversely affect our financial results and operations.

The quality of fuel that we rely on at certain of our coal plants may not be available at times.

Our plant operating characteristics and equipment often dictate the specific fuel quality to be combusted. The availability and price of specific fuel qualities may vary due to supplier financial or operational disruptions, transportation disruptions and force majeure. At times, coal of specific quality may not be available at any price, or we may not be able to transport such coal to our facilities on a timely basis. In such case, we may not be able to run a coal facility even if it would be profitable. Operating a coal plant with lesser quality coal can lead to emission problems. If we had contracted the power from the facility, we could be required to supply or purchase power from alternate sources, perhaps at a loss. This could have a material adverse impact on the financial results of specific plants and on our results of operations.

We often rely on single suppliers and at times we rely on single customers at our facilities, exposing us to significant financial risks if either should fail to perform their obligations.

We often rely on a single contracted supplier for the provision of transportation of fuel and other services required for the operation of our facilities. If these suppliers cannot perform, we utilize the marketplace to provide these services. At times, we rely on a single customer or a few customers to purchase all or a significant portion of a facility's output, in some cases under long-term agreements that provide the support for any project debt used to finance the facility. For the year ended December 31, 2004, we derived 49.8% of our revenues from majority-owned operations from four customers: NYISO accounted for 28.5%, ISO New England accounted for 9.1%, National Electricity Market Management Co. Ltd (Australia) accounted for 6.8% and Vattenfall Europe (Germany) accounted for 5.4%. For the period December 6, 2003 through December 31, 2003, we derived 39.0% of our revenues from majority-owned operations from two customers: NYISO accounted for 26.5% and ISO New England accounted for 12.5%. During the period January 1, 2003 through December 5, 2003, we derived 33.4% of our revenues from majority-owned operations from NYISO. During 2002, we derived approximately 26.0% of our revenues from majority-owned operations from NYISO. The failure of any supplier or customer to fulfill its contractual obligations to a facility could have a material adverse effect on such facility's financial results. Consequently, the financial performance of any such facility is dependent on the credit quality of, and continued performance by, suppliers and customers.

Our operations are subject to hazards customary to the power generation industry. We may not have adequate insurance to cover all of these hazards.

Our operations are subject to many hazards associated with the power generation industry, which may expose us to significant liabilities for which we may not have adequate insurance coverage. Power generation involves hazardous activities, including acquiring, transporting and unloading fuel, operating large pieces of rotating equipment and delivering electricity to transmission and distribution systems. In addition to natural risks such as earthquake, flood, lightning, hurricane and wind, hazards, such as fire, explosion, collapse and

machinery failure, are inherent risks in our operations. These and other hazards can cause significant personal injury or loss of life, severe damage to and destruction of property, plant and equipment, contamination of, or damage to, the environment and suspension of operations. The occurrence of any one of these events may result in our being named as a defendant in lawsuits asserting claims for substantial damages, including for environmental cleanup costs, personal injury and property damage and fines and/or penalties. We maintain an amount of insurance protection that we consider adequate, but we cannot assure you that our insurance will be sufficient or effective under all circumstances and against all hazards or liabilities to which we may be subject. A successful claim for which we are not fully insured could hurt our financial results and materially harm our financial condition. Further, due to rising insurance costs and changes in the insurance markets, we cannot assure you that insurance coverage will continue to be available at all or at rates or on terms similar to those presently available to us.

We may not have sufficient liquidity to hedge market risks effectively.

We are exposed to market risks through our power marketing business, which involves the sale of energy, capacity and related products and procurement of fuel, transmission services and emission allowances. These market risks include, among other risks, volatility arising from the timing differences associated with buying fuel, converting fuel into energy and delivering the energy to a buyer. We seek to manage this volatility by entering into forward and other contracts that hedge our exposure for our net transactions. The effectiveness of our hedging strategy may be dependent on the amount of collateral available to enter into these hedging contracts, and liquidity requirements may be greater than we anticipate or are able to meet. Without a sufficient amount of working capital to post as collateral in support of performance guarantees or as cash margin, we may not be able to effectively manage price volatility. Factors which could lead to an increase in our required collateral include volatile commodity prices, adverse changes in our industry, credit rating downgrades and the secured nature of our Amended Credit Facility. Under certain unfavorable commodity price scenarios, it is possible that we could experience inadequate liquidity as a result of the posting of additional collateral.

Further, if our facilities experience unplanned outages, we may be required to procure replacement power in the open market to minimize our exposure to liquidated damages. Without adequate liquidity to post margin and collateral requirements, we may be exposed to significant losses and may miss significant opportunities, and we may have increased exposure to the volatility of spot markets.

The accounting for our hedging activities may increase the volatility in our quarterly and annual financial results.

We engage in commodity–related marketing and price–risk management activities in order to economically hedge our exposure to market risk with respect to (i) electricity sales from our generation assets, (ii) fuel utilized by those assets and (iii) emission allowances. We generally attempt to balance our fixed–price physical and financial purchases and sales commitments in terms of contract volumes and the timing of performance and delivery obligations, through the use of financial and physical derivative contracts. These derivatives are accounted for in accordance with SFAS No. 133, *"Accounting for Derivative Instruments and Hedging Activities,"* as amended by SFAS No. 137, SFAS No. 138 and SFAS No. 149. SFAS No. 133 requires us to record all derivatives on the balance sheet at fair value with changes in the fair value resulting from fluctuations in the underlying commodity prices immediately recognized in earnings, unless the derivative qualifies for hedge accounting treatment. Whether a derivative qualifies for hedge accounting depends upon it meeting specific criteria used to determine if hedge accounting is and will remain appropriate for the term of the derivative. Economic hedges will not necessarily qualify for hedge accounting treatment. As a result, we are unable to predict the impact that our risk management decisions may have on our quarterly operating results or financial position.

The value of our assets is subject to the nature and extent of decommissioning and remediation obligations applicable to us.

Our facilities and related properties may become subject to decommissioning and/or site remediation obligations that may require material unplanned expenditures or otherwise materially affect the value of those assets. While we meet all site remediation obligations currently applicable to our assets (largely through the provision of various forms of financial assurance. See Item 1 — Environmental Matters — Domestic Site Remediation Matters), more onerous obligations apply to sites where a plant is to be dismantled, which could negatively affect our ability to economically undertake power redevelopments or alternate uses at existing power plant sites. Further, laws and regulations may change to impose material additional decommissioning and remediation obligations on us in the future, negatively impacting the value of our assets and/or our ability to undertake redevelopment projects.

Our results are subject to quarterly and seasonal fluctuations.

Our quarterly operating results have fluctuated in the past and will continue to do so in the future as a result of a number of factors, including seasonal variations in demand and corresponding electricity and fuel price volatility and variations in levels of production.

Because we own less than a majority of some of our project investments, we cannot exercise complete control over their operations.

We have limited control over the operation of some project investments and joint ventures because our investments are in projects where we beneficially own less than a majority of the ownership interests. We seek to exert a degree of influence with respect to the management and operation of projects in which we own less than a majority of the ownership interests by negotiating to obtain positions on management committees or to receive certain limited governance rights such as rights to veto significant actions. However, we may not always succeed in such negotiations. We may be dependent on our co–venturers to operate such projects. Our co–venturers may not have the level of experience, technical expertise, human resources management and other attributes necessary to operate these projects optimally. The approval of co–venturers also may be required for us to receive distributions of funds from projects or to transfer our interest in projects.

Our access to the capital markets may be limited.

We may require additional capital from outside sources from time to time. Our ability to arrange financing, either at the corporate level or on a non–recourse project–level basis, and the costs of such capital are dependent on numerous factors, including:

- general economic and capital market conditions;
- covenants in our existing debt and credit agreements;
- credit availability from banks and other financial institutions;
- investor confidence in us, our partners and the regional wholesale power markets;
- our financial performance and the financial performance of our subsidiaries;
- our levels of indebtedness;
- maintenance of acceptable credit ratings;
- cash flow; and
- provisions of tax and securities laws that may impact raising capital.

We may not be successful in obtaining additional capital for these or other reasons. The failure to obtain additional capital from time to time may have a material adverse effect on our business and operations.

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Our business is subject to substantial governmental regulation and permitting requirements and may be adversely affected by liability under, or any future inability to comply with, existing or future regulations or requirements.

Our business is subject to extensive foreign, federal, state and local energy, environmental and other laws and regulations. We generally are required to obtain and comply with a wide variety of licenses, permits and other approvals in order to construct, operate or modify our facilities. We may incur significant additional costs because of our need to comply with these requirements. If we fail to comply with these requirements, we could be subject to civil or criminal liability and the imposition of liens or fines. We could also be required to shut down any facilities that do not comply with these requirements. In addition, we are at risk for liability for past, current or future contamination at our former and existing facilities or with respect to off-site waste disposal sites that we have used in our operations. Existing regulations may be revised or reinterpreted and new laws and regulations may be adopted or become applicable to us or our facilities in a manner that may have a detrimental effect on our business. With the continuing trend toward stricter standards, greater regulation and more extensive permitting requirements, we expect that our environmental expenditures will be substantial in the future.

Our operations are potentially subject to the provisions of various energy laws and regulations, including the Public Utility Holding Company Act of 1935, or PUHCA, the Federal Power Act or FPA, and state and local utility laws and regulations. Under the FPA, FERC regulates our wholesale sales of electric power (other than sales by our qualifying facilities, which are exempt from FERC rate regulation). The ability to sell energy at market-based rates is predicated on the absence of market power in either generation or transmission, the inability to create barriers to entry and the inability to engage in abusive affiliate transactions and filing of certain reports with FERC. The market power analysis includes not only generation and transmission owned by a particular applicant but also assets owned by affiliated companies. Holders of market-based rate authority must comply with obligations imposed by FERC and with certain FERC filing requirements such as the requirement to file quarterly reports detailing wholesale sales. Although a number of our direct and indirect subsidiaries have obtained market-based rate authority from FERC, these authorizations could be revoked if we fail in the future to satisfy the applicable criteria, if FERC modifies the criteria, or if FERC eliminates or further restricts the ability of wholesale sellers to make sales at market-based rates.

In addition, under PUHCA, registered holding companies and their subsidiaries (i.e., companies with 10% or more of their voting securities held by registered holding companies) are subject to extensive regulation by the SEC. We will not be considered a holding company or subject to PUHCA as long as we do not become a subsidiary of another registered holding company and the projects in which we have an interest (1) qualify as a qualifying facility, or QF, under the Public Utility Regulatory Policies Act, or PURPA, (2) obtain and maintain exempt wholesale generator, or EWG, status under Section 32 of PUHCA, (3) obtain and maintain foreign utility company, or FUCO, status under Section 33 of PUHCA, or (4) are subject to another exemption or waiver. If our projects were to cease to be exempt and we were to become subject to SEC and FERC regulation under PUHCA, it would be difficult for us to comply with PUHCA absent a substantial corporate restructuring.

Our business faces regulatory risks related to the market rules and regulations imposed by transmission providers, independent system operators and regional transmission organizations.

We face regulatory risk imposed by the various transmission providers, ISOs and RTOs and their corresponding market rules. These market rules are subject to revisions, and such revisions may not benefit us. Transmission providers, ISOs and RTOs have FERC-approved tariffs that govern access to their transmission system. These tariffs may contain provisions that limit access to the transmission grid or allocate scarce transmission capacity in a particular manner.

We presently operate in the following ISO or RTO markets: California (through the West Coast Power joint venture and individually), New England, New York and PJM (the Pennsylvania, Jersey, Maryland Interconnection). The chief regulatory risk is the lack of, or uncertainty regarding, market mechanisms that effectively compensate generating units for providing reliability services and installed capacity.

Restrictions in transmission access and expansions in the transmission system could reduce revenues.

We are dependent on access to transmission systems to sell our energy. In the northeastern ISO and RTO markets, we have a significant amount of generation located in load pockets. Expansion of the transmission system to reduce or eliminate these load pockets could negatively impact our existing facilities in these areas.

Our facilities located in the Entergy franchise territory face a different transmission risk, in that restrictions on transmission access may limit our ability to sell energy or to service new customers.

We are subject to claims made after the date that we filed for bankruptcy and other claims that were not discharged in the bankruptcy cases, which could have a material adverse effect on our results of operations and profitability.

The nature of our business frequently subjects us to litigation. Many of the largest claims against us prior to the date of the bankruptcy filing were satisfied and discharged in accordance with the terms of the NRG plan of reorganization or the plan of reorganization for certain subsidiaries or in connection with settlement agreements that were approved by the bankruptcy court prior to our emergence from bankruptcy. Circumstances in which pre-bankruptcy filing claims have not been discharged include, among others, where we have agreed with a given claimant to preserve their claims, as well as, potentially, instances where a claimant had no notice of the bankruptcy filing. The ultimate resolution of certain remaining or future claims may have a material adverse effect on our results of operations and profitability. In addition, claims made against subsidiaries that did not file for chapter 11, and claims arising after the date of our bankruptcy filing, were not discharged in the bankruptcy cases. See Item 15 — Note 27 to the Consolidated Financial Statements included in our Annual Report on Form 10-K for the Year ended December 31, 2004, for a description of the significant legal proceedings and investigations in which we are presently involved.

Under the NRG plan of reorganization, we have established disputed claims reserves, which we will utilize to make distributions to holders of disputed claims in our bankruptcy cases as and when their claims are resolved. If these reserves prove inadequate, we will be required to finance any further cash distributions from other resources, and doing so could have a material adverse impact on our financial condition, and, in addition, we could be required to issue new common stock, which would dilute existing shareholders. In particular, the State of California's disputed claims against us are capped at $1.35 billion. There are also a number of private claims springing from the California energy crisis for which there is no cap. We have made no reserves for these claims, because we believe they are without merit; however, if the State of California or these private litigants prevail, then payment of the distributions to which the State of California or these private litigants would be entitled under the NRG plan of reorganization could have a material adverse impact on our financial condition.

Acts of terrorism could have a material adverse effect on our financial condition, results of operations and cash flows.

Our generation facilities and the facilities of third parties on which they rely may be targets of terrorist activities, as well as events occurring in response to or in connection with them, that could cause environmental repercussions and/or result in full or partial disruption of their ability to generate, transmit, transport or distribute electricity or natural gas. Strategic targets, such as energy-related facilities, may be at greater risk of future terrorist activities than other domestic targets. Any such environmental repercussions or disruption could result in a significant decrease in revenues or significant reconstruction or remediation costs, which could have a material adverse effect on our financial condition, results of operations and cash flows.

Our international investments face uncertainties.

We have investments in power projects in Australia, the United Kingdom, Germany and Brazil. International investments are subject to risks and uncertainties relating to the political, social and economic

structures of the countries in which we invest. Risks specifically related to our investments in international projects may include:

- fluctuations in currency valuation;
- currency inconvertibility;
- expropriation and confiscatory taxation;
- increased regulation; and
- approval requirements and governmental policies limiting returns to foreign investors.

Cautionary Statement Regarding Forward Looking Information

This Annual Report on Form 10–K includes forward–looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. The words "believes," "projects," "anticipates," "plans," "expects," "intends," "estimates" and similar expressions are intended to identify forward–looking statements. These forward–looking statements involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance and achievements, or industry results, to be materially different from any future results, performance or achievements expressed or implied by such forward–looking statement. These factors, risks and uncertainties include, but are not limited to, the factors described under "Risks Related to NRG Energy, Inc." in this Item 1 and to the following:

- Lack of comparable financial data due to adoption of Fresh Start reporting;
- Our ability to successfully and timely close transactions to sell certain of our assets;
- The potential impact of our corporate relocation on workforce requirements including the loss of institutional knowledge and the inability to maintain existing processes;
- Hazards customary to the power production industry and power generation operations such as fuel and electricity price volatility, unusual weather conditions, catastrophic weather–related or other damage to facilities, unscheduled generation outages, maintenance or repairs, unanticipated changes to fossil fuel supply costs or availability due to higher demand, shortages, transportation problems or other developments, environmental incidents, or electric transmission or gas pipeline system constraints and the possibility that we may not have adequate insurance to cover losses as a result of such hazards;
- Our potential inability to enter into contracts to sell power and procure fuel on terms and prices acceptable to us;
- The liquidity and competitiveness of wholesale markets for energy commodities;
- Changes in government regulation, including but not limited to the pending changes of market rules, market structures and design, rates, tariffs, environmental laws and regulations and regulatory compliance requirements;
- Price mitigation strategies and other market structures employed by independent system operators, or ISOs, or regional transmission organizations, or RTOs, that result in a failure to adequately compensate our generation units for all of their costs;
- Our ability to borrow additional funds and access capital markets, as well as our substantial indebtedness and the possibility that we may incur additional indebtedness going forward; and
- Significant operating and financial restrictions placed on us contained in the indenture governing our 8% second priority senior secured notes due 2013, our amended and restated credit facility as well as in debt and other agreements of certain of our subsidiaries and project affiliates generally.

Forward–looking statements speak only as of the date they were made, and we undertake no obligation to publicly update or revise any forward–looking statements, whether as a result of new information, future events or otherwise. The foregoing review of factors that could cause our actual results to differ materially from those

contemplated in any forward-looking statements included in this Annual Report on Form 10-K should not be construed as exhaustive.

Item 2 — *Properties*

Listed below are descriptions of our interests in facilities, operations and/or projects owned as of December 31, 2004.

Independent Power Production and Cogeneration Facilities

Name and Location of Facility	Purchaser/Power Market	Net Owned Capacity (MW)	NRG'S Percentage Ownership Interest	Fuel Type
Northeast Region:				
Oswego, New York	NYISO	1,700	100%	Oil/Gas
Huntley, New York	NYISO	760	100%	Coal
Dunkirk, New York	NYISO	600	100%	Coal
Arthur Kill, New York	NYISO	842	100%	Gas/Oil
Astoria Gas Turbines, New York	NYISO	600	100%	Gas/Oil
Somerset, Massachusetts	ISO-NE	136	100%	Coal/Oil
Middletown, Connecticut	ISO-NE	786	100%	Oil/Gas/Jet Fuel
Montville, Connecticut	ISO-NE	498	100%	Oil/Gas/Diesel
Devon, Connecticut	ISO-NE	401	100%	Gas/Oil/Jet Fuel
Norwalk Harbor, Connecticut	ISO-NE	353	100%	Oil
Connecticut Jet Power, Connecticut	ISO-NE	127	100%	Jet Fuel
Indian River, Delaware	PJM	784	100%	Coal/Oil
Vienna, Maryland	PJM	170	100%	Oil
Conemaugh, Pennsylvania	PJM	64	4%	Coal/Oil
Keystone, Pennsylvania	PJM	63	4%	Coal/Oil
South Central Region:				
Big Cajun II, Louisiana*	SERC-Entergy	1,489	86%	Coal
Big Cajun I, Louisiana	SERC-Entergy	458	100%	Gas/Oil
Bayou Cove, Louisiana	SERC-Entergy	320	100%	Gas
Sterlington, Louisiana	SERC-Entergy	202	100%	Gas
West Coast Region:				
El Segundo Power, California	Cal ISO	335	50%	Gas
Encina, California	Cal ISO	483	50%	Gas/Oil
Long Beach Generating, California**	Cal ISO	265	50%	Gas
San Diego Combustion Turbines, CA	Cal ISO	85	50%	Gas/Oil
Saguaro Power Co., Nevada***	WECC	53	50%	Gas/Oil
Chowchilla, California	Cal ISO	49	100%	Gas
Red Bluff, California	Cal ISO	45	100%	Gas
Other North America:				
Audrain***	MAIN	640	100%	Gas
Rockford I, Illinois	MAIN	342	100%	Gas

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Name and Location of Facility	Purchaser/Power Market	Net Owned Capacity (MW)	NRG'S Percentage Ownership Interest	Fuel Type
Rockford II, Illinois	MAIN	171	100%	Gas
Rocky Road Power, Illinois	PJM	175	50%	Gas
Ilion, New York	NYISO	60	100%	Gas/Oil
Dover, Delaware	PJM	106	100%	Gas/Coal/Oil
James River***	SERC — TVA	55	50%	Coal
Paxton Creek Cogeneration	PJM	12	100%	Gas
Other — 3 projects***	Various	30	Various	Various
Australia:				
Flinders, South Australia	South Australian Pool	760	100%	Coal
Gladstone Power Station, Queensland	Enertrade/Boyne Smelters	630	38%	Coal
Other International:				
Europe:				
Enfield Energy Centre, UK***	UK Electricity Grid	95	25%	Gas
Schkopau Power Station, Germany	Vattenfall Europe	400	42%	Coal
MIBRAG mbH, Germany****	ENVIA/MIBRAG Mines	119	50%	Coal
Brazil:				
Itiquira Energetica, Brazil***	COPEL	154	99%	Hydro
NEO Corporation, Various	Various	41	Various	Various

* Units 1 and 2 owned 100%, Unit 3 owned 58%

** Retired effective January 1, 2005

*** May sell or dispose of in 2005

**** Primarily a coal mining facility

Thermal Energy Production and Transmission Facilities and Resource Recovery Facilities

Name and Location of Facility	Customers	Net Owned Capacity*	NRG's Percentage Ownership Interest	Fuel Type
Non–Generation Facilities:				
NRG Energy Center Minneapolis, Minnesota	Approx. 100 steam customers and 45 chilled water customers	Steam: 1,203 mm Btu/hr. (353 MWt) Chilled water: 41,630 tons (146 MWt)	100%	Gas/Oil
NRG Energy Center San Francisco, California	Approx. 170 steam customers	Steam: 482 mm Btu/hr. (141 MWt)	100%	Gas
NRG Energy Center Harrisburg, Pennsylvania	Approx. 270 steam customers and 3 chilled water customers	Steam: 440 mm Btu/hr. (129 MWt) Chilled water: 2,400 tons (8 MWt)	100%	Gas/Oil
NRG Energy Center Pittsburgh, Pennsylvania	Approx. 25 steam and 25 chilled water customers	Steam: 266 mm Btu/hr. (78 MWt) Chilled water: 12,580 tons (44 MWt)	100%	Gas/Oil
NRG Energy Center San Diego, California	Approx. 20 chilled water customers	Chilled water: 7,425 tons (26 MWt)	100%	Gas
NRG Energy Center St. Paul, Minnesota	Rock–Tenn Company	Steam: 430 mm Btu/hr. (126 MWt)	100%	Coal/Gas/Oil
Camas Power Boiler Washington	Georgia–Pacific Corp.	Steam: 200 mm Btu/hr. (59 MWt)	100%	Biomass
NRG Energy Center Dover, Delaware	Kraft Foods, Inc.	Steam: 190 mm Btu/hr. (56 MWt)	100%	Coal
NRG Energy Center Bayport, Minnesota	Andersen Corporation and Minnesota Correctional Facility	Steam: 200 mm Btu/hr. (59 MWt)	100%	Coal/Gas/Propane

* Thermal production and transmission capacity is based on 1,000 Btus per pound of steam production or transmission capacity. The unit mmBtu is equal to one million Btus.

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Name and Location of Facility	Customers	Net Owned Capacity	NRG'S Percentage Ownership Interest
Alternative Energy:			
Resource Recovery Facilities			
Newport, Minnesota	Ramsey and Washington Counties	MSW: 1,500 tons/day	100%
Elk River, Minnesota	Anoka, Hennepin, and Sherburne Counties; Tri- County Solid Waste Management Commission	MSW: 1,275 tons/day	85%

Other Properties

In addition to the above, we lease our corporate offices at 211 Carnegie Center, Princeton, New Jersey 08540 and various other office spaces. We also own interests in other construction projects in various states of completion, as well as other properties not used for operational purposes.

Item 3 —*Legal Proceedings*

California Wholesale Electricity Litigation and Related Investigations

***People of the State of California ex. rel. Bill Lockyer, Attorney General, v. Dynegy, Inc. et al.,* U.S. District Court, Northern District of California, Case No. C-02-01854 VRW; U.S. Court of Appeals for the Ninth Circuit, Case No. 02-16619.** This action was filed in state court on March 11, 2002, against us, Dynegy, Dynegy Power Marketing, Inc., Xcel Energy, West Coast Power, or WCP, and WCP's four operating subsidiaries. Through our subsidiary, NRG West Coast LLC, we are a 50 percent beneficial owner with Dynegy of West Coast Power, which owns, operates, and markets the power of four California plants. Dynegy and its affiliates and subsidiaries are responsible for gas procurement and marketing and trading activities on behalf of West Coast Power. The complaint alleges that the defendants violated state unfair competition law by selling ancillary services to the state independent system operator, and subsequently selling the same capacity into the spot market. It seeks injunctive relief as well as restitution, disgorgement and unspecified civil penalties. On April 17, 2002, the defendants removed the case to the U.S. District Court for the Northern District of California in San Francisco. In a March 25, 2003, opinion, the court dismissed the Attorney General's action against Dynegy and us with prejudice, finding it was barred by the filed-rate doctrine and preempted by federal law. On July 6, 2004, the U.S. Court of Appeals for the Ninth Circuit rejected the Attorney General's appeal. Rehearing was sought and rejected on October 29, 2004. On January 27, 2005, the Attorney General filed a petition for writ of certiorari to the U.S. Supreme Court.

***Public Utility District of Snohomish County v. Dynegy Power Marketing, Inc et al.,* Case No. 02-CV-1993 RHW, U.S. District Court, Southern District of California (part of MDL 1405).** This action was filed against us, Dynegy, Xcel Energy and several other market participants on July 15, 2002. The complaint alleges violations of state anti-trust and unfair competition laws by means of price fixing, restriction of supply, and other market "gaming" activities. After the action was transferred to the U.S. District Court for the Southern District of California in San Diego and made a part of the Multi-District Litigation, or MDL, proceeding described below, it was dismissed on the grounds of federal preemption and filed-rate doctrine. The plaintiffs filed a notice of appeal and on September 10, 2004, the U.S. Court of Appeals for the Ninth Circuit affirmed the District Court's dismissal on the same legal grounds. On November 5, 2004, the plaintiff filed a petition for writ of certiorari to the U.S. Supreme Court and on February 22, 2005, the Supreme Court issued an order requesting the views of the U.S. Solicitor General on the petition.

In re: Wholesale Electricity Antitrust Litigation, **MDL 1405, U.S. District Court, Southern District of California.** The cases included in this proceeding are as follows:

Pamela R Gordon, on Behalf of Herself and All Others Similarly Situated v Reliant Energy, Inc. et al., **Case No. 758487, Superior Court of the State of California, County of San Diego** (filed on November 27, 2000). ***Ruth Hendricks, On Behalf of Herself and All Others Similarly Situated and On Behalf of the General Public v. Dynegy Power Marketing, Inc. et al.,*** **Case No. 758565, Superior Court of the State of California, County of San Diego** (filed November 29, 2000). ***The People of the State of California, by and through San Francisco City Attorney Louise H. Renne v. Dynegy Power Marketing, Inc. et al.,*** **Case No. 318189, Superior Court of California, San Francisco County** (filed January 18, 2001). ***Pier 23 Restaurant, A California Partnership, On Behalf of Itself and All Others Similarly Situated v PG&E Energy Trading et al.,*** **Case No. 318343, Superior Court of California, San Francisco County** (filed January 24, 2001). ***Sweetwater Authority, et al. v. Dynegy, Inc. et al.,*** **Case No. 760743, Superior Court of California, County of San Diego** (filed January 16, 2001). ***Cruz M Bustamante, individually, and Barbara Matthews, individually, and on behalf of the general public and as a representative taxpayer suit, v. Dynegy Inc. et al., inclusive.*** **Case No. BC249705, Superior Court of California, Los Angeles County** (filed May 2, 2001).

NRG Energy is a defendant in all of the above referenced cases. Several of WCP's operating subsidiaries are also defendants in the *Bustamante* case. The cases allege unfair competition, market manipulation and price fixing and all seek treble damages, restitution and injunctive relief. In December 2002, the U.S. District Court for the Southern District of California issued an opinion finding that federal jurisdiction was absent in the district court, and remanding the cases back to state court. A notice of appeal was filed and on December 8, 2004, the U.S. Court of Appeals for the Ninth Circuit issued its published, unanimous decision affirming the District Court in most respects. On March 5, 2005, the Ninth Circuit denied a petition for rehearing. We anticipate that the cases will be remanded to state court in 2005 at which time the defendants will again raise filed–rate and federal preemption challenges.

"Northern California" cases against various market participants. **T&E Pastorino v. Duke Energy, et al., Case No. 02–CV–2176; RDJ Farms v. Allegheny Energy, et al., Case No. 02–2059; Century Theatres v. Allegheny Energy, et al., Case No. 02–CV–2177; Bronco Don v. Duke Energy, Case No. 02–CV–2178; El Super Burrito v. Allegheny Energy, et al., Case No. 02–CV–2180; Leo's Day & Night Pharmacy, Case No. 02–CV–2181; J&M Karsant V. Duke Energy, Case No. 02–CV–2182. (Part of MDL 1405).** We were not named in any of these cases, but in all of them, either WCP or one or more of its operating subsidiaries as well as Dynegy are named as defendants. These cases all allege violations of state unfair competition law. Dynegy's counsel is representing both Dynegy and the WCP subsidiaries in these cases with each side responsible for half of the defense costs. These cases all were removed to federal court and denied remand to state court. In late August 2003, the defendants' motions to dismiss were granted in these various cases. On February 25, 2005, the U.S. Court of Appeals for the Ninth Circuit approved the district court decision to dismiss the case.

Bustamante v. McGraw–Hill Companies, Inc., et al., **No. BC 235598, California Superior Court, Los Angeles County** (filed November 20, 2002, and amended in 2003). This putative class action alleges that the defendants attempted to manipulate gas indexes by reporting false and fraudulent trades. Named defendants in the suit include several of WCP's operating subsidiaries. Dynegy is defending the WCP subsidiaries pursuant to a limited indemnification agreement. The complaint seeks restitution and disgorgement, civil fines, compensatory and punitive damages, attorneys' fees and declaratory and injunctive relief. Defendant's motion for summary judgment is pending.

Jerry Egger, et al. v. Dynegy, Inc., et al., **Case No. 809822, Superior Court of California, San Diego County** (filed May 1, 2003). This putative class action alleges violations of California's antitrust law, as well as unlawful and unfair business practices and seeks treble damages, restitution and injunctive relief. The named defendants include WCP and several of its operating subsidiaries. NRG Energy is not named. This case was removed to the U.S. District Court for the Northern District of California, and the defendants have moved to have this case included as Multi–District Litigation along with the above referenced cases. Plaintiffs argued a motion to remand to state court on February 19, 2004, at which time the court stayed the case pending a

decision from the U.S. Court of Appeals for the Ninth Circuit in the *Pastorino* appeal, referenced above. Dynegy's counsel is representing Dynegy and WCP and its subsidiaries in this case with each side responsible for half of the defense costs. With the Ninth Circuit's February 25, 2005, decision in the Northern California cases referenced above, a decision on the stay in this case is expected this year.

Texas–Ohio Energy, Inc., on behalf of Itself and all others similarly situated v. Dynegy, Inc. Holding Co., West Coast Power, LLC, et al., **Case No. CIV.S–03–2346 DFL GGH, U.S. District Court, Eastern District of California** (filed November 10, 2003). This putative class action alleges violations of the federal Sherman and Clayton Acts and state antitrust law. In addition to naming WCP and Dynegy, Inc. Holding Co., the complaint names numerous industry participants, as well as "unnamed co–conspirators." The complaint alleges that defendants conspired to manipulate the spot price and basis differential of natural gas with respect to the California market. The complaint seeks unspecified amounts of damages, including a trebling of plaintiff's and the putative class's actual damages. Dynegy is defending WCP pursuant to a limited indemnification agreement.

City of Tacoma, Department of Public Utilities, Light Division, v. American Electric Power Service Corporation, et al., **U.S. District Court, Western District of Washington, Case No. C04–5325 RBL** (filed June 16, 2004). The complaint names over 50 defendants, including WCP's four operating subsidiaries and various Dynegy entities. The complaint also names both us and WCP as "Non–Defendant Co–Conspirators." Plaintiff alleges a conspiracy to violate the federal Sherman Act by withholding power generation from, and/or inflating the apparent demand for power in markets in California and elsewhere. Plaintiff claims damages in excess of $175 million. Dynegy is defending WCP and its subsidiaries pursuant to a limited indemnification agreement.

Fairhaven Power Company v. Encana Corporation, et al., **Case No. CIV–F–04–6256 (OWW/ LJO), U.S. District Court, Eastern District of California** (filed September 22, 2004), **Abelman v. Encana, U.S. District Court, Eastern District of California, Case No. 04–CV–6684** (filed December 13, 2004); **Utility Savings v. Reliant, et al., U.S. District Court, Eastern District of California,** (filed November 29, 2004). These putative class actions name WCP and Dynegy Holding Co., Inc. among the numerous defendants. The Complaints allege violations of the federal Sherman Act, and California's antitrust and unfair competition law as well as unjust enrichment. The Complaints seek a determination of class action status, a trebling of unspecified damages, statutory, punitive or exemplary damages, restitution, disgorgement, injunctive relief, a constructive trust, and costs and attorneys' fees. Dynegy is defending WCP pursuant to a limited indemnification agreement.

In Re: Natural Gas Commodity Litigation, **Master File No. 03 CV 6186(VM)(AJP), U.S. District Court, Southern District of New York.** West Coast Power, or WCP, and Dynegy Marketing and Trade are among numerous defendants accused of manipulating gas index publications and prices in violation of the federal Commodity Exchange Act, or CEA, in the following consolidated cases: *Cornerstone Propane Partners, LP v. Reliant Energy Services, Inc., et al.,* **Case No. 03 CV 6186** (S.D.N.Y. filed August 18, 2003); *Calle Gracey v. American Electric Power Co., Inc., et al.,* **Case No. 03 CV 7750** (S.D.N.Y. filed Oct. 1, 2003); *Cornerstone Propane Partners, LP v. Coral Energy Resources, LP, et al.,* **Case No. 03 CV 8320** (S.D.N.Y. filed Oct. 21, 2003); and *Viola v. Reliant Energy Servs., et al.,* **Case No. 03 CV 9039** (S.D.N.Y. filed Nov. 14, 2003). Plaintiffs, in their Amended Consolidated Class Action Complaint dated October 14, 2004, allege that the defendants engaged in a scheme to manipulate and inflate natural gas prices. The plaintiffs seek class action status for their lawsuit, unspecified actual damages for violations of the CEA and costs and attorneys' fees. Dynegy Marketing and Trade is defending WCP in these proceedings pursuant to a limited indemnification agreement.

ABAG Publicly Owned Energy Resources v. Sempra Energy, et al., Alameda County Superior Court, Case No. RG04186098, filed November 10, 2004; **Cruz Bustamante v. Williams Energy Services, et al., Los Angeles Superior Court, Case No. BC285598,** filed June 28, 2004; **City & County of San Francisco, et al. v. Sempra Energy, et al., San Diego County Superior Court, Case No. GIC832539,** filed June 8, 2004; **City of San Diego v. Sempra Energy, et al., San Diego County Superior Court, Case No. GIC839407,** filed December 1, 2004; **County of Alameda v. Sempra Energy, Alameda County Superior Court, Case**

No. RG041282878, filed October 29, 2004; **County of San Diego v. Sempra Energy, et al., San Diego County Superior Court, Case No. GIC833371,** filed July 28, 2004; **County of San Mateo v. Sempra Energy, et al., San Mateo County Superior Court, Case No. CIV443882,** filed December 23, 2004; **County of Santa Clara v. Sempra Energy, et al., San Diego County Superior Court, Case No. GIC832538,** filed July 8, 2004; **Nurserymen's Exchange, Inc. v. Sempra Energy, et al., San Mateo County Superior Court, Case No. CIV442605,** filed October 21, 2004; **Older v. Sempra Energy, et al., San Diego Superior Court, Case No. GIC835457,** filed December 8, 2004; **Owens–Brockway Glass Container, Inc. v. Sempra Energy, et al., Alameda County Superior Court, Case No. RG0412046,** filed December 30, 2004; **Sacramento Municipal Utility District v. Reliant Energy Services, Inc.; Sacramento County Superior Court, Case No. 04AS04689,** filed November 19, 2004; **School Project for Utility Rate Reduction v. Sempra Energy, et al., Alameda County Superior Court, Case No. RG04180958,** filed October 19, 2004; **Tamco, et al. v. Dynegy, Inc., et al., San Diego County Superior Court, Case No. GIC840587,** filed December 29, 2004; **Utility Savings & Refund Services, LLP v. Reliant Energy Services, Inc., et al., U.S. District Court, Eastern District of California, Case No. 04–6626,** filed November 30, 2004.

The defendants in all of the above referenced cases include WCP and various Dynegy entities. NRG Energy is not a defendant. The Complaints allege that defendants attempted to manipulate natural gas prices in California, and allege violations of California's antitrust law, conspiracy, and unjust enrichment. The relief sought in all of these cases includes treble damages, restitution and injunctive relief. The Complaints assert that WCP is a joint venture between Dynegy and NRG Energy, but that Dynegy Marketing and Trade handled all of the administrative services and commodity related concerns of WCP. The cases are presently being consolidated for coordinated pretrial proceedings in San Diego County Superior Court. Dynegy is defending WCP pursuant to a limited indemnification agreement.

NRG Bankruptcy Cap on California Claims

On November 21, 2003, in conjunction with confirmation of the NRG plan of reorganization, we reached an agreement with the Attorney General and the State of California, generally, whereby for purposes of distributions, if any, to be made to the State of California under the NRG plan of reorganization, the liquidated amount of any and all allowed claims shall not exceed $1.35 billion in the aggregate. The agreement neither affects our right to object to these claims on any and all grounds nor admits any liability whatsoever. We further agreed to waive any objection to the liquidation of these claims in a non–bankruptcy forum having proper jurisdiction.

Investigations

FERC — California Market Manipulation

The FERC conducted an "Investigation of Potential Manipulation of Electric and Natural Gas Prices," which involved hundreds of parties, including our affiliate, West Coast Power, or WCP, and substantial discovery. In June 2001, FERC initiated proceedings related to California's demand for $8.9 billion in refunds from power sellers who allegedly inflated wholesale prices during the energy crisis. After two administrative law judge opinions and a March 26, 2003, FERC Order adopting in part and modifying in part the last of the two opinions, Dynegy, we and the WCP entities engaged in extensive settlement negotiations with FERC Staff; the People of the State of California *ex rel.* Bill Lockyer, Attorney General; the California Public Utility Commission, or CPUC staff; the California Department of Water Resources acting through its Electric Power Fund, the California Electricity Oversight Board; PG&E; Southern California Edison Company; and San Diego Gas and Electric Company. The parties entered into a definitive, comprehensive settlement, which FERC approved on October 25, 2004, (the FERC Settlement).

As part of the FERC Settlement, WCP placed into escrow for distribution to California energy consumers a total of $22.5 million, which includes the $3 million settlement with FERC respecting trading techniques, announced on January 20, 2004. In addition, WCP agreed to forego: (1) past due receivables from the California Independent System Operator and the California Power Exchange related to the settlement period; and (2) natural gas cost recovery claims against the settling parties related to the settlement period. In

exchange, the various California settling parties agreed to forego: (1) all claims relating to refunds or other monetary damages for sales of electricity during the settlement period; (2) claims alleging that WCP received unjust or unreasonable rates for the sale of electricity during the settlement period; and (3) FERC dismissed numerous investigations respecting market transactions. For a two year period following FERC's acceptance of the settlement agreement, WCP will retain an independent engineering company to perform semi–annual audits of the technical and economic basis, justification and rationale for outages that occurred at its California generating plants during the previous six month period, and to have the results of such audits provided to the FERC Office of Market Oversight and Investigation without any prior review by WCP.

WCP previously established significant reserves on its balance sheet and will not incur any further loss associated with the FERC Settlement. We will pay no cash from corporate funds, nor will the FERC Settlement have any direct impact on our profit and loss statement.

Other FERC Proceedings

There are a number of additional, related proceedings in which WCP subsidiaries are parties, which are either pending before FERC or on appeal from FERC to various U.S. Courts of Appeal. These cases involve, among other things, allegations of physical withholding, a FERC–established price mitigation plan determining maximum rates for wholesale power transactions in certain spot markets, and the enforceability of, and obligations under, various contracts with, among others, the California Independent System Operator and the State of California and certain of its agencies and departments.

California Attorney General

The California Attorney General has undertaken an investigation entitled "In the Matter of the Investigation of Possibly Unlawful, Unfair, or Anti–Competitive Behavior Affecting Electricity Prices in California." In this connection, the Attorney General has issued subpoenas to Dynegy, served interrogatories on Dynegy and us, and informally requested documents and conducted interviews with Dynegy and Dynegy employees as well as us and our employees. We responded to the interrogatories in the summer of 2002, and again on September 3, 2002. We have also produced a large volume of documentation relating to the West Coast Power subsidiaries.

***Electricity Consumers Resource Council v. Federal Energy Regulatory Commission,* Docket No. 03–1449.** On December 19, 2003, the Electricity Consumers Resource Council, or ECRC, appealed to the U.S. Court of Appeals for the District of Columbia Circuit a 2003 FERC decision approving the implementation of a demand curve for the New York installed capacity, or ICAP, market. ECRC claims that the implementation of the ICAP demand curve violates section 205 of the Federal Power Act because it constitutes unreasonable ratemaking. On December 3, 2004, the Company filed a brief opposing the ECRC request.

***Consolidated Edison Co. of New York v. Federal Energy Regulatory Commission,* Docket No. 01–1503.** Consolidated Edison and others petitioned the U.S. Court of Appeals for the District of Columbia Circuit for review of certain FERC orders in which FERC refused to order a re–determination of prices in the New York Independent System Operator, or NYISO, operating reserve markets for the period January 29, 2000, to March 27, 2000. On November 7, 2003, the Court issued a decision which found that the NYISO's method of pricing spinning reserves violated the NYISO tariff. The Court also required FERC to determine whether the exclusion from the non–spinning market of a generating facility known as Blenheim–Gilboa and resources located in western New York also constituted a tariff violation and/or whether these exclusions enabled NYISO to use its Temporary Extraordinary Procedure, or TEP, authority to require refunds. On March 4, 2005, FERC issued an order stating that no refunds would be required for the tariff violation associated with the pricing of spinning reserves. In the order, FERC also stated that the exclusion of the Blenheim–Gilboa facility and western reserves from the non–spinning market was not a market flaw and NYISO was correct not to use its TEP authority to revise the prices in this market. Motions for rehearing of the Order must be filed by April 3, 2005. If the March 4, 2005 order is reversed and refunds are required, NRG entities which may be affected include NRG Power Marketing, Inc., Astoria Gas Turbine Power LLC and Arthur Kill Power LLC.

Although non-NRG-related entities would share responsibility for payment of any such refunds under the petitioners' theory the cumulative exposure to our above-listed entities could exceed $23 million.

Connecticut Light & Power Company v. NRG Power Marketing, Inc., **Docket No. 3:01-CV-2373 (AWT), U.S. District Court, District of Connecticut** (filed on November 28, 2001). Connecticut Light & Power Company, or CL&P, sought recovery of amounts it claimed it was owed for congestion charges under the terms of an October 29, 1999, contract between the parties. CL&P withheld approximately $30 million from amounts owed to NRG Power Marketing, Inc., or PMI, and PMI counterclaimed. CL&P filed its motion for summary judgment to which PMI filed a response on March 21, 2003. By reason of the stay issued by the bankruptcy court, the court has not ruled on the pending motion. On November 6, 2003, the parties filed a joint stipulation for relief from the stay in order to allow the proceeding to go forward that was promptly granted. PMI cannot estimate at this time the overall exposure for congestion charges for the full term of the contract.

Connecticut Light & Power Company v. NRG Energy, Inc., **Federal Energy Regulatory Commission Docket No. EL03-10-000-Station Service Dispute** (filed October 9, 2002); **Binding Arbitration.** On July 1, 1999, Connecticut Light & Power Company, or CL&P, and the Company agreed that we would purchase certain CL&P generating facilities. The transaction closed on December 14, 1999, whereupon NRG Energy took ownership of the facilities. CL&P began billing NRG Energy for station service power and delivery services provided to the facilities and NRG Energy refused to pay asserting that the facilities self-supplied their station service needs. On October 9, 2002, Northeast Utilities Services Company, on behalf of itself and CL&P, filed a complaint at FERC seeking an order requiring NRG Energy to pay for station service and delivery services. On December 20, 2002, FERC issued an Order finding that at times when NRG Energy is not able to self-supply its station power needs, there is a sale of station power from a third-party and retail charges apply. CL&P renewed its demand for payment which was again refused by NRG Energy. In August 2003, the parties agreed to submit the dispute to binding arbitration. The parties each selected one respective arbitrator. A neutral arbitrator cannot be selected until the party-appointed arbitrators have been given a mutually agreed upon description of the dispute, which has yet to occur. Once the neutral arbitrator is selected, a decision is required within 90 days unless otherwise agreed by the parties. The potential loss inclusive of amounts paid to CL&P and accrued could exceed $6 million.

The State of New York and Erin M. Crotty, as Commissioner of the New York State Department of Environmental Conservation v. Niagara Mohawk Power Corporation et al., **U.S. District Court for the Western District of New York, Civil Action No. 02-CV-002S.** In January 2002, the New York State Department of Environmental Conservation, or NYSDEC, sued Niagara Mohawk Power Corporation, or NiMo, and us in federal court in New York. The complaint asserted that projects undertaken at our Huntley and Dunkirk plants by NiMo, the former owner of the facilities, required preconstruction permits pursuant to the Clean Air Act and that the failure to obtain these permits violated federal and state laws. On January 11, 2005, we reached agreement with the State of New York and the NYSDEC to settle this matter. The settlement requires the reduction of sulfur dioxide (SO_2) by over 86 percent and nitrogen oxide by over 80 percent in aggregate at the Huntley and Dunkirk plants. To do so, units 63 and 64 at Huntley will be retired after receiving the appropriate regulatory approvals. Units 65 and 66 will be retired eighteen months later. We also agreed to limits on the transfer of certain federal SO_2 allowances. We are not subject to any penalty as a result of the settlement. Through the end of the decade, we expect that our ongoing compliance with the emissions limits set out in the settlement will be achieved through capital expenditures already planned. This includes conversion to low sulfur western coal at the Huntley and Dunkirk plants that will be completed by spring 2006.

Niagara Mohawk Power Corporation v. NRG Energy, Inc., Huntley Power, LLC, and Dunkirk Power, LLC, **Supreme Court, State of New York, County of Onondaga, Case No. 2001-4372** (filed on July 13, 2001). NiMo filed suit in state court in New York seeking a declaratory judgment with respect to its obligations to indemnify us under the asset sales agreement. We asserted that NiMo is obligated to indemnify us for any related compliance costs associated with resolution of the above referenced NYSDEC enforcement action. On October 18, 2004, the parties reached a confidential settlement.

Niagara Mohawk Power Corporation v. Dunkirk Power LLC, NRG Dunkirk Operations, Inc., Huntley Power LLC, NRG Huntley Operations, Inc., Oswego Power LLC and NRG Oswego Operations, Inc., **Supreme Court, Erie County, Index No. 1–2000–8681 — Station Service Dispute** (filed October 2, 2000). NiMo seeks to recover damages less payments received through the date of judgment, as well as any additional amounts due and owing, for electric service provided to the Dunkirk Plant after September 18, 2000. NiMo claims that we failed to pay retail tariff amounts for utility services commencing on or about June 11, 1999, and continuing to September 18, 2000, and thereafter. NiMo alleged breach of contract, suit on account, violation of statutory duty and unjust enrichment claims. Prior to trial, the parties entered into a Stipulation and Order filed August 9, 2002, consolidating this action with two other actions against the Huntley and Oswego subsidiaries, both of which cases assert the same claims and legal theories. On October 8, 2002, a Stipulation and Order was filed staying this action pending submission to FERC of some or all of the disputes in the action. The potential loss inclusive of amounts paid to NiMo and accrued is approximately $23.2 million.

Niagara Mohawk Power Corporation v. Huntley Power LLC, NRG Huntley Operations, Inc., NRG Dunkirk Operations, Inc., Dunkirk Power LLC, Oswego Harbor Power LLC, and NRG Oswego Operations, Inc., **Case Filed November 26, 2002 in Federal Energy Regulatory Commission Docket No. EL 03–27–000.** This is the companion action to the above referenced action filed by NiMo at FERC asserting the same claims and legal theories. On November 19, 2004, FERC denied NiMo's petition and ruled that the Huntley, Dunkirk and Oswego plants could net their service station obligations over a 30 calendar day period from the day NRG Energy acquired the facilities. In addition, FERC ruled that neither NiMo nor the New York Public Service Commission could impose a retail delivery charge on the NRG facilities because they are interconnected to transmission and not to distribution. NiMo filed a motion for rehearing, on which FERC has not ruled.

U.S. Environmental Protection Agency Request for Information under Section 114 of the Clean Air Act. On January 27, 2004, Louisiana Generating, LLC and Big Cajun II received a request under Section 114 of the federal Clean Air Act from U.S. EPA Region 6 seeking information primarily relating to physical changes made at Big Cajun II. Louisiana Generating, LLC and Big Cajun II submitted several responses to the EPA. On February 15, 2005, Louisiana Generating, LLC received a Notice of Violation alleging violations of the New Source Review provisions of the Clean Air Act from 1998 through the Notice of Violation date. We cannot predict the outcome of this matter at this time.

Itiquira Energetica, S.A. Our Brazilian project company, Itiquira Energetica S.A., the owner of a 156 MW hydro project in Brazil, is in arbitration with the former EPC contractor for the project, Inepar Industria e Construcoes, or "Inepar." The dispute was commenced by Itiquira in September of 2002 and pertains to certain matters arising under the former EPC contract. Itiquira seeks U.S. $40 million and asserts that Inepar breached the contract and caused damages to Itiquira by (i) failing to meet milestones for substantial completion; (ii) failing to provide adequate resources to meet such milestones; (iii) failing to pay subcontractors amounts due; and (iv) being insolvent. Inepar seeks U.S. $10 million and alleges that Itiquira breached the contract and caused damages to Inepar by failing to recognize events of force majeure as grounds for excused delay and extensions of scope of services and material under the contract. An expert investigation was ordered by an arbitration panel to cover technical and accounting issues and expert testimony was presented at two subsequent hearings. Final written arguments from the parties were submitted on January 28, 2005. The court of arbitration is expected to issue a decision by the close of the second quarter of 2005.

CFTC Trading Inquiry. On July 1, 2004, the CFTC filed a civil complaint against us in Minnesota federal district court, alleging false reporting of natural gas trades from August 2001 to May 2002, and seeking an injunction against future violations of the Commodity Exchange Act. On July 23, 2004, we filed a motion with the bankruptcy court to enforce the injunction provisions of the NRG plan of reorganization against the CFTC. Thereafter, we filed with the Minnesota federal district court a motion to dismiss. On November 17, 2004, a Bankruptcy Court hearing was held on the CFTC's motion to reinstate its expunged bankruptcy claim, and on our motion to enforce the injunction contained in our plan of reorganization in order to preclude the CFTC from continuing its Minnesota federal court action. On December 6, 2004, a federal magistrate judge in Minnesota issued a report and recommendation that our motion to dismiss be granted by the district court. On March 16, 2005, the federal district court in Minnesota adopted the magistrate judge's report and

recommendations and dismissed the case. The Bankruptcy Court has yet to schedule for a hearing or rule on the CFTC's pending motion to reinstate its expunged claim.

Additional Litigation

In addition to the foregoing, we are parties to other litigation or legal proceedings. See "Market Developments" in the various regions in Item 1 — Business — Power Generation for additional discussion on regulatory legal proceedings.

The Company believes that it has valid defenses to the legal proceedings and investigations described above and intends to defend them vigorously. However, litigation is inherently subject to many uncertainties. There can be no assurance that additional litigation will not be filed against the Company or its subsidiaries in the future asserting similar or different legal theories and seeking similar or different types of damages and relief. Unless specified above, the Company is unable to predict the outcome these legal proceedings and investigations may have or reasonably estimate the scope or amount of any associated costs and potential liabilities. An unfavorable outcome in one or more of these proceedings could have a material impact on the Company's consolidated financial position, results of operations or cash flows. The Company also has indemnity rights for some of these proceedings to reimburse the Company for certain legal expenses and to offset certain amounts deemed to be owed in the event of an unfavorable litigation outcome.

Disputed Claims Reserve

As part of the NRG plan of reorganization, we have funded a disputed claims reserve for the satisfaction of certain general unsecured claims that were disputed claims as of the effective date of the plan. Under the terms of the plan, to the extent such claims are resolved now that we have emerged from bankruptcy, the claimants will be paid from the reserve on the same basis as if they had been paid out in the bankruptcy. That means that their allowed claims will be reduced to the same recovery percentage as other creditors would have received and will be paid in pro rata distributions of cash and common stock. We believe we have funded the disputed claims reserve at a sufficient level to settle the remaining unresolved proofs of claim we received during the bankruptcy proceedings. However, to the extent the aggregate amount of these payouts of disputed claims ultimately exceeds the amount of the funded claims reserve, we are obligated to provide additional cash, notes and common stock to the claimants. We will continue to monitor our obligation as the disputed claims are settled. If excess funds remain in the disputed claims reserve after payment of all obligations, such amounts will be reallocated to the creditor pool. We have contributed common stock and cash to an escrow agent to complete the distribution and settlement process. Since we have surrendered control over the common stock and cash provided to the disputed claims reserve, we recognized the issuance of the common stock as of December 6, 2003 and removed the cash amounts from our balance sheet. Similarly, we removed the obligations relevant to the claims from our balance sheet when the common stock was issued and cash contributed.

Item 4 —*Submission of Matters to a Vote of Security Holders*

No matters were considered during the fourth quarter of 2004.

PART II

Item 5 —*Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities*

Market Information and Holders

In connection with the consummation of our reorganization, on December 5, 2003, all shares of our old common stock were canceled and 100,000,000 shares of new common stock of NRG Energy were distributed pursuant to such plan in accordance with Section 1145 of the bankruptcy code to the holders of certain classes of claims. We received no proceeds from such issuance. A certain number of shares of common stock were

issued and placed in the Disputed Claims Reserve for distribution to holders of disputed claims as such claims are resolved or settled. See Item 3 — Legal Proceedings — Disputed Claims Reserve. In the event our disputed claims reserve is inadequate, it is possible we will have to issue additional shares of our common stock to satisfy such pre–petition claims or contribute additional cash proceeds. Our authorized capital stock consists of 500,000,000 shares of NRG Energy common stock and 10,000,000 shares of preferred stock. A total of 4,000,000 shares of our common stock are available for issuance under our long–term incentive plan. We have also filed with the Secretary of State of Delaware a Certificate of Designation of our 4% Convertible Perpetual Preferred Stock, or Preferred Stock.

Our common stock is listed on the New York Stock Exchange and has been assigned the symbol: NRG. We have submitted to the New York Stock Exchange our annual certificate from our Chief Executive Officer certifying that he is not aware of any violation by us of New York Stock Exchange corporate governance listing standards. The high and low sales prices, as well as the closing price for our common stock on a per share basis for 2004 and the period December 6, 2003 to December 31, 2003 are set forth below:

Common Stock Price	Fourth Quarter 2004	Third Quarter 2004	Second Quarter 2004	First Quarter 2004	For the Period December 6 – December 31, 2003
High	$36.18	$28.43	$24.80	$22.50	$23.05
Low	$26.00	$24.10	$19.17	$18.10	$18.10
Closing	$36.05	$26.94	$24.80	$22.20	$21.90

NRG Energy had 87,041,935 shares outstanding as of December 31, 2004. As of March 10, 2005, there were 11,182 common shareholders of record.

Dividends

We have not declared or paid dividends on our common stock and the amount of dividends is currently limited by our credit agreements.

Recent Sale of Unregistered Securities; Repurchase of Common Stock

Upon emergence from chapter 11, investment partnerships managed by MatlinPatterson LLC, or MatlinPatterson, owned approximately 21.5 million (21.5%) of our common shares. On December 21, 2004, using existing cash we purchased 13 million shares of common stock from MatlinPatterson at a purchase price of $31.16 per share. In addition to a reduction in total shares of common stock outstanding by 13 million, the share repurchase resulted in (i) the reduction of MatlinPatterson's share ownership to less than 10% from the prior 21.5%, (ii) termination of MatlinPatterson's registration rights, and (iii) resignation from our Board of Directors of three directors affiliated with MatlinPatterson. Our Board's Governance and Nominating Committee is in the process of identifying appropriate independent directors to fill the vacancies.

The following table summarizes the stock repurchased by NRG Energy.

Period	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans	Maximum Number of Shares that May Yet Be Purchased Under the Plans
December 27, 2004	13,000,000*	$31.16	none	N/A

* 13,000,000 shares were purchased other than through a publicly announced plan. The purchase was made in a negotiated transaction.

Redemption and Repurchase of Second Priority Notes

Proceeds from the sale of the Preferred Stock were used to redeem $375.0 million of our Second Priority Notes on February 4, 2005. In January 2005 and in March 2005, we used existing cash to purchase, at market prices, $25 million and $15.8 million, respectively, in face value of our Second Priority Notes. These notes were assumed by NRG Energy and therefore remain outstanding.

Securities Authorized for Issuance Under Equity Compensation Plans

Plan Category	(a) Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights	(b) Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights	(c) Number of Securities Remaining Available for Future Issuance Under Compensation Plans (Excluding Securities Reflected in Column (a))
Equity compensation plans approved by security holders	1,904,026	$22.34	2,053,294*
Equity compensation plans not approved by security holders	—	n/a	—
Total	1,904,026	$22.34	2,053,294*

* The NRG Energy, Inc. Long-Term Incentive Plan became effective upon our emergence from bankruptcy. The Long-Term Incentive Plan, which was adopted in connection with the NRG plan of reorganization, was approved by our stockholders on August 4, 2004. The Long-Term Incentive Plan provides for grants of stock options, stock appreciation rights, restricted stock, performance awards, deferred stock units and dividend equivalent rights. Our directors, officers and employees, as well as other individuals performing services for, or to whom an offer of employment has been extended by us, are eligible to receive grants under the Long-Term Incentive Plan. A total of 4,000,000 shares of our common stock are available for issuance under the Long-Term Incentive Plan. The purpose of the Long-Term Incentive Plan is to promote our long-term growth and profitability by providing these individuals with incentives to maximize stockholder value and otherwise contribute to our success and to enable us to attract, retain and reward the best available persons for positions of responsibility. The Compensation Committee of our Board of Directors administers the Long-Term Incentive Plan. There were 2,053,294 and 3,367,249 shares of common stock remaining available for grants of stock options under our Long-Term Incentive Plan as of December 31, 2004 and 2003, respectively.

Item 6 —*Selected Financial Data*

The following table presents our selected financial data. The data included in the following table has been restated to reflect the assets, liabilities and results of operations of certain projects that have met the criteria for treatment as discontinued operations. For additional information refer to Item 15 — Note 6 to the Consolidated Financial Statements. This historical data should be read in conjunction with the Consolidated Financial Statements and the related notes thereto in Item 15 and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Item 7. Due to the adoption of Fresh Start reporting as of December 5, 2003, the Successor Company's post Fresh Start balance sheet and statement of operations have not been prepared on a consistent basis with the Predecessor Company's financial statements and are not comparable in certain respects to the financial statements prior to the application of Fresh Start reporting.

	Reorganized NRG		Predecessor Company			
				Year Ended December 31,		
	Year Ended December 31, 2004	December 6 – December 31, 2003	January 1 – December 5, 2003	2002	2001	2000
	(In thousands, except per share amounts)					
Revenues from majority–owned operations	$2,361,424	$ 138,490	$ 1,798,387	$ 1,938,293	$ 2,085,350	$1,664,980
Corporate relocation charges	16,167	—	—	—	—	—
Reorganization, restructuring and impairment charges	31,271	2,461	435,400	2,563,060	—	—
Fresh start reporting adjustments	—	—	(4,118,636)	—	—	—
Legal settlement	—	—	462,631	—	—	—
Total operating costs and expenses	1,962,309	122,328	(1,475,523)	4,321,385	1,703,531	1,308,589
Write downs and losses on equity method investments	(16,270)	—	(147,124)	(200,472)	—	—
Income/(loss) from continuing operations	162,145	11,405	2,949,078	(2,788,452)	210,502	149,729
Income/(loss) from discontinued operations, net	23,472	(380)	(182,633)	(675,830)	54,702	33,206
Net income/(loss)	185,617	11,025	2,766,445	(3,464,282)	265,204	182,935
Income/(loss) from continuing operations per weighted average share — basic and diluted	$ 1.62	$ .11				
Total assets	7,830,028	9,244,987	N/A	10,896,851	12,915,222	5,986,289
Long–term debt, including current maturities	$3,766,118	$4,129,011	N/A	$ 7,782,648	$ 6,857,055	$3,194,340

The following table provides the detail of our revenues from majority–owned operations:

	Reorganized NRG		Predecessor Company			
				Year Ended December 31,		
	Year Ended December 31, 2004	December 6 – December 31, 2003	January 1 – December 5, 2003	2002	2001	2000
	(In thousands)					
Energy and energy–related	$1,378,490	$ 78,018	$ 992,626	$1,183,514	$1,376,044	$1,091,115
Capacity	612,294	39,955	565,965	553,321	490,315	405,697
Alternative energy	175,715	12,064	115,911	97,712	161,845	92,671
O & M fees	20,852	1,135	12,942	14,413	15,789	10,073
Other	174,073	7,318	110,943	89,333	41,357	65,424
Total revenues from majority–owned operations	$2,361,424	$138,490	$1,798,387	$1,938,293	$2,085,350	$1,664,980

Energy and energy–related revenue consists of revenues received from third parties for sales in the day–ahead and real–time markets, as well as bilateral sales. In addition, this category includes day–ahead and real–time operating revenues.

Capacity revenue consists of revenues received from a third party at either the market or negotiated contract rates for making installed generation capacity available in order to satisfy system integrity and reliability requirements. In addition, capacity revenues includes revenues received under tolling arrangements which entitle third parties to dispatch our facilities and assume title to the electrical generation produced from that facility.

Alternative energy revenue consists of revenues received from the sale of steam, hot and chilled water generally produced at a central district energy plant and sold to commercial, governmental and residential buildings for space heating, domestic hot water heating and air conditioning. Alternative energy revenue includes the sale of high–pressure steam produced and delivered to industrial customers that is used as part of an industrial process. In addition, alternative revenue includes revenues received from the processing of municipal solid waste into refuse derived fuel that is sold to a third party to be used as fuel in the generation of electricity.

Operations and management, or O&M, fees consist primarily of revenues received from providing certain unconsolidated affiliates with management and operational services generally under long–term operating agreements.

Other revenues consist of miscellaneous other revenues derived from the sale of natural gas, recovery of incurred costs under reliability agreements and revenues received under leasing arrangements. In addition, we also generate revenues from maintenance, the sale of ancillary services excluding day–ahead and real–time operating revenues and by entering into certain financial transactions. Ancillary revenues are derived from the sale of energy related products associated with the generation of electrical energy such as spinning reserves, reactive power and other similar products. Also included in other revenues are revenues derived from financial transactions (derivatives) relating to the sale of energy or fuel which do not require the physical delivery of the underlying commodity.

Item 7 —*Management's Discussion and Analysis of Financial Condition and Results of Operations*

Overview

NRG Energy, Inc., or "NRG Energy", the "Company", "we", "our", or "us" is a wholesale power generation company, primarily engaged in the ownership and operation of power generation facilities, the transacting in and trading of fuel and transportation services and the marketing and trading of energy, capacity and related products in the United States and internationally. We have a diverse portfolio of electric generation facilities in terms of geography, fuel type and dispatch levels. Our principal domestic generation assets consist of a diversified mix of natural gas–, coal– and oil–fired facilities, representing approximately 40%, 31% and 29% of our total domestic generation capacity, respectively. In addition, 23% of our domestic generating facilities have dual or multiple fuel capacity, which allows plants to dispatch with the lowest cost fuel option.

Our two principal objectives are to maximize the operating performance of our entire portfolio, and to protect and enhance the market value of our physical and contractual assets through the execution of asset–based risk management, marketing and trading strategies within well–defined risk and liquidity guidelines. We aggregate the assets in our core regions into integrated businesses to serve the requirements of the load–serving entities in our core markets. Our business involves the reinvestment of capital in our existing assets for reasons of repowering, expansion, environmental remediation, operating efficiency, reliability programs, greater fuel optionality, greater merit order diversity, enhanced portfolio effect or for alternative use, among other reasons. Our business also may involve acquisitions intended to complement the asset portfolios in our core regions, and from time to time we may also consider and undertake other merger and acquisition transactions that are consistent with our strategy.

The wholesale energy industry entered a prolonged slump in 2001, from which it is only beginning to emerge. We expect that generally weak market conditions will continue for the foreseeable future in many U.S. markets. We further expect that the merchant power industry will continue to see corporate restructuring, debt restructuring, and consolidation over the coming years.

Asset Sales. We have substantially completed our divestment of major non–core assets; however, as part of our strategy, we plan to continue the selective divestment of certain non–core assets. We have no current plans to market actively any of our core assets, although our intention to maximize over time the value of all of our assets could lead to additional assets sales.

Discontinued Operations. We have classified certain business operations, and gains/losses recognized on sale, as discontinued operations for projects that were sold or have met the required criteria for such classification pending final disposition. Accounting regulations require that continuing operations be reported separately in the income statement from discontinued operations, and that any gain or loss on the disposition of any such business be reported along with the operating results of such business. Assets classified as discontinued operations on our balance sheet as of December 31, 2004 consist of the McClain project. All other projects have been sold as of December 31, 2004.

Independent Registered Public Accounting Firm; Audit Committee. PricewaterhouseCoopers LLP served as our independent auditors from 1995 through 2003. On May 3, 2004, we announced that PricewaterhouseCoopers LLP had decided not to stand for re–election as our independent auditor for the year ended December 31, 2004. On May 24, 2004 the Audit Committee of our Board of Directors appointed KPMG LLP as our independent registered public accounting firm going forward, and on August 4, 2004 our stockholders ratified the appointment. PricewaterhouseCoopers LLP has consented to the inclusion of their reports for the periods January 1, 2003 to December 5, 2003 and December 6, 2003 to December 31, 2003 and for the year ended December 31, 2002. The Company intends to continue to request the consent of PricewaterhouseCoopers LLP in future filings with the SEC when deemed necessary.

Fresh Start Reporting. In connection with our emergence from bankruptcy, we adopted Fresh Start Reporting on December 5, 2003, in accordance with the requirements of Statement of Position 90–7, *"Financial Reporting by Entities in Reorganization Under the Bankruptcy Code"*, or SOP 90–7. The application of SOP 90–7 resulted in the creation of a new reporting entity. Under Fresh Start, our reorganization value was allocated to our assets and liabilities on a basis substantially consistent with purchase accounting in accordance with SFAS No. 141. Accordingly, our assets' recorded values were adjusted to reflect their estimated fair values upon adoption of Fresh Start. Any portion of the reorganization value not attributable to specific assets is an indefinite–lived intangible asset referred to as "reorganization value in excess of value of identifiable assets" and reported as goodwill. We did not record any such amounts. As a result of adopting Fresh Start and emerging from bankruptcy, our historical financial information is not comparable to financial information for periods after our emergence from bankruptcy.

Results of Operations

Upon our emergence from bankruptcy, we adopted the Fresh Start provisions of SOP 90–7. Accordingly, the Reorganized NRG statement of operations and statement of cash flows have not been prepared on a consistent basis with the Predecessor Company's financial statements and are not comparable in certain respects to the financial statements prior to the application of Fresh Start; therefore, the Predecessor Company's and the Reorganized NRG's amounts are discussed separately for comparison and analysis purposes, herein.

The following table shows the percent of total revenue each segment contributes to our total revenue:

Segments	Reorganized NRG: For the Year Ended December 31, 2004	Percent of Total Revenue	For the Period December 6–December 31, 2003	Percent of Total Revenue	Predecessor Company: For the Period January 1–December 5, 2003	Percent of Total Revenue	For the Year Ended December 31, 2002	Percent of Total Revenue
	(In thousands)		(In thousands)		(In thousands)		(In thousands)	
Wholesale Power Generation								
Northeast	$1,251,153	53.0%	$ 69,191	50.0%	$ 861,452	47.9%	$ 964,196	49.7%
South Central	418,145	17.6%	26,609	19.2%	356,534	19.8%	388,023	20.0%
West Coast	2,469	0.1%	(268)	(0.2)%	23,956	1.3%	30,796	1.6%
Other North America	105,644	4.5%	5,377	3.9%	85,388	4.8%	81,521	4.2%
Australia	181,065	7.7%	11,947	8.6%	151,494	8.4%	170,761	8.8%
All Other								
Other International	157,220	6.7%	13,082	9.4%	137,384	7.6%	108,379	5.6%
Alternative Energy	65,872	2.8%	3,852	2.8%	60,871	3.4%	69,030	3.6%
Non-Generation	186,425	7.9%	9,860	7.1%	129,063	7.2%	135,403	7.0%
Other	(6,569)	(0.3)%	(1,160)	(0.8)%	(7,755)	(0.4)%	(9,816)	(0.5)%
Total Revenue	$2,361,424	100.0%	$138,490	100.0%	$1,798,387	100.0%	$1,938,293	100.0%

The following table provides operating income by segment for the year ended December 31, 2004.

	Northeast	South Central	West Coast	Other North America	Australia	All Other	Total
	(In thousands)						
Energy revenue	$ 853,454	$219,112	$ 9,276	$ 27,816	$159,381	$109,451	$1,378,490
Capacity revenue	264,624	183,483	(3,709)	84,097	—	83,799	612,294
Alternative revenue	49	—	—	1,748	—	173,918	175,715
O & M fees	—	—	(2)	186	—	20,668	20,852
Other revenue	133,026	15,550	(3,096)	(8,203)	21,684	15,112	174,073
Operating revenues	1,251,153	418,145	2,469	105,644	181,065	402,948	2,361,424
Operating expenses	859,769	294,215	10,842	57,686	161,960	321,104	1,705,576
Depreciation and amortization	72,665	62,458	800	21,842	24,027	27,503	209,295
Corporate relocation charges	11	1	—	—	—	16,155	16,167
Reorganization items	180	976	—	142	—	(14,688)	(13,390)
Restructuring and impairment charges	247	2,909	—	26,505	—	15,000	44,661
Operating income/(loss)	$ 318,281	$ 57,586	$ (9,173)	$ (531)	$ (4,922)	$ 37,874	$ 399,115

For the Year Ended December 31, 2004 Compared to the Year Ended December 31, 2003

Net Income/(Loss)

Reorganized NRG

For the year ended December 31, 2004, we recorded net income of $185.6 million, or $1.85 per weighted average share of diluted common stock. These favorable results occurred despite a challenging market environment in 2004. Unseasonably mild weather, high volatility on forward markets and disappointing spot power prices summarize 2004's events. The year started with colder than normal weather arriving in January but unseasonably mild weather characterized the period from March thru December which dampened energy prices in North America. The National Oceanic Atmospheric Agency, or NOAA, has ranked the mean average temperatures over the past 110 years by season for each of the lower 48 states. The year 2004 started

with the winter being colder than normal in the east coast followed by a spring, summer and fall which were among the mildest in the last 110 years throughout most of the United States. Although mild weather in the North America market kept spot market on–peak power prices low throughout most of the year, relatively high gas and oil prices kept spark spreads on coal–based assets positive.

The overall perception that there would be significant production losses due to Hurricane Ivan ignited a strong pre–heating season rally in natural gas futures during the early fourth quarter. While power prices tracked changes in natural gas prices, this movement was not one for one. As a result, our spark spreads on coal–based generation increased dramatically with the fall 2004 changes in gas prices. During this period we sold forward 2005 power locking in these spark spreads. Forward power prices have fallen considerably from the highs set in October, and many of those forward sales, which were marked–to–market through earnings, significantly contributed to the $57.3 million unrealized gain recorded in revenue for the year ended December 31, 2004 and as more fully described in Note 16 to the financial statements.

As indicated above, our 2004 results were favorably impacted by the cold weather in January. Additionally, the Northeast's income results for the year were positively impacted by the $57.3 million of unrealized gains associated with forward sale transactions supporting our Northeast assets. The majority of the unrealized gains relate to forward sales of electricity which will be realized in 2005. These gains were offset by our South Central region's results, which were negatively impacted by an unplanned outage in the fourth quarter forcing us to purchase power to meet our contract supply obligations. Impairment charges of $44.7 million negatively impacted net income; of which $26.5 million relates to the Kendall asset. Our results were also favorably impacted by the FERC–approved settlement agreement between NRG Energy and Connecticut Light & Power, or CL&P, and others concerning the congestion and losses obligation associated with a prior standard offer service contract, whereby we received $38.4 million in settlement proceeds in July 2004. The 2004 results were also positively impacted by $159.8 million in equity earnings of unconsolidated affiliates including $68.9 million from our interest in West Coast Power which benefited from warmer than normal temperatures during the year.

During the period December 6, 2003 through December 31, 2003, we recognized net income of $11.0 million or $0.11 per share of common stock. Net income was directly attributable to a number of factors some of which are discussed below. From an overall operational perspective our facilities were profitable during this period. Our results were adversely impacted by our having to continue to satisfy the standard offer service contract that we entered into with CL&P in 2000. As a result of our inability to terminate this contract during our bankruptcy proceeding, we continued to be exposed to losses under this contract. These losses were incurred, as we were unable to satisfy the requirements of this contract at a price/cost below the contracted sales price. Upon our adoption of Fresh Start, we recorded at fair value, all assets and liabilities on our opening balance sheet and accordingly we recorded as an obligation the fair value of the CL&P contract. During the period December 6, 2003 through December 31, 2003, we recognized as revenues the entire fair value of this contract effectively offsetting the actual losses incurred under this contract. The CL&P contract terminated on December 31, 2003.

Predecessor Company

During the period January 1, 2003 through December 5, 2003, we recorded net income of $2.8 billion. Net income for the period is directly attributable to our emerging from bankruptcy and adopting the Fresh Start provisions of SOP 90–7. Upon the confirmation of our Plan of Reorganization and our emergence from bankruptcy, we were able to remove significant amounts of long–term debt and other pre–petition obligations from our balance sheet. Accordingly, as part of net income, we recorded a net gain of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations) as the impact of our adopting Fresh Start in our statement of operations. $6.0 billion of this amount is directly related to the forgiveness of debt and settlement of substantial amounts of our pre–petition obligations upon our emergence from bankruptcy. In addition to the removal of substantial amounts of pre–petition debt and other obligations from our balance sheet, we also revalued our assets and liabilities to fair value. Accordingly, we substantially wrote down the value of our fixed assets. We recorded a net $1.6 billion charge related to the revaluation of our assets and liabilities within the Fresh Start Reporting adjustment line of our consolidated

statement of operations. In addition to our adjustments related to our emergence from bankruptcy, we also recorded substantial charges related to other items such as the settlement of certain outstanding litigation in the amount of $462.6 million, write downs and losses on the sale of equity investments of $147.1 million, advisor costs and legal fees directly attributable to our being in bankruptcy of $197.8 million and $237.6 million of other asset impairment and restructuring costs incurred prior to our filing for bankruptcy. Net income for the period January 1, 2003 through December 5, 2003 was favorably impacted by our not recording interest expense on substantial amounts of corporate level debt while we were in bankruptcy and by the continued favorable results experienced by our equity investments.

Revenues from Majority–Owned Operations

Reorganized NRG

Our revenues from majority–owned operations were $2.4 billion for the year ended December 31, 2004 which included $1.4 billion of energy revenues, $612.3 million of capacity revenues, $175.7 million of alternative energy revenues, $20.8 million of O&M fees and $174.1 million of other revenues, which include $57.3 million of unrealized gains associated with financial sales transactions of electricity, which are marked to market, $22.4 million from ancillary service revenues and the remainder related to financial and physical gas sales and non–cash contract amortization resulting from fresh start accounting and other miscellaneous revenue items.

Revenues from majority–owned operations for the year ended December 31, 2004, were driven primarily by our North American operations, primarily our Northeast facilities. Our wholly–owned domestic Northeast power generation operations significantly contributed to our energy revenues. Our wholly–owned North America assets generated approximately 29.0 million megawatt hours during the year 2004 with the Northeast region representing 45.6% of these megawatt hours. Of the total $1.4 billion in energy revenues, the Northeast region represented 62%. Our energy revenues were favorably impacted by the FERC–approved settlement agreement between us and CL&P and others, whereby we received $38.4 million in settlement proceeds in July 2004. These settlement proceeds are included in the All Other segment in the energy revenue category. South Central's energy revenues are driven by our ability to sell merchant energy, which is dependent upon available generation from our coal–based Louisiana Generating company after serving our co–op customer and long–term customer load obligations. Since our load obligation is primarily residential load, our merchant opportunities are largely available in the off–peak hours of the day. Our Australian operations were favorably impacted by strong market prices driven by gas restrictions in January, record high temperatures in February and March, and favorable foreign exchange movements. Our capacity revenues are largely driven by our Northeast and South Central facilities. Our South Central and New York City assets earned 30% and 26% of our total capacity revenues, respectively. In the Northeast, our Connecticut facilities continue to benefit from the cost–based reliability must–run, or RMR agreements, which were authorized by FERC as of January 17, 2004 and approved by FERC on January 27, 2005. The agreements entitle us to approximately $7.1 million of capacity revenues per month until January 1, 2006, the LICAP implementation date. In the South Central region, our long–term contracts provide for capacity payments. Other North American capacity revenues were generated by our Kendall operation, which had a long–term tolling agreement. During this period we also experienced a favorable impact on our revenues due to the mark–to–market on certain of our derivative contracts wherein we have recognized $57.3 million in unrealized gains. This gain is related to our Northeast assets and is included in Other Revenue. Also included in Other Revenue in the Northeast are the cost reimbursement funds under the RMR agreement for our Connecticut assets. Our revenues during this period include net charges of $35.3 million of non–cash amortization of the fair values of various executory contracts recorded on our balance sheet upon our adoption of the Fresh Start provisions of SOP 90–7 in December 2003.

Our revenues from majority–owned operations were $138.5 million for the period December 6, 2003 through December 31, 2003.

Predecessor Company

Revenues from majority-owned operations were $1.8 billion for the period January 1, 2003 through December 5, 2003 and include $992.6 million of energy revenues, $566.0 million of capacity revenues, $115.9 million of alternative energy, $12.9 million of O&M fees and $110.9 million of other revenues which include financial and physical gas sales, sales from our Schkopau facility and NEPOOL expense reimbursements. Revenues from majority-owned operations during the period ended December 5, 2003, were driven primarily by our North American operations and to a lesser degree by our international operations, primarily Australia. Our domestic Northeast and South Central power generation operations significantly contributed to our revenues due primarily to favorable market prices resulting from strong fuel and electricity prices. Our Australian operations were favorably impacted by foreign exchange rates. During this period we also experienced an unfavorable impact on our revenues due to continued losses on our CL&P standard offer contract and the mark-to-market on certain of our derivatives.

Cost of Majority-Owned Operations

Reorganized NRG

Our cost of majority-owned operations for the year ended December 31, 2004 was $1.5 billion or 63.3% of revenues from majority-owned operations. Cost of majority-owned operations consist of $1.008 billion of cost of energy (primarily fuel and purchased energy costs), or 42.7% of revenues from majority-owned operations and $486.1 million of operating expenses, or 20.6% of revenues from majority-owned operations. Operating expenses consist of $208.5 million of labor related costs, $236.7 million of operating and maintenance costs, $38.2 million of non-income based taxes and $2.9 million of asset retirement obligation accretion.

Cost of Energy

Fuel related costs include $478.3 million in coal costs, $233.0 million in natural gas costs, $104.7 million in fuel oil costs, $38.8 million in transmission and transportation expenses, $100.4 million of purchased energy costs, $35.0 million in other costs and $17.8 million in non-cash SO_2 emission credit amortization resulting from Fresh Start accounting. The Northeast region consumed 50%, 64% and 92% of total coal, natural gas and oil expenditures, respectively. The South Central region, which is comprised mainly of our Louisiana base-loaded coal plant, consumed 32% of our total coal expenditures.

Operating Expenses

Operating expenses related to continuing operations for the year ended December 31, 2004 were $486.1 million or 20.6% of revenues from majority-owned operations. Operating expenses include labor, normal and major maintenance costs, environmental and safety costs, utilities costs, and non-income based taxes. Labor costs include regular, overtime and contract costs at our plants and totaled $208.5 million. The Northeast region, where the majority of our assets reside, represents 52% of total labor costs; Australia represents 18%, while our South Central region represents 11%. Of the total O&M costs, normal and major maintenance at our plants accounted for $176.7 million, or 36.3% of total operating costs. Maintenance costs were largely driven by planned outages across our fleet, and the low-sulfur coal conversion in western New York. The Northeast region represented over half of the normal and major maintenance, with a total of $98.6 million in costs in 2004 while Australia had $38.8 million in normal and major maintenance, or 22%. Operating expenses were positively impacted by a $7 million favorable settlement with a vendor regarding auxiliary power charges. Non-income based taxes totaled $38.2 million net of $34.6 million in property tax credits, primarily associated with an enterprise zone program.

Cost of majority-owned operations was $95.5 million, or 69.0% of revenues from majority-owned operations for the period December 6, 2003 through December 31, 2003. Cost of energy for this period was $62.3 million or 45.0% of revenues from majority-owned operations and operating expenses were $33.2 million, or 24.0% of revenues from majority-owned operations. Labor during this period totaled $11.1 million. Normal and major maintenance was $12 million with 70% of the total normal and major maintenance for this time period coming from our Northeast region.

Predecessor Company

Cost of majority–owned operations was $1.4 billion, or 75.4% of revenues from majority–owned operations for the period January 1, 2003 through December 5, 2003. Cost of majority–owned operations was unfavorably impacted by increased generation in the Northeast region, partially offset by a reduction in trading and hedging activity resulting from a reduction in our power marketing activities. Our international operations were impacted by an unfavorable movement in foreign exchange rates and continued mark–to–market of the Osborne contract at Flinders resulting from lower pool prices.

Depreciation and Amortization

Reorganized NRG

Our depreciation and amortization expense related to continuing operations for the year ended December 31, 2004 was $209.3 million. Depreciation and amortization consists primarily of the allocation of our historical depreciable fixed asset costs over the remaining lives of such property. Upon adoption of Fresh Start, we were required to revalue our fixed assets to fair value and determine new remaining lives for such assets. Our fixed assets were written down substantially upon our emergence from bankruptcy. We also determined new remaining depreciable lives, which are, on average, shorter than what we had previously used primarily due to the age and condition of our fixed assets.

Depreciation and amortization expense for the period December 6, 2003 through December 31, 2003 was $11.8 million. Depreciation and amortization expense consists of the allocation of our newly valued basis in our fixed assets over newly determined remaining fixed asset lives.

Predecessor Company

Our depreciation and amortization expense related to continuing operations for the period January 1, 2003 through December 5, 2003 was $218.8 million. During this period, depreciation expense was unfavorably impacted by the shortening of the depreciable lives of certain of our domestic power generation facilities located in the Northeast region and the impact of recently completed construction projects. The depreciable lives of certain of our Northeast facilities, primarily our Connecticut facilities, were shortened to reflect economic developments in that region. Certain capitalized development costs were written–off in connection with the Loy Yang project resulting in increased expense. Amortization expense increased due to reducing the life of certain software costs.

General, Administrative and Development

Reorganized NRG

Our general, administrative and development costs related to continuing operations for the year ended December 31, 2004 were $211.2 million. Of this total, $111.1 million or 4.7% of revenues from majority–owned operations represents our corporate costs, with the remaining $100.1 million representing costs at our plant operations. Corporate costs are primarily comprised of corporate labor, external professional support, such as legal, accounting and audit fees, and office expenses. Corporate general, administrative and development expenses were negatively impacted this year by increased legal fees, increased audit costs and increased consulting costs due to our Sarbanes Oxley testing and implementation. Plant general, administrative and development costs primarily include insurance and external consulting costs. Plant insurance costs were $40.6 million. Additionally, we recorded $11.7 million in bad debt expense related to notes receivable.

General, administrative and development costs were $12.5 million, or 9.0% of revenues from continuing operations for the period December 6, 2003 to December 31, 2003. These costs are primarily comprised of corporate labor, insurance and external professional support, such as legal, accounting and audit fees.

Predecessor Company

Our general, administrative and development costs related to continuing operations for the period January 1, 2003 to December 5, 2003 were $170.3 million or 9.5% of revenues from majority–owned operations. These costs are primarily comprised of corporate labor, insurance and external professional support, such as legal, accounting and audit fees.

Other Charges (Credits)

Reorganized NRG

For the year ended December 31, 2004, we recorded other charges of $47.4 million, which consisted of $16.2 million of corporate relocation charges, $13.4 million of reorganization credits and $44.6 million of restructuring and impairment charges.

For the period December 6, 2003 through December 31, 2003 we recorded $2.5 million of reorganization charges.

Predecessor Company

During the period January 1, 2003 to December 5, 2003, we recorded other credits of $3.2 billion, which consisted primarily of $228.9 million related to asset impairments, $462.6 million related to legal settlements, $197.8 million related to reorganization charges and $8.7 million related to restructuring charges. We also incurred a $4.1 billion credit related to Fresh Start adjustments.

Other charges (credits) consist of the following:

	Reorganized NRG		Predecessor Company
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003
	(In thousands)		
Corporate relocation charges	$ 16,167	$ —	$ —
Reorganization items	(13,390)	2,461	197,825
Impairment charges	44,661	—	228,896
Restructuring charges	—	—	8,679
Fresh Start adjustments	—	—	(4,118,636)
Legal settlement	—	—	462,631
Total	$ 47,438	$ 2,461	$ (3,220,605)

Corporate Relocation Charges

On March 16, 2004, we announced plans to implement a new regional business strategy and structure. The new structure called for a reorganized leadership team and a corporate headquarters relocation to Princeton, New Jersey. The corporate headquarters staff were streamlined as part of the relocation, as functions were either reduced or shifted to the regions. The transition of the corporate headquarters is substantially complete. During the year ended December 31, 2004, we recorded $16.2 million for charges related to our corporate relocation activities, primarily for employee severance and termination benefits and employee related transition costs. These charges are classified separately in our statement of operations, in accordance with SFAS No. 146, *"Accounting for Costs Associated with Exit or Disposal Activities"*. We expect to incur an additional $7.7 million of SFAS No. 146–classified expenses in connection with corporate relocation charges for a total of $23.9 million. Of this total, relocating, recruiting and other employee–related transition costs are expected to be approximately $11.9 million and have been and will continue to be expensed as incurred. These costs and cash payments are expected to be incurred through the second quarter of 2005. Severance and termination benefits of $7.2 million are expected to be incurred through the second quarter of

2005 with cash payments being made through the fourth quarter of 2005. Building lease termination costs are expected to be $4.8 million. These costs are expected to be incurred through the first quarter of 2005 with cash payments being made through the fourth quarter of 2006. Costs not classified separately as relocation charges include rent expense of our temporary office in Princeton, construction costs of our new office and certain labor costs. All costs relating to the corporate relocation that are not classified separately as relocation charges, except for approximately $5.7 million of related capital expenditures will be expensed as incurred and included in general, administrative and development expenses. Cash expenditures for 2004, including capital expenditures, were $22.4 million. We currently estimate total costs associated with the corporate relocation to be approximately $40.0 million.

We recognized a curtailment gain of $750,000 on our defined benefit pension plan in the fourth quarter of 2004, as a substantial number of our current headquarters staff left the Company in this period.

Reorganization Items

For the year ended December 31, 2004, we recorded a net credit of $13.4 million related primarily to the settlement of obligations recorded under Fresh Start. We incurred $7.4 million of professional fees associated with the bankruptcy which offset $20.8 million of credits associated with creditor settlements. For the periods December 6, 2003 to December 31, 2003 and January 1, 2003 to December 5, 2003, we incurred $2.5 million and $197.8 million, respectively, in reorganization costs. All reorganization costs have been incurred since we filed for bankruptcy in May 2003. The following table provides the detail of the types of costs incurred.

	Reorganized NRG		Predecessor Company
	Year Ended December 31, 2004	For the period December 6 – December 31, 2003	For the period January 1 – December 5, 2003
		(In thousands)	
Reorganization items			
Professional fees	$ 7,383	$2,461	$ 82,186
Deferred financing costs	—	—	55,374
Pre–payment settlement	—	—	19,609
Interest earned on accumulated cash	—	—	(1,059)
Contingent equity obligation	—	—	41,715
Settlement of obligations	(20,773)	—	—
Total reorganization items	$(13,390)	$2,461	$197,825

Impairment Charges

We review the recoverability of our long–lived assets in accordance with the guidelines of SFAS No. 144. As a result of this review, we recorded impairment charges of $44.7 million and $228.9 million for the year ended December 31, 2004 and the period January 1, 2003 through December 5, 2003, respectively, as shown in the table below. Of the $44.7 million total in 2004, Kendall and the Meriden turbine accounted for $26.5 million and $15.0 million, respectively. Both of these charges were based on indicative market valuations. We successfully completed the sale of Kendall in November 2004 and expect to complete the sale of the Meriden turbine in the first quarter of 2005. There were no impairment charges for the period December 6, 2003 through December 31, 2003.

To determine whether an asset was impaired, we compared asset carrying values to total future estimated undiscounted cash flows. Separate analyses were completed for assets or groups of assets at the lowest level for which identifiable cash flows were largely independent of the cash flows of other assets and liabilities. The estimates of future cash flows included only future cash flows, net of associated cash outflows, directly associated with and expected to arise as a result of our assumed use and eventual disposition of the asset. Cash flow estimates associated with assets in service were based on the asset's existing service potential. The cash

flow estimates may include probability weightings to consider possible alternative courses of action and outcomes, given the uncertainty of available information and prospective market conditions.

If an asset was determined to be impaired based on the cash flow testing performed, an impairment loss was recorded to write down the asset to its fair value. Estimates of fair value were based on prices for similar assets and present value techniques. Fair values determined by similar asset prices reflect our current estimate of recoverability from expected marketing of project assets. For fair values determined by projected cash flows, the fair value represents a discounted cash flow amount over the remaining life of each project that reflects project-specific assumptions for long-term power pool prices, escalated future project operating costs, and expected plant operation given assumed market conditions.

Impairment charges (credits) included the following asset impairments (realized gains) for the year ended December 31, 2004 and the period January 1, 2003 to December 5, 2003.

		Reorganized NRG	Predecessor Company	
Project Name	**Project Status**	**Year Ended December 31, 2004**	**For the Period January 1 – December 5, 2003**	**Basis of Impairment Charge**
		(In thousands)		
Louisiana Generating LLC	Office building and land being marketed	$ 493	$ —	Estimated market price
New Roads Holding LLC (turbine)	Non-operating asset — abandoned	2,416	—	Projected cash flows
Devon Power LLC	Operating at a loss in 2003	247	64,198	Projected cash flows
Middletown Power LLC	Operating at a loss	—	157,323	Projected cash flows
Arthur Kill Power, LLC	Terminated construction project	—	9,049	Projected cash flows
Langage (UK)	Terminated	—	(3,091)	Estimated market price
Turbines	Sold	—	(21,910)	Realized gain
Berrians Project	Terminated	—	14,310	Realized loss
TermoRio	Terminated	—	6,400	Realized loss
Meriden	Sold	15,000	—	Similar asset prices
Kendall and other expansion projects	Sold	26,505	—	Projected cash flows, sales contracts
Other		—	2,617	
Total impairment charges		$44,661	$228,896	

Restructuring Charges

We incurred $8.7 million of employee separation costs and advisor fees during the period January 1, 2003 until we filed for bankruptcy in May 2003. Subsequent to that date we recorded all advisor fees as reorganization costs.

Fresh Start Adjustments

During the fourth quarter of 2003, we recorded a net credit of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations) in connection with fresh start adjustments. Following is a summary of the significant effects of the reorganization and Fresh Start:

	(In millions)
Discharge of corporate level debt	$ 5,162
Discharge of other liabilities	811
Establishment of creditor pool	(1,040)
Receivable from Xcel	640
Revaluation of fixed assets	(1,392)
Revaluation of equity investments	(207)
Valuation of SO 2 emission credits	374
Valuation of out of market contracts, net	(400)
Fair market valuation of debt	108
Valuation of pension liabilities	(61)
Other valuation adjustments	(100)
Total Fresh Start adjustments	3,895
Less discontinued operations	(224)
Total Fresh Start adjustments — continuing operations	$ 4,119

Legal Settlement Charges

During the period January 1, 2003 to December 5, 2003, we recorded $462.6 million of legal settlement charges which consisted of the following. We recorded $396.0 million in connection with the resolution of an arbitration claim asserted by FirstEnergy Corp. As a result of this resolution, FirstEnergy retained ownership of the Lake Plant Assets and received an allowed general unsecured claim of $396.0 million under NRG Energy's Plan of Reorganization. In November 2003, we settled litigation with Fortistar Capital in which Fortistar Capital released us from all litigation claims in exchange for a $60.0 million pre–petition bankruptcy claim and an $8.0 million post–petition bankruptcy claim. We had previously recorded $10.8 million in connection with various legal disputes with Fortistar Capital; accordingly, we recorded an additional $57.2 million during November 2003. In November 2003, we settled our dispute with Dick Corporation in connection with Meriden Gas Turbines LLC through the payment of a general unsecured claim and a post–petition pre–confirmation payment. This settlement resulted in our recording an additional liability of $8.0 million in November 2003.

In August 1995, we entered into a Marketing, Development and Joint Proposing Agreement, or the Marketing Agreement, with Cambrian Energy Development LLC, or Cambrian. Various claims arose in connection with the Marketing Agreement. In November 2003, we entered into a settlement agreement with Cambrian where we agreed to transfer our 100% interest in three gasco projects (NEO Ft. Smith, NEO Phoenix and NEO Woodville) and our 50% interest in two genco projects (MM Phoenix and MM Woodville) to Cambrian. In addition, we paid approximately $1.8 million in settlement of royalties incurred in connection with the Marketing Agreement. We had previously recorded a liability for royalties owed to Cambrian, therefore, we recorded an additional $1.4 million during November 2003.

Other Income (Expense)

Reorganized NRG

During the year ended December 31, 2004, we recorded other expense of $171.9 million. Other expense consisted primarily of $269.4 million of interest expense, $71.6 million of refinancing–related expenses, $1.0 million of minority interest in earnings of consolidated subsidiaries and $16.3 million of write downs and losses on sales of equity method investments, offset by $159.8 million of equity in earnings of unconsolidated affiliates (including $68.9 million from our investment in West Coast Power LLC) and $26.6 million of other income, net.

Other income (expense) for the period December 6, 2003 through December 31, 2003, was an expense of $5.4 million and consisted primarily of $18.9 million of interest expense, partially offset by $13.5 million of equity in earnings of unconsolidated affiliates.

Predecessor Company

During the period January 1, 2003 through December 5, 2003, we recorded other expense of $286.9 million. Other expense consisted primarily of $329.9 million of interest expense and $147.1 million of write downs and losses on sales of equity method investments, partially offset by equity in earnings of unconsolidated affiliates of $170.9 million and $19.2 million of other income, net.

Minority Interest in Earnings of Consolidated Subsidiaries

For the year ended December 31, 2004, minority interest in earnings of consolidated subsidiaries was $1.0 million which relates primarily to our ownership interests in Northbrook Energy, LLC and Northbrook New York, LLC, partnerships which hold a portfolio of small hydro projects. For the period December 6, 2003 through December 31, 2003, minority interest in earnings of consolidated subsidiaries was $134,000 and relates primarily to Northbrook New York and Northbrook Energy.

Equity in Earnings of Unconsolidated Affiliates

Reorganized NRG

For the year ended December 31, 2004, we recorded $159.8 million of equity earnings from our investments in unconsolidated affiliates. Our equity in earnings of West Coast Power comprised $68.9 million of this amount with our equity in earnings of Enfield, Mibrag, and Gladstone comprising $28.5 million, $20.9 million, and $17.5 million, respectively. Our investment in West Coast Power generated favorable results due to the pricing under the California Department of Water Resources contract. Additionally, revenues from ancillary services revenue and minimum load cost compensation power positively contributed to West Coast Power's operating results. However, our equity earnings in the project as reported in our results of operations have been reduced by a net $115.8 million to reflect a non-cash basis adjustment for in the money contracts resulting from adoption of Fresh Start.

NRG Energy's equity earnings were also favorably impacted by $23.3 million of unrealized gain related to our Enfield investment. This gain is associated with changes in the fair value of energy-related derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

Equity in earnings of unconsolidated affiliates of $13.5 million for the period December 6, 2003 through December 31, 2003 consists primarily of equity earnings from our 50% ownership in West Coast Power of $9.4 million.

Predecessor Company

During the period January 1, 2003 through December 5, 2003, we recorded $170.9 million of equity earnings from investments in unconsolidated affiliates. Our 50% investment in West Coast Power comprised $98.7 million of this amount with our investments in the Mibrag, Loy Yang, Gladstone and Rocky Road projects comprising $21.8 million, $17.9 million, $12.4 million and $6.9 million, respectively, with the remaining amounts attributable to various domestic and international equity investments.

Equity in earnings of unconsolidated affiliates consists of the following:

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	December 6, 2003 Through December 31, 2003	January 1, 2003 Through December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
West Coast Power	$ 68,895	$ 9,362	$ 98,741	$ 19,044
MIBRAG	20,938	102	21,818	28,750
Enfield	28,505	481	5,975	(6,017)
Gladstone	17,528	997	12,440	7,237
Rocky Road	6,904	305	6,864	6,868
James River	7,750	543	(1,893)	9,713
NRG Saguaro	5,480	617	3,940	4,968
Scudder LA Trust	1,521	150	2,653	1,043
NRG National	846	190	2,010	1,695
MWPC — RDF	200	8	123	259
NRG Cadillac	(421)	(2)	280	195
Central and Eastern European Energy Power Fund	(47)	(22)	(260)	(331)
Loy Yang	—	—	17,924	8,443
Other	1,726	790	286	(12,871)
Total Equity in Earnings of Unconsolidated Affiliates	$159,825	$13,521	$170,901	$ 68,996

Write Downs and Losses on Sales of Equity Method Investments

As part of our periodic review of our equity method investments for impairments, we have taken write downs and losses on sales of equity method investments during the year ended December 31, 2004 of $16.3 million and $147.1 million for the period January 1, 2003 through December 5, 2003. Our Commonwealth Atlantic Limited Partnership (CALP) and James River investments were written down based on indicative market bids. The sale of CALP closed in the fourth quarter of 2004, while the sale agreement for James River has been terminated. There were no write downs and losses on sales of equity method investments for the period December 6, 2003 through December 31, 2003.

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Write downs and losses (gains) on sales of equity method investments recorded in the consolidated statement of operations include the following:

	Reorganized NRG	Predecessor Company
	Year Ended December 31, 2004	For the Period January 1 – December 5, 2003
	(In thousands)	
Commonwealth Atlantic Limited Partnership	$ 4,614	$ —
James River Power LLC	7,293	—
NEO Corporation	3,830	—
Calpine Cogeneration	(735)	—
NLGI — Minnesota Methane	—	12,257
NLGI — MM Biogas	—	2,613
Kondapalli	—	(519)
ECKG	—	(2,871)
Loy Yang	1,268	146,354
Mustang	—	(12,124)
Other	—	1,414
Total write downs and losses of equity method investments	$16,270	$147,124

Commonwealth Atlantic Limited Partnership (CALP) — In June 2004, we executed an agreement to sell our 50% interest in CALP. During the third quarter of 2004, we recorded an impairment charge of approximately $3.7 million to write down the value of our investment in CALP to its fair value. The sale closed in November 2004, resulting in net cash proceeds of $14.9 million. Total impairment charges as a result of the sale were $4.6 million.

James River Power LLC — In September 2004, we executed an agreement with Colonial Power Company LLC to sell all of our outstanding shares of stock in Capistrano Cogeneration Company, a wholly–owned subsidiary of NRG Energy which owns a 50% interest in James River Cogeneration Company. During the third quarter of 2004, we recorded an impairment charge of approximately $6.0 million to write down the value of our investment in James River to its fair value. During the fourth quarter of 2004, the sale agreement was terminated. We continue to impair any additional equity earnings based on its fair value. Total impairment charges for 2004 were $7.3 million.

NEO Corporation — On September 30, 2004, we completed the sale of several NEO investments — Four Hills LLC, Minnesota Methane II LLC, NEO Montauk Genco LLC and NEO Montauk Gasco LLC to Algonquin Power of Canada. The sale also included four wholly–owned NEO subsidiaries (see Item 15 — Note 6). We received cash proceeds of $6.1 million. The sale resulted in a loss of approximately $3.8 million attributable to the equity investment entities sold.

Calpine Cogeneration — In January 2004, we executed an agreement to sell our 20% interest in Calpine Cogeneration Corporation to Calpine Power Company. The transaction closed in March 2004 and resulted in net cash proceeds of $2.5 million and a net gain of $0.2 million. During the second quarter of 2004, we received additional consideration on the sale of $0.5 million, resulting in an adjusted net gain of $0.7 million.

NLGI — Minnesota Methane — We recorded an impairment charge of $12.3 million during 2002 to write–down our 50% investment in Minnesota Methane. We recorded an additional impairment charge of $14.5 million during the first quarter of 2003. These charges were related to a revised project outlook and management's belief that the decline in fair value was other than temporary. In May 2003, the project lenders to the wholly–owned subsidiaries of NEO Landfill Gas, Inc. and Minnesota Methane LLC foreclosed on our membership interest in the NEO Landfill Gas, Inc. subsidiaries and our equity interest in Minnesota Methane LLC. Upon completion of the foreclosure, we recorded a gain of $2.2 million, resulting in a net impairment

charge of $12.3 million for the period January 1, 2003 to December 5, 2003. This gain resulted from the release of certain obligations.

NLGI —MM Biogas — We recorded an impairment charge of $3.2 million during 2002 to write-down our 50% investment in MM Biogas. This charge was related to a revised project outlook and management's belief that the decline in fair value was other than temporary. In November 2003, we entered into a sales agreement with Cambrian Energy Development to sell our 50% interest in MM Biogas. We recorded an additional impairment charge of $2.6 million during the fourth quarter of 2003 due to developments related to the sale that indicated an impairment of our book value that was considered to be other than temporary.

Kondapalli — In the fourth quarter of 2002, we wrote down our investment in Kondapalli by $12.7 million due to recent estimates of sales value, which indicated an impairment of our book value that was considered to be other than temporary. On January 30, 2003, we signed a sale agreement with the Genting Group of Malaysia, or Genting, to sell our 30% interest in Lanco Kondapalli Power Pvt Ltd, or Kondapalli, and a 74% interest in Eastern Generation Services (India) Pvt Ltd (the O&M company). Kondapalli is based in Hyderabad, Andhra Pradesh, India, and is the owner of a 368 MW natural gas fired combined cycle gas turbine. In the first quarter of 2003, we wrote down our investment in Kondapalli by $1.3 million based on the final sale agreement. The sale closed on May 30, 2003 resulting in net cash proceeds of approximately $24 million and a gain of approximately $1.8 million, resulting in a net gain of $0.5 million. The gain resulted from incurring lower selling costs than estimated as part of the first quarter impairment.

ECKG — In September 2002, we announced that we had reached agreement to sell our 44.5% interest in the ECKG power station in connection with our Csepel power generating facilities, and our interest in Entrade, an electricity trading business, to Atel, an independent energy group headquartered in Switzerland. The transaction closed in January 2003 and resulted in cash proceeds of $65.3 million and a net loss of less than $1.0 million. In accordance with the purchase agreement, we were to receive additional consideration if Atel purchased shares held by our partner. During the second quarter of 2003, we received approximately $3.7 million of additional consideration, resulting in a net gain of $2.9 million.

Loy Yang — Based on a third party market valuation and bids received in response to marketing Loy Yang for possible sale, we recorded a write down of our investment of approximately $111.4 million during 2002. This write-down reflected management's belief that the decline in fair value of the investment was other than temporary. In May 2003, we entered into negotiations that culminated in the completion of a Share Purchase Agreement to sell 100% of the Loy Yang project. Consequently, we recorded an additional impairment charge of approximately $146.4 million during 2003. In April 2004, we completed the sale of Loy Yang which resulted in net cash proceeds of $26.7 million and a loss of $1.3 million.

Mustang Station — On July 7, 2003, we completed the sale of our 25% interest in Mustang Station, a gas-fired combined cycle power generating plant located in Denver City, Texas, to EIF Mustang Holdings I, LLC. The sale resulted in net cash proceeds of approximately $13.3 million and a net gain of approximately $12.1 million.

Other Income, net

Reorganized NRG

During the year ended December 31, 2004, we recorded $26.6 million of other income, net, consisting primarily of interest income earned on notes receivable and cash balances. For the period December 6, 2003 through December 31, 2003 we recorded other income of $97,000.

Predecessor Company

During the period January 1, 2003 through December 5, 2003, we recorded $19.2 million of other income, net. During this period other income, net consisted primarily of interest income earned on notes receivable and cash balances, offset in part by the unfavorable mark-to-market on our corporate level £160 million note that was cancelled in connection with our bankruptcy proceedings.

Interest Expense

Reorganized NRG

Interest expense for the year ended December 31, 2004 was $269.4 million, consisting of interest expense on both our project– and corporate–level interest–bearing debt. Significant amounts of our corporate–level debt were forgiven upon our emergence from bankruptcy and we refinanced significant amounts of our project–level debt with corporate level high yield notes and term loans in December 2003. Also included in interest expense is the amortization of debt financing costs of $9.2 million related to our corporate level debt and $13.3 million of amortization expense related primarily to debt discounts and premiums recorded as part of Fresh Start. Interest expense also includes the impact of any interest rate swaps that we have entered in order to manage our exposure to changes in interest rates.

Interest expense for the period December 6, 2003 through December 31, 2003 of $18.9 million consists primarily of interest expense at the corporate level, primarily related to the Second Priority Notes, term loan facility and revolving line of credit used to refinance certain project–level financings. In addition, interest expense includes the amortization of deferred financing costs incurred as a result of our refinancing efforts and the amortization of discounts and premiums recorded upon the marking of our debt to fair value upon our adoption of the Fresh Start provision of SOP 90–7.

Predecessor Company

Interest expense for the period January 1, 2003 through December 5, 2003 of $329.9 million consisted of interest expense on both our project and corporate level interest bearing debt. In addition, interest expense includes the amortization of debt issuance costs and any interest rate swap termination costs. Interest expense during this period was favorably impacted by our ceasing to record interest expense on debt where it was probable that such interest would not be paid, such as the NRG Energy corporate level debt (primarily bonds) and the NRG Finance Company debt (construction revolver) due to our entering into bankruptcy in May 2003. We did not however cease to record interest expense on the project–level debt outstanding at our Northeast Generating and South Central Generating facilities even though these entities were also in bankruptcy as these claims were deemed to be most likely not impaired and not subject to compromise. We also recorded substantial amounts of fees and costs related to our acquiring a debtor in possession financing arrangement while we were in bankruptcy. In addition, upon our emergence from bankruptcy we wrote off any remaining deferred finance costs related to our corporate and project–level debt including our Northeast and South Central project–level debt as it was probable that they would be refinanced upon our emergence from bankruptcy. Interest expense was unfavorably impacted by an adverse mark–to–market on certain interest rate swaps that we have entered in order to manage our exposure to changes in interest rates. Due to our deteriorating financial condition during such period, hedge accounting treatment was ceased for certain of our interest rate swaps, causing changes in fair value to be recorded as interest expense.

Refinancing Expense

Refinancing expense was $71.6 million for the year ended December 31, 2004. This amount includes $15.1 million of prepayment penalties and a $15.3 million write–off of deferred financing costs related to refinancing certain amounts of our term loans with additional corporate level high yield notes in January 2004 and $13.8 million of prepayment penalties and a $26.8 million write–off of deferred financing costs related to refinancing the senior credit facility in December 2004.

Income Tax Expense

Reorganized NRG

Our income tax provision from continuing operations was $65.1 million for the year ended December 31, 2004 and an income tax benefit of ($0.7) million for the period December 6, 2003 through December 31, 2003. The overall effective tax rate in 2004 and the short period in 2003 was 28.7% and (6.2%), respectively.

The change in our effective tax rate was primarily due to a state tax refund received from Xcel Energy in 2003 and foreign income taxed in jurisdictions with tax rates different from the U.S. statutory rate.

Our net deferred tax assets at December 31, 2004 were offset by a full valuation allowance in accordance with SFAS No. 109. Under SOP 90–7, any future benefits from reducing a valuation allowance from preconfirmation deferred tax assets are required to be reported first as an adjustment of identifiable intangible assets and then as a direct addition to paid in capital versus a benefit on our statement of operations.

The effective tax rate may vary from year to year depending on, among other factors, the geographic and business mix of earnings and losses. These same and other factors, including history of pre–tax earnings and losses, are taken into account in assessing the ability to realize deferred tax assets.

Predecessor Company

Income tax expense for the period January 1, 2003 through December 5, 2003 was $37.9 million. The overall effective tax rate for the period ended December 5, 2003 was 1.3%. The rate is lower than the U.S. statutory rate primarily due to a release in valuation allowance for net operating loss carryforwards that were utilized following our emergence from bankruptcy to offset the current tax on cancellation of debt income.

Income taxes have been recorded on the basis that our U.S. subsidiaries and we would file separate federal income tax returns for the period January 1, 2003 through December 5, 2003. Since our U.S. subsidiaries and we were not included in the Xcel Energy consolidated tax group, each of our U.S. subsidiaries that is classified as a corporation for U.S. income tax purposes filed a separate federal income tax return. It is uncertain if, on a stand–alone basis, we would be able to fully realize deferred tax assets related to net operating losses and other temporary differences, therefore a full valuation allowance has been established.

Income From Discontinued Operations, net of Income Taxes

Reorganized NRG

We classified as discontinued operations the operations and gains/losses recognized on the sale of projects that were sold or were deemed to have met the required criteria for such classification pending final disposition. During the year ended December 31, 2004, we recorded income from discontinued operations, net of income taxes, of $23.5 million. During the year ended December 31, 2004 and for the period December 6, 2003 to December 31, 2003, discontinued operations consisted of the results of our NRG McClain LLC, Penobscot Energy Recovery Company, or PERC, Compania Boliviana De Energia Electrica S.A. Bolivian Power Company Limited, or Cobee, Hsin Yu, LSP Energy (Batesville) and four NEO Corporation projects (NEO Nashville LLC, NEO Hackensack LLC, NEO Prima Deshecha LLC and NEO Tajiguas LLC). All other discontinued operations were disposed of in prior periods. The $23.5 million income from discontinued operations includes a gain of $22.4 million, net of income taxes of $7.9 million, related primarily to the dispositions of Batesville, Cobee and Hsin Yu.

Discontinued operations for the period December 6, 2003 through December 31, 2003 is comprised of a loss of $0.4 million attributable to the on going operations of our McClain, PERC, Cobee, LSP Energy, Hsin Yu and four NEO Corporation projects (NEO Nashville LLC, NEO Hackensack LLC, NEO Prima Deshecha LLC and NEO Tajiguas LLC).

Predecessor Company

As of December 5, 2003, we classified as discontinued operations the operations and gains/losses recognized on the sales of projects that were sold or were deemed to have met the required criteria for such classification pending final disposition. For the period January 1, 2003 through December 5, 2003, discontinued operations consist of the historical operations and net gains/losses related to our Killingholme, McClain, PERC, Cobee, NEO Landfill Gas, Inc., or NLGI, seven NEO Corporation projects (NEO Nashville LLC, NEO Hackensack LLC, NEO Prima Deshecha LLC, NEO Tajiguas LLC, NEO Ft. Smith LLC, NEO

Woodville LLC and NEO Phoenix LLC), Timber Energy Resources, Inc., or TERI, Cahua, Energia Pacasmayo, LSP Energy and Hsin Yu projects.

For the period January 1, 2003 through December 5, 2003, the results of operations related to such discontinued operations was a net loss of $182.6 million due to a loss on the sale of our Peru projects, impairment charges of $100.7 million and $23.6 million, respectively, recorded at McClain and NLGI and fresh start adjustments at LSP Energy.

For the Year Ended December 31, 2003 Compared to the Year Ended December 31, 2002

Net Income

Reorganized NRG

During the period December 6, 2003 through December 31, 2003, we recognized net income of $11.0 million or $0.11 per share of common stock. Net income was directly attributable to a number of factors some of which are discussed below. From an overall operational perspective our facilities were profitable during this period. Our results were adversely impacted by our having to continue to satisfy the standard offer service contract that we entered into with Connecticut Light & Power, or CL&P, in 2000. As a result of our inability to terminate this contract during our bankruptcy proceeding, we continued to be exposed to losses under this contract. These losses were incurred, as we were unable to satisfy the requirements of this contract at a price/cost below the contracted sales price. Upon our adoption of Fresh Start, we recorded at fair value all assets and liabilities on our opening balance sheet and accordingly we recorded as an obligation the fair value of the CL&P contract. During the period December 6, 2003 through December 31, 2003, we recognized as revenues the entire fair value of this contract effectively offsetting the actual losses incurred under this contract. The CL&P contract terminated on December 31, 2003.

Predecessor Company

During the period January 1, 2003 through December 5, 2003, we recorded net income of $2.8 billion. Net income for the period is directly attributable to our emerging from bankruptcy and adopting the Fresh Start provisions of SOP 90–7. Upon the confirmation of our Plan of Reorganization and our emergence from bankruptcy we were able to remove significant amounts of long–term debt and other pre–petition obligations from our balance sheet. Accordingly, as part of net income, we recorded a net gain of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations) as the impact of our adopting Fresh Start in our statement of operations. $6.0 billion of this amount is directly related to the forgiveness of debt and settlement of substantial amounts of our pre–petition obligations upon our emergence from bankruptcy. In addition to the removal of substantial amounts of pre–petition debt and other obligations from our balance sheet, we have also revalued our assets and liabilities to fair value. Accordingly, we have substantially written down the value of our fixed assets. We have recorded a net $1.6 billion charge related to the revaluation of our assets and liabilities within the Fresh Start Reporting adjustment line of our consolidated statement of operations. In addition to our recording adjustments related to our emergence from bankruptcy, we also recorded substantial charges related to other items such as the settlement of certain outstanding litigation in the amount of $462.6 million, write downs and losses on the sale of equity investments of $147.1 million, advisor costs and legal fees directly attributable to our being in bankruptcy of $197.8 million and $237.6 million of other asset impairment and restructuring costs incurred prior to our filing for bankruptcy. Net income for the period January 1, 2003 through December 5, 2003 was favorably impacted by our not recording interest expense on substantial amounts of corporate level debt while we were in bankruptcy and by the continued favorable results experienced by our equity investments.

During the year ended December 31, 2002, we recognized a net loss of $3.5 billion. The loss from continuing operations incurred during 2002 primarily consisted of $2.6 billion of other charges consisting primarily of asset impairments.

Revenues from Majority–Owned Operations

Reorganized NRG

Our operating revenues from majority–owned operations were $138.5 million for the period December 6, 2003 through December 31, 2003.

Predecessor Company

Revenues from majority–owned operations were $1.8 billion for the period January 1, 2003 through December 5, 2003 and include $992.6 million of energy revenues, $566.0 million of capacity revenues, $115.9 million of alternative energy, $12.9 million of O&M fees and $110.9 million of other revenues which include financial and physical gas sales, sales from our Schkopau facility and NEPOOL expense reimbursements. Revenues from majority–owned operations during the period year ended December 5, 2003, were driven primarily by our North American operations and to a lesser degree by our international operations, primarily Australia. Our domestic Northeast and South Central power generation operations significantly contributed to our revenues due primarily to favorable market prices resulting from strong fuel and electricity prices. Our Australian operations were favorably impacted by favorable foreign exchange rates. During this period we also experienced an unfavorable impact on our revenues due to continued losses on our CL&P standard offer contract and the mark–to–market on certain of our derivatives.

Revenues from majority–owned operations were $1.9 billion for the year ended December 31, 2002.

Cost of Majority–Owned Operations

Reorganized NRG

Our cost of majority–owned operations for the period December 6, 2003 through December 31, 2003 was $95.5 million or 69.0% of revenues from majority–owned operations.

Predecessor Company

Cost of majority–owned operations was $1.4 billion, or 75.4% of revenues from majority–owned operations for the period January 1, 2003 through December 5, 2003. Cost of majority–owned operations was unfavorably impacted by increased generation in the Northeast region, partially offset by a reduction in trading and hedging activity resulting from a reduction in our power marketing activities. Our international operations were unfavorably impacted due to an unfavorable movement in foreign exchange rates and continued mark–to–market of the Osborne contract at Flinders resulting from lower pool prices.

Our cost of majority–owned operations related to continuing operations was $1.3 billion for 2002, or 68.7% of revenues from majority–owned operations. Cost of majority–owned operations, consists primarily of cost of energy (primarily fuel costs), labor, operating and maintenance costs and non–income based taxes related to our majority–owned operations. Cost of energy for the year ended December 31, 2002 was $900.9 million or 46.5% of revenue from majority–owned operations.

Depreciation and Amortization

Reorganized NRG

Our depreciation and amortization expense related to continuing operations was $11.8 million for the period December 6, 2003 through December 31, 2003. Depreciation and amortization expense consists of the allocation of our newly valued basis in our fixed assets over newly determined remaining fixed asset lives. As part of adopting the Fresh Start concepts of SOP 90–7, our tangible fixed assets were recorded at fair value as determined by a third party valuation expert who we also consulted with in determining the appropriate remaining lives for our tangible depreciable property. Depreciation expense for this period was based on preliminary depreciable lives and asset balances.

Predecessor Company

Our depreciation and amortization expense related to continuing operations was $218.8 million for the period January 1, 2003 through December 5, 2003 and $207.0 million for the year ended December 31, 2002. During the period January 1, 2003 to December 5, 2003, depreciation expense was unfavorably impacted by the shortening of the depreciable lives of certain of our domestic power generation facilities located in the Northeast region and the impact of completed construction projects. Depreciation and amortization consists of the allocation of our historical depreciable fixed asset costs over the remaining lives of such property as well as the amortization of certain contract based intangible assets.

General, Administrative and Development

Reorganized NRG

Our general, administrative and development costs for the period December 6, 2003 through December 31, 2003 was $12.5 million or 9.0% of revenues from majority–owned operations. These costs are primarily comprised of corporate labor, insurance and external professional support, such as legal, accounting and audit fees.

Predecessor Company

Our general, administrative and development costs for the period January 1, 2003 through December 5, 2003 were $170.3 million, or 9.5% of revenues from majority–owned operations. Our general, administrative and development costs for 2002 were $218.9 million, or 11.3% of revenues from majority–owned operations. General, administrative and development costs for the period January 1, 2003 through December 5, 2003 were favorably impacted by decreased costs related to work force reduction efforts, cost reductions due to the closure of certain international offices and reduced legal costs. Outside services also decreased, due to less non–restructuring legal activities.

Other Charges (Credits)

Reorganized NRG

During the period December 6, 2003 through December 31, 2003 we recorded $2.5 million of other charges related to reorganization items.

Predecessor Company

During the period January 1, 2003 to December 5, 2003, we recorded other credits of $3.2 billion, which consisted primarily of $228.9 million related to asset impairments, $462.6 million related to legal settlements, $197.8 million related to reorganization charges and $8.7 million related to restructuring charges. We also incurred a $4.1 billion credit related to Fresh Start adjustments. During 2002, we recorded other charges of $2.6 billion, which consisted primarily of $2.5 billion related to asset impairments and $111.3 million related to restructuring charges.

We review the recoverability of our long–lived assets on a periodic basis and if we determined that an asset was impaired, we compared asset–carrying values to total future estimated undiscounted cash flows. Separate analyses are completed for assets or groups of assets at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. The estimates of future cash flows included only future cash flows, net of associated cash outflows, directly associated with and expected to arise as a result of our assumed use and eventual disposition of the asset. Cash flow estimates associated with assets in service are based on the asset's existing service potential. The cash flow estimates may include probability weightings to consider possible alternative courses of action and outcomes, given the uncertainty of available information and prospective market conditions.

If an asset was determined to be impaired based on the cash flow testing performed, an impairment loss was recorded to write down the asset to its fair value. Estimates of fair value were based on prices for similar

assets and present value techniques. Fair values determined by similar asset prices reflect our current estimate of recoverability from expected marketing of project assets. For fair values determined by projected cash flows, the fair value represents a discounted cash flow amount over the remaining life of each project that reflects project–specific assumptions for long–term power pool prices, escalated future project operating costs, and expected plant operation given assumed market conditions.

Impairment charges (credits) included the following for the period January 1, 2003 to December 5, 2003 and the year ended December 31, 2002. There were no impairment charges for the period December 6, 2003 through December 31, 2003.

		Predecessor Company		
Project Name	**Project Status**	**For the Period January 1 – December 5, 2003**	**Year Ended December 31, 2002**	**Fair Value Basis**
		(In thousands)		
Devon Power LLC	Operating at a loss	$ 64,198	$ —	Projected cash flows
Middletown Power LLC	Operating at a loss	157,323	—	Projected cash flows
Arthur Kill Power, LLC	Terminated construction project	9,049	—	Projected cash flows
Langage (UK)	Terminated	(3,091)	42,333	Estimated market price/Realized gain
Turbine	Sold	(21,910)	—	Realized gain
Berrians Project	Terminated	14,310	—	Realized loss
Termo Rio	Terminated	6,400	—	Realized loss
Nelson	Terminated	—	467,523	Similar asset prices
Pike	Terminated	—	402,355	Similar asset prices
Bourbonnais	Terminated	—	264,640	Similar asset prices
Meriden	Terminated	—	144,431	Similar asset prices
Brazos Valley	Foreclosure completed in January 2003	—	102,900	Projected cash flows
Kendall and other expansion projects	Terminated	—	55,300	Projected cash flows
Turbines & other costs	Equipment being marketed	—	701,573	Similar asset prices
Audrain	Operating at a loss	—	66,022	Projected cash flows
Somerset	Operating at a loss	—	49,289	Projected cash flows
Bayou Cove	Operating at a loss	—	126,528	Projected cash flows
Other		2.617	28.851	
Total impairment charges (credits)		$228,896	$2,451,745	

Reorganization Items

For the period from December 6, 2003 to December 31, 2003 we incurred $2.5 million in reorganization costs. For the period from January 1, 2003 to December 5, 2003, we incurred $197.8 million in reorganization costs. All reorganization costs have been incurred since we filed for bankruptcy in May 2003. The following table provides the detail of the types of costs incurred (in thousands):

	Reorganized NRG	Predecessor Company
	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003
	(In thousands)	
Reorganization items		
Professional fees	$2,461	$ 82,186
Deferred financing costs	—	55,374
Pre–payment settlement	—	19,609
Interest earned on accumulated cash	—	(1,059)
Contingent equity obligation	—	41,715
Total reorganization items	$2,461	$197,825

Restructuring Charges

We incurred $8.7 million of employee separation costs and advisor fees during the period January 1, 2003 until we filed for bankruptcy in May 2003. Subsequent to that date we recorded all advisor fees as reorganization costs. We incurred total restructuring charges of approximately $111.3 million for the year ended December 31, 2002. These costs consisted of employee separation costs and advisor fees.

Legal Settlement Charges

During the period January 1, 2003 to December 5, 2003, we recorded $462.6 million of legal settlement charges which consisted of the following. We recorded $396.0 million in connection with the resolution of an arbitration claim asserted by FirstEnergy Corp. As a result of this resolution, FirstEnergy retained ownership of the Lake Plant Assets and received an allowed general unsecured claim of $396.0 million under NRG Energy's plan of reorganization. In November 2003, we settled litigation with Fortistar Capital in which Fortistar Capital released us from all litigation claims in exchange for a $60.0 million pre–petition bankruptcy claim and an $8.0 million post–petition bankruptcy claim. We had previously recorded $10.8 million in connection with various legal disputes with Fortistar Capital; accordingly, we recorded an additional $57.2 million during November 2003. In November 2003, we settled our dispute with Dick Corporation in connection with Meriden Gas Turbines LLC through the payment of a general unsecured claim and a post–petition pre–confirmation payment. This settlement resulted in our recording an additional liability of $8.0 million in November 2003.

In August 1995, we entered into a Marketing, Development and Joint Proposing Agreement, or the Marketing Agreement, with Cambrian Energy Development LLC, or Cambrian. Various claims arose in connection with the Marketing Agreement. In November 2003, we entered into a settlement agreement with Cambrian where we agreed to transfer our 100% interest in three gasco projects (NEO Ft. Smith, NEO Phoenix and NEO Woodville) and our 50% interest in two genco projects (MM Phoenix and MM Woodville) to Cambrian. In addition, we paid approximately $1.8 million in settlement of royalties incurred in connection with the Marketing Agreement. We had previously recorded a liability for royalties owed to Cambrian, therefore, we recorded an additional $1.4 million during November 2003.

Fresh Start Adjustments

During the fourth quarter of 2003, we recorded a net credit of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations) in connection with fresh start adjustments. Following is a summary of the significant effects of the reorganization and Fresh Start:

	(In millions)
Discharge of corporate level debt	$ 5,162
Discharge of other liabilities	811
Establishment of creditor pool	(1,040)
Receivable from Xcel	640
Revaluation of fixed assets	(1,392)
Revaluation of equity investments	(207)
Valuation of SO_2 emission credits	374
Valuation of out of market contracts, net	(400)
Fair market valuation of debt	108
Valuation of pension liabilities	(61)
Other valuation adjustments	(100)
Total Fresh Start adjustments	3,895
Less discontinued operations	(224)
Total Fresh Start adjustments — continuing operations	$ 4,119

Other Income (Expense)

Reorganized NRG

Other income (expense) for the period December 6, 2003 through December 31, 2003, was an expense of $5.4 million and consisted primarily of $18.9 million of interest expense, partially offset by $13.5 million of equity in earnings of unconsolidated affiliates.

Predecessor Company

During the period January 1, 2003 through December 5, 2003, we recorded other expense of $286.9 million. Other expense consisted primarily of $329.9 million of interest expense and $147.1 million of write downs and losses on sales of equity method investments, partially offset by equity in earnings of unconsolidated affiliates of $170.9 million and $19.2 million of other income.

For the year ended December 31, 2002, other expenses were $572.2 million, which consisted primarily of $452.2 million of interest expense and $200.5 million of write downs and losses on sales of equity method investments, partially offset by equity in earnings of unconsolidated affiliates of $69.0 million and other income, net of $11.5 million.

Minority Interest in Earnings of Consolidated Subsidiaries

For the period December 6, 2003 through December 31, 2003, minority interest in earnings of consolidated subsidiaries was $134,000 and relates primarily to Northbrook New York and Northbrook Energy.

Equity in Earnings of Unconsolidated Affiliates

Reorganized NRG

Equity in earnings of unconsolidated affiliates of $13.5 million for the period December 6, 2003 through December 31, 2003 consists primarily of equity earnings from our 50% ownership in West Coast Power of $9.4 million.

Predecessor Company

During the period January 1, 2003 through December 5, 2003, we recorded $170.9 million of equity earnings from investments in unconsolidated affiliates. Our 50% investment in West Coast Power comprised $98.7 million of this amount with our investments in the Mibrag, Loy Yang, Gladstone and Rocky Road projects comprising $21.8 million, $17.9 million, $12.4 million and $6.9 million, respectively, with the remaining amounts attributable to various domestic and international equity investments. Our investment in West Coast Power continues to generate favorable earnings as well as our investments in Mibrag, Loy Yang, Gladstone and Rocky Road. For the year ended December 31, 2002, equity earnings from investments in unconsolidated affiliates was $69.0 million.

Write-Downs and Losses on Sales of Equity Method Investments

As we periodically review our equity method investments for impairments, we have taken substantial write-downs and losses on sales of equity method investments during the period January 1, 2003 through December 5, 2003 and for the year 2002. During the period January 1, 2003 to December 5, 2003, we recorded impairments and losses on the sales of investments of $147.1 million compared to $200.5 million in 2002. The $147.1 million recorded in 2003 consists primarily of the write down of our investment in the Loy Yang project of $146.4 million, our investment in the NEO Corporation — Minnesota Methane project of $12.3 million and our investment in NEO Corporation — MM Biogas of $2.6 million. These losses were partially offset by gains on the sale of our investment in the ECKG and Mustang projects of $2.9 million and $12.1 million, respectively. During 2002 we recorded write-downs and losses on sales of equity method investments of $200.5 million. The $200.5 million recorded in 2002 consists primarily of a write down of our investment in the Loy Yang project of $111.4 million, a loss of $48.4 million on the transfer of our interest in the Sabine River Works project to our partner, a $14.2 million write down related to our investment in our EDL project, a write down of our investment in our Kondapalli project of $12.7 million and a write down of our investment in NEO Corporation — Minnesota Methane and MM Biogas of $12.3 million and $3.2 million, respectively among others, offset by a $9.9 million gain on sale of our Kingston project.

Other income, net

Other income, net consists primarily of interest income earned on notes receivable and cash balances. We recorded $97,000, $19.2 million and $11.4 million of other income, net for the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003 and for the year ended December 31, 2002, respectively.

Interest expense

Reorganized NRG

Interest expense for the period December 6, 2003 through December 31, 2003 of $18.9 million consists primarily of interest expense at the corporate level, primarily related to the Second Priority Notes, term loan facility and revolving line of credit used to refinance certain project-level financings. In addition, interest expense includes the amortization of deferred financing costs incurred as a result of our refinancing efforts and the amortization of discounts and premiums recorded upon the marking of our debt to fair value upon our adoption of the Fresh Start provision of SOP 90-7.

Predecessor Company

Interest expense for the period January 1, 2003 through December 5, 2003 of $329.9 million consisted of interest expense on both our project and corporate level interest bearing debt. In addition, interest expense includes the amortization of debt issuance costs and any interest rate swap termination costs. Subsequent to our entering into bankruptcy we ceased the recording of interest expense on our corporate level debt as these pre-petition claims were deemed to be impaired and subject to compromise. We did not however cease to record interest expense on the project-level debt outstanding at our Northeast Generating and South Central Generating facilities even though these entities were also in bankruptcy as these claims were deemed to be most likely not impaired and not subject to compromise. We also recorded substantial amounts of fees and costs related to our acquiring a debtor in possession financing arrangement while we were in bankruptcy. In addition, upon our emergence from bankruptcy we wrote off any remaining deferred finance costs related to our corporate and project-level debt including our Northeast and South Central project-level debt as it was probable that they would be refinanced upon our emergence from bankruptcy.

Interest expense was $452.2 million for the year ended December 31, 2002.

Income Tax

Reorganized NRG

Income tax benefit for the period December 6, 2003 through December 31, 2003 was ($0.7) million and the overall effective tax rate was (6.2%). The rate is lower than the U.S. statutory rate primarily due to a state tax refund received from Xcel Energy in 2003, foreign income taxed in jurisdictions with tax rates different from the U.S. statutory rate and a decrease in unfavorable permanent differences.

Our deferred tax assets at December 31, 2003 were offset by a full valuation allowance in accordance with SFAS No. 109. Under SOP 90-7, any future benefits from reducing a valuation allowance from preconfirmation deferred tax assets are required to be reported as a direct addition to paid in capital versus a benefit on our income statement. Consequently, our effective tax rate in post-bankruptcy emergence years will not benefit from the realization of our deferred tax assets, which were fully valued as of the date of our emergence from bankruptcy. The adoption of this Statement of Position will result in a disallowance of a future income statement benefit of $1.3 billion as a result of a reduction to the intangible asset for realization of benefits of fully valued deferred tax assets as of December 5, 2003 (date of emergence from bankruptcy).

The effective tax rate may vary from year to year depending on, among other factors, the geographic and business mix of earnings and losses. These same and other factors, including history of pre-tax earnings and losses, are taken into account in assessing the ability to realize deferred tax assets.

Predecessor Company

Income tax expense (benefit) for the period January 1, 2003 through December 5, 2003 was a tax expense of $37.9 million and a tax benefit of ($166.9) million for the year ended December 31, 2002. The overall effective tax rate for the short period ended December 5, 2003 and the year ended December 31, 2002 was 1.3% and 5.6%, respectively. The change in our effective tax rate was primarily due to a release in valuation allowance for net operating loss carryforwards that were utilized following our emergence from bankruptcy to offset the current tax on cancellation of debt income.

Discontinued Operations

Reorganized NRG

Discontinued operations for the period December 6, 2003 through December 31, 2003 is comprised of a loss of $0.4 million attributable to the on going operations of our McClain, PERC, Cobee, LSP Energy, Hsin Yu and four NEO Corporation projects (NEO Nashville LLC, NEO Hackensack LLC, NEO Prima Deshecha LLC and NEO Tajiguas LLC).

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Predecessor Company

As of December 5, 2003, we classified as discontinued operations the operations and gains/losses recognized on the sales of projects that were sold or were deemed to have met the required criteria for such classification pending final disposition. For the period January 1, 2003 through December 5, 2003, discontinued operations consist of the historical operations and net gains/losses related to our Killingholme, McClain, PERC, Cobee, NLGI, seven NEO Corporation projects, TERI, Cahua, Energia Pacasmayo, LSP Energy and Hsin Yu projects. Discontinued operations for the year ended December 31, 2002 consisted of our Crockett Cogeneration, Entrade, Killingholme, Csepel, Bulo Bulo, McClain, PERC, Cobee, NLGI, seven NEO Corporation projects, TERI, Cahua, Energia Pacasmayo, LSP Energy and Hsin Yu projects.

For the period January 1, 2003 through December 5, 2003, the results of operations related to such discontinued operations was a net loss of $182.6 million due to a loss on the sale of our Peru projects, impairment charges of $100.7 million and $23.6 million, respectively, recorded at McClain and NLGI and fresh start adjustments at LSP Energy.

During 2002, we recognized a loss on discontinued operations of $675.8 million due primarily to asset impairments recorded at Killingholme, NLGI, TERI, LSP Energy and Hsin Yu projects.

Reorganization and Emergence from Bankruptcy

On May 14, 2003, we and 25 of our U.S. affiliates, filed voluntary petitions for reorganization under Chapter 11 of the United States Bankruptcy Code, or the Bankruptcy Code, in the United States Bankruptcy Court for the Southern District of New York, or the bankruptcy court.

On May 15, 2003, NRG Energy, PMI, NRG Finance Company I LLC, NRGenerating Holdings (No. 23) B.V. and NRG Capital LLC, collectively the Plan Debtors, filed the NRG plan of reorganization and the related Disclosure Statement for Reorganizing Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code, as subsequently amended, or the Disclosure Statement. The Bankruptcy Court held a hearing on the Disclosure Statement on June 30, 2003, and instructed the Plan Debtors to include certain additional disclosures. The Plan Debtors amended the Disclosure Statement and obtained Bankruptcy Court approval for the Third Amended Disclosure Statement for Debtors' Second Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code.

On November 24, 2003, the bankruptcy court issued an order confirming the NRG plan of reorganization, and the plan became effective on December 5, 2003. On September 17, 2003, the Northeast/ South Central plan of reorganization was proposed after we secured the necessary financing commitments. On November 25, 2003, the bankruptcy court issued an order confirming the Northeast/ South Central plan of reorganization and the plan became effective on December 23, 2003.

Financial Reporting by Entities in Reorganization under the Bankruptcy Code and Fresh Start

Between May 14, 2003 and December 5, 2003, we operated as a debtor–in–possession under the supervision of the bankruptcy court. Our financial statements for reporting periods within that timeframe were prepared in accordance with the provisions of Statement of Position 90–7, *"Financial Reporting by Entities in Reorganization Under the Bankruptcy Code"*, or SOP 90–7.

For financial reporting purposes, the close of business on December 5, 2003, represents the date of emergence from bankruptcy. As used herein, the following terms refer to the Company and its operations:

"Predecessor Company"	The Company, pre–emergence from bankruptcy The Company's operations prior to December 6, 2003
"Reorganized NRG"	The Company, post–emergence from bankruptcy The Company's operations from December 6, 2003–December 31, 2004

The implementation of the NRG plan of reorganization resulted in, among other things, a new capital structure, the satisfaction or disposition of various types of claims against the Predecessor Company, the assumption or rejection of certain contracts, and the establishment of a new board of directors.

In connection with the emergence from bankruptcy, we adopted Fresh Start in accordance with the requirements of SOP 90–7. The application of SOP 90–7 resulted in the creation of a new reporting entity. Under Fresh Start, the enterprise value of our company was allocated among our assets and liabilities on a basis substantially consistent with purchase accounting in accordance with SFAS No. 141 *"Business Combinations"*, or SFAS No. 141. Accordingly, we pushed down the effects of this allocation to all of our subsidiaries.

Under the requirements of Fresh Start, we have adjusted our assets and liabilities, other than deferred income taxes, to their estimated fair values as of December 5, 2003. As a result of marking our assets and liabilities to their estimated fair values, we determined that there was no excess reorganization value that was reallocated back to our tangible and intangible assets. Deferred taxes were determined in accordance with SFAS No. 109, *"Accounting for Income Taxes."* The net effect of all Fresh Start adjustments resulted in a gain of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations), which is reflected in the Predecessor Company's results of operations for the period January 1, 2003 through December 5, 2003. The application of the Fresh Start provisions of SOP 90–7 created a new reporting entity having no retained earnings or accumulated deficit.

As part of the bankruptcy process we engaged an independent financial advisor to assist in the determination of our reorganized enterprise value. The fair value calculation was based on management's forecast of expected cash flows from our core assets. Management's forecast incorporated forward commodity market prices obtained from a third party consulting firm. A discounted cash flow calculation was used to develop the enterprise value of Reorganized NRG, determined in part by calculating the weighted average cost of capital of the Reorganized NRG. The Discounted Cash Flow, or DCF, valuation methodology equates the value of an asset or business to the present value of expected future economic benefits to be generated by that asset or business. The DCF methodology is a "forward looking" approach that discounts expected future economic benefits by a theoretical or observed discount rate. The independent financial advisors prepared a 30–year cash flow forecast using a discount rate of approximately 11%. The resulting reorganization enterprise value as included in the Disclosure Statement ranged from $5.5 billion to $5.7 billion. The independent financial advisor then subtracted our project–level debt and made several other adjustments to reflect the values of assets held for sale, excess cash and collateral requirements to estimate a range of Reorganized NRG equity value of between $2.2 billion and $2.6 billion.

In constructing our Fresh Start balance sheet upon our emergence from bankruptcy, we used a reorganization equity value of approximately $2.4 billion, as we believe this value to be the best indication of the value of the ownership distributed to the new equity owners. Our NRG plan of reorganization provided for the issuance of 100,000,000 shares of NRG common stock to the various creditors resulting in a calculated price per share of $24.04. Our reorganization value of approximately $9.1 billion was determined by adding our reorganized equity value of $2.4 billion, $3.7 billion of interest bearing debt and our other liabilities of $3.0 billion. The reorganization value represents the fair value of an entity before liabilities and approximates the amount a willing buyer would pay for the assets of the entity immediately after restructuring. This value is consistent with the voting creditors and bankruptcy court's approval of the NRG plan of reorganization.

We recorded approximately $3.9 billion of net reorganization income (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations) in the Predecessor Company's statement of operations for 2003, which includes the gain on the restructuring of equity and the discharge of obligations subject to compromise for less than recorded amounts, as well as adjustments to the historical carrying values of our assets and liabilities to fair market value.

Due to the adoption of Fresh Start as of December 5, 2003, the Reorganized NRG post–Fresh Start statement of operations and statement of cash flows have not been prepared on a consistent basis with the Predecessor Company's financial statements and are therefore not comparable in certain respects to the

financial statements prior to the application of Fresh Start. The accompanying Consolidated Financial Statements have been prepared to distinguish between Reorganized NRG and the Predecessor Company.

APB No. 18, *"The Equity Method of Accounting for Investments in Common Stock,"* requires us to effectively push down the effects of Fresh Start reporting to our unconsolidated equity method investments and to recognize an adjustment to our share of the earnings or losses of an investee as if the investee were a consolidated subsidiary. As a result of pushing down the impact of Fresh Start to our West Coast Power affiliate, we determined that a contract based intangible asset with a one year remaining life, consisting of the value of West Coast Power's California Department of Water Resources energy sales contract, must be established and recognized as a basis adjustment to our share of the future earnings generated by West Coast Power. This adjustment reduced our equity earnings in the amount of $115.8 million for the year ended December 31, 2004. This contract expired in December 2004.

Liquidity and Capital Resources

Reorganized Capital Structure

In connection with the consummation of our reorganization, on December 5, 2003, all shares of our old common stock were canceled and 100,000,000 shares of new common stock of NRG Energy were distributed pursuant to such plan in accordance with Section 1145 of the bankruptcy code to the holders of certain classes of claims. We received no proceeds from such issuance. A certain number of shares of common stock were issued and placed in the Disputed Claims Reserve for distribution to holders of disputed claims as such claims are resolved or settled. See Item 3 — Legal Proceedings — Disputed Claims Reserve. In the event our disputed claims reserve is inadequate, it is possible we will have to issue additional shares of our common stock to satisfy such pre–petition claims or contribute additional cash proceeds. Our authorized capital stock consists of 500,000,000 shares of NRG Energy common stock and 10,000,000 shares of preferred stock. A total of 4,000,000 shares of our common stock are available for issuance under our long–term incentive plan.

In addition to our issuance of new common stock, on December 23, 2003, we completed a note offering consisting of $1.25 billion of 8% Second Priority Senior Secured Notes due 2013, or the Second Priority Notes, and we entered into a new $1.45 billion credit facility consisting of a $950.0 million term loan facility, a $250.0 million funded letter of credit facility and a $250.0 million revolving credit facility. In connection with the consummation of the NRG plan of reorganization, we issued to Xcel Energy a $10.0 million non–amortizing promissory note, which accrues interest at a rate of 3% per annum and matures 2.5 years after the effective date of the NRG plan of reorganization. In January 2004, we completed a supplementary note offering whereby we issued an additional $475.0 million of the Second Priority Notes at a premium and used the proceeds to repay a portion of the $950.0 million term loan. On December 24, 2004, we amended and restated our existing $1.45 billion credit facility, recasting it as a $950 million secured credit facility made up of a $450.0 million seven–year senior secured term loan, a $350.0 million funded letter of credit facility and a three–year $150.0 million revolving line of credit. In December 2004, we also issued $420 million of convertible preferred stock and used the proceeds from such issuance to redeem $375 million of the Second Priority Notes in February 2005. Also in January 2005 and in March 2005, we used existing cash to purchase, at market prices, $25 million and $15.8 million, respectively, in face value of our Second Priority Notes. These notes were assumed by NRG Energy and therefore remain outstanding. As of March 21, 2005, we had $1.35 billion in aggregate principal amount of Second Priority Notes outstanding, $450.0 million principal amount outstanding under the term loan and $350 million of the funded letter of credit facility outstanding. $178.3 million of undrawn letters of credit remain available under the funded letter of credit facility. As of March 21, 2005, we had not drawn down on our revolving credit facility.

The following table summarizes the debt transactions:

	Date of Transaction	Original Amount	Outstanding at December 31, 2003	Activity	Outstanding at December 31, 2004	Activity	Outstanding at March 21, 2005
				(In thousands)			
Xcel Promissory Note	Dec. 6, 2003	$ 10,000	$ 10,000		$ 10,000		$ 10,000
NRG 8% Senior Secured Notes	Dec. 23, 2003	$1,250,000	$1,250,000		$1,250,000		
Tack-on offering	Jan. 28, 2004			$475,000	$ 475,000		
					$1,725,000		$1,725,000
Repurchase of Notes*	Jan. 21-27, 2005					$ (25,000)	
Early Redemption	Feb. 4, 2005					$(375,000)	(375,000)
Repurchase of Notes*	March 28, 2005					$ (15,838)	
							$1,350,000
NRG Credit Facility Term loan	Dec. 23, 2003	$ 950,000	$ 950,000				
Letter of Credit facility	Dec. 23, 2003	250,000	$ 250,000				
Corporate Revolver	Dec. 23, 2003	250,000	—				
NRG New Credit Facility		$1,450,000	$1,200,000				
Refinancing of the Credit Facility							
Amended Credit Facility							
Term loan	Dec. 24, 2004	$ 450,000			$ 450,000		$ 450,000
Letter of Credit facility	Dec. 24, 2004	350,000			350,000		350,000
Corporate Revolver	Dec. 24, 2004	150,000			—		—
NRG Amended Credit Facility		$ 950,000	—		$ 800,000		$ 800,000
Total Corporate Level Debt			$2,460,000		$2,535,000		$2,160,000

* The notes were assumed by NRG Energy and remain outstanding.

As part of the NRG plan of reorganization, we eliminated approximately $5.2 billion of corporate level bank and bond debt and approximately $1.3 billion of additional claims and disputes through our distribution of new common stock and $1.04 billion in cash among our unsecured creditors. In addition to the debt reduction associated with the restructuring, we used the proceeds of the Second Priority Notes and borrowings under our credit facility to retire approximately $1.7 billion of project-level debt.

For additional information on our short-term and long-term borrowing arrangements, see Item 15 — Note 18 to the Consolidated Financial Statements.

Historical Cash Flows

Reorganized NRG

We have obtained cash from operations, Xcel Energy's contribution net of distributions to creditors, proceeds from the sale of certain assets, borrowings under our Second Priority Notes and credit facilities and the proceeds from the sale of preferred stock. We have used these funds to finance operations, service debt obligations, finance capital expenditures, repurchase common stock and meet other cash and liquidity needs.

Predecessor Company

Historically, we have obtained cash from operations, issuance of debt and equity securities, borrowings under credit facilities, capital contributions from Xcel Energy, reimbursement by Xcel Energy of tax benefits pursuant to a tax sharing agreement and proceeds from non-recourse project financings. We used these funds

to finance operations, service debt obligations, fund the acquisition, development and construction of generation facilities, finance capital expenditures and meet other cash and liquidity needs.

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	For the Period December 6– December 31, 2003	For the Period January 1– December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Net cash provided (used) by operating activities	$ 643,993	$(588,875)	$ 238,509	$ 430,042
Net cash (used) provided by investing activities	184,685	363,372	(185,679)	(1,681,467)
Net cash provided (used) by financing activities	(283,734)	393,273	(29,944)	1,449,330

Net Cash Provided (Used) By Operating Activities

Reorganized NRG

For the year ended December 31, 2004, net cash provided by operating activities was $644.0 million. Net income of $185.6 million and adjustments of $383.3 million accounted for $568.9 million of the total cash provided by operating activities. Non–cash adjustments consist primarily of depreciation, amortization and impairment charges offset by unrealized gains on derivatives. Cash provided by working capital of $75.0 million reflects a $100 million net resolution of a bankruptcy–related receivable and payable offset by other working capital changes of $25.0 million.

For the period December 6, 2003 through December 31, 2003, net cash used by operating activities was $588.9 million. This was primarily a result of payments made to creditors upon our emergence from bankruptcy.

Predecessor Company

For the period January 1, 2003 through December 5, 2003, net cash provided by operating activities was $238.5 million. Operating activities consisted of a net loss before Fresh Start adjustments of $1.1 billion, offset by non–cash charges of $567.5 million and cash provided by working capital of $800.1 million. The non–cash charges consisted primarily of the write–down of our investment in Loy Yang, asset impairments and legal settlement charges. The favorable change in working capital was primarily due to reduced cash expenditures throughout the bankruptcy period resulting in increased accounts payable.

For the year ended December 31, 2002, net cash provided by operating activities was $430.0 million. Operating activities consisted of a net loss before restructuring and impairment charges of $319.8 million offset by non–cash charges of $144.5 million and cash provided by working capital of $605.3 million.

Net Cash Provided (Used) By Investing Activities

Reorganized NRG

For the year ended December 31, 2004, net cash provided by investing activities was $184.7 million due primarily to sales proceeds, net of cash on hand, of $252.7 million on the sale of discontinued operations and sale proceeds of $50.7 million from the sale of investments, offset by capital expenditures of $114.4 million.

For the period December 6, 2003 through December 31, 2003, net cash provided by investing activities was $363.4 million. In connection with the refinancing transaction, approximately $375.3 million of restricted cash was released upon payment of the Northeast Generating and South Central Generating note. This increase was offset by funds used for capital expenditures and investments in projects.

Predecessor Company

For the period January 1, 2003 through December 5, 2003, net cash used in investing activities was $185.7 million. This was primarily a result of capital expenditures and an increase in restricted cash, offset by cash proceeds received upon the sale of investments.

For the year ended December 31, 2002, net cash used by investing activities was $1.7 billion due primarily to $1.4 billion of capital expenditures.

Net Cash Provided (Used) By Financing Activities

Reorganized NRG

For the year ended December 31, 2004, net cash used by financing activities was $283.7 million primarily due to reduction of long-term debt by $159.3 million, which was primarily related to the McClain sale. Financing activities were also driven by an increase in the funded letter of credit asset balance of $100.0 million. In December 2004, the Company issued preferred stock for net proceeds of $406.4 million which enabled us to redeem $375.0 million of senior secured notes in 2005. Available cash balances were used to purchase 13 million shares of common stock owned by MatlinPatterson for a price of $405.3 million.

For the period December 6, 2003 through December 31, 2003, net cash provided by financing activities was $393.3 million. We entered into refinancing transactions on December 23, 2003, where we issued $1.25 billion of Second Priority Notes and entered into the New Credit Facility, which consisted of a $950.0 million senior secured term loan facility, a $250.0 million funded letter of credit facility and a $250.0 million unfunded revolving line of credit. Upon completion of the refinancing transactions, we repaid the Northeast Generating and South Central Generating notes and the Mid-Atlantic Generating obligations.

Predecessor Company

For the period January 1, 2003 through December 5, 2003, net cash used by financing activities was $29.9 million, which consisted primarily of principal payments offset by the issuance of additional debt.

For the year ended December 31, 2002, net cash provided by financing activities was $1.4 billion which consisted primarily of increased debt of $945.3 and a capital contribution from Xcel Energy in the amount of $500.0 million.

Sources of Funds

The principal sources of liquidity for our future operations and capital expenditures are expected to be: (i) existing cash on hand and cash flows from operations and (ii) proceeds from the sale of certain assets and businesses. Additionally, we have approximately $192.9 million of undrawn letter of credit capacity under our senior credit facility as of December 31, 2004.

On December 24, 2004, we amended our corporate bank facility, which at December 31, 2004 consists of a $450.0 million, seven-year senior secured term loan, a $350.0 million funded letter of credit facility, and a three-year $150.0 million revolving line of credit, or the revolving credit facility. With the refinancing, we lowered the interest rate on the term loan to LIBOR plus 1.875% from LIBOR plus 4.0%. Portions of the revolving credit facility are available as a swing-line facility and as a revolving letter of credit sub-facility. As of December 31, 2004, the corporate revolver was undrawn.

On December 27, 2004, we completed the sale of $420 million of convertible perpetual preferred stock with a dividend coupon rate of 4%. The Preferred Stock has a liquidation preference of $1,000 per share of Preferred Stock. Holders of Preferred Stock are entitled to receive, when, as and if declared by our Board of Directors, out of funds legally available therefore, cash dividends at the rate of 4% per annum, payable quarterly in arrears on March 15, June 15, September 15 and December 15 of each year, commencing on March 15, 2005. The Preferred Stock is convertible, at the option of the holder, at any time into shares of our common stock at an initial conversion price of $40.00 per share, which is equal to an approximate conversion rate of 25 shares of common stock per share of Preferred Stock, subject to specified adjustments. On or after

December 20, 2009, we may redeem, subject to certain limitations, some or all of the Preferred Stock with cash at a redemption price equal to 100% of the liquidation preference, plus accumulated but unpaid dividends, including liquidated damages, if any, to the redemption date.

Proceeds of $406.4 million from the sale of the preferred securities are net of securities issuance costs of approximately $13.6 million, and on February 4, 2005, these proceeds along with cash on hand were used to redeem $375.0 million in Second Priority Notes, pay an early redemption penalty of $30.0 million and pay accrued interest of $4.1 million on the redeemed notes.

Cash Flows. Our operating cash flows are expected to be impacted by, among other things: (i) spark spreads generally; (ii) commodity prices (including demand for natural gas, coal, oil and electricity); (iii) the cost of ordinary course operations and maintenance expenses including margin and collateral calls for our trading operation; (iv) planned and unplanned outages; (v) contraction of terms by trade creditors; (vi) cash requirements for closure and restructuring of certain facilities; (vii) restrictions in the declaration or payments of dividends or similar distributions from our subsidiaries; and (viii) the timing and nature of asset sales.

A principal component of the NRG plan of reorganization is a settlement with Xcel Energy in which Xcel Energy agreed to make a contribution to us consisting of cash (and, under certain circumstances, its common stock) in an aggregate amount of up to $640.0 million to be paid in three separate installments. Xcel Energy contributed $288.0 million on February 20, 2004, $328.5 million on April 30, 2004 and $23.5 million on May 28, 2004. We distributed $540.0 million of cash we received from Xcel Energy to our creditors pursuant to our plan of reorganization. We retained the remaining $100.0 million, which we used for general corporate purposes.

Asset Sales. We received $303.4 million, $196.5 million and $229.3 million in cash proceeds from the sale of certain assets and businesses in the fiscal years ended 2004, 2003 and 2002, respectively. The Amended Credit Facility and the indenture governing the notes place restrictions on the use of any proceeds we may receive from certain asset sales in the future.

Letter of Credit Sub–facility and Revolving Credit Facility. The Amended Credit Facility includes a letter of credit sub–facility in the amount of $350.0 million. As of December 31, 2004, we had issued $157.1 million in letters of credit under this facility, leaving $192.9 million available for future issuance. The Amended Credit Facility also includes a revolving credit facility in the amount of $150.0 million to be used for general corporate purposes. On December 31, 2004 our revolving credit facility was undrawn. For additional information regarding our debt see Item 15 — Note 18 to the Consolidated Financial Statements.

Uses of Funds

Our requirements for liquidity and capital resources, other than for operating our facilities, can generally be categorized by the following: (i) PMI activities; (ii) capital expenditures; (iii) corporate financial restructuring and (iv) project finance requirements for cash collateral.

PMI. PMI activities comprise the single largest requirement for liquidity and capital resources. PMI liquidity requirements are primarily driven by: (i) margin and collateral posted with counter–parties; (ii) initial collateral required to establish trading relationships; (iii) timing of disbursements and receipts (i.e., buying fuel before receiving energy revenues); and (iv) initial collateral for large structured transactions. As of December 31, 2004, PMI had total collateral outstanding of $47.8 million in margin, prepayments and cash deposits and $83.1 million outstanding in letters of credit to third parties.

Future liquidity requirements may change based on our hedging activity, fuel purchases, future market conditions, including forward prices for energy and fuel and market volatility. In addition, liquidity requirements are dependent on our credit ratings and general perception of creditworthiness. We do not assume that we will be given unsecured credit from third parties in budgeting our working capital requirements.

Capital Expenditures. Capital expenditures were $114.4 million for the year ended December 31, 2004, $10.6 million for the period December 6, 2003 through December 31, 2003, $113.5 million for the period

January 1, 2003 through December 5, 2003 and $1.4 billion for the year ended 2002. Capital expenditures in 2004 relate primarily to the conversion of our western New York plants to low–sulfur coal, the Playford 2 refurbishment at our Flinders operation in Australia and planned outages across our fleet. Capital expenditures in 2003 relate primarily to operations and maintenance of our existing generating facilities whereas capital expenditures in 2002 related primarily to new plant construction. In 2005, we anticipate we will spend approximately $133.3 million in capital expenditures and an additional $109.5 million in major maintenance expense related primarily to the operation and maintenance of our existing generating facilities.

Corporate Financial Restructuring. We may elect periodically to modify our corporate financial structure in order to increase near–term or long–term cash flows or to reduce exposure to financial risks. On December 21, 2004, we purchased 13 million shares of common equity interest in NRG Energy from investment partnerships managed by MatlinPatterson. Total costs associated with the repurchase, including fees and expenses, was $405.3 million. On February 4, 2005, we used proceeds from our Preferred Stock issuance to redeem early $375.0 million of our Second Priority Notes at par value plus 8%. We also paid outstanding accrued interest and liquidated damage penalties attributable to the redeemed notes. In January 2005 and March 2005, we repurchased $25.0 million and $15.8 million, respectively, of our notes, which remain outstanding. As of March 21, 2005, $1.35 billion in Second Priority Notes remain outstanding.

Preferred Dividend Payment. On March 15, 2005, we made a $3.9 million dividend payment to our preferred shareholders of record as of March 1, 2005. This represents the first quarterly dividend payment we anticipate making to our preferred shareholders.

Project Finance Requirements. We are a holding company and conduct our operations through subsidiaries. Historically, we have utilized project–level debt to fund a significant portion of the capital expenditures and investments required to construct our power plants and related assets. Consistent with our strategy, we may seek, where available on commercially reasonable terms, project–level debt in connection with the assets or businesses that our affiliates or we may develop, construct or acquire. Project–level borrowings are substantially non–recourse to other subsidiaries, affiliates and us, and are generally secured by the capital stock, physical assets, contracts and cash flow of the related project subsidiary or affiliate being financed. Some of these project financings may require us to post collateral in the form of cash or an acceptable letter of credit.

In February 2005, Flinders amended its debt facility of AUD 279.4 million (approximately US $218.5 million) in floating–rate debt. The amendment extended the maturity to February 2017, reduced borrowing costs and reserve requirements, minimized debt service coverage ratios, removed mandatory cash sharing arrangements, and made other minor modifications to terms and conditions. The facility includes an AUD 20 million (approximately US $15.7 million) working capital and performance bond facility. NRG Flinders is required to maintain interest–rate hedging contracts on a rolling 5–year basis at a minimum level of 60% of principal outstanding. Upon execution of the amendment, a voluntary principal prepayment of AUD 50 million (approximately US $39.1 million) was made, reducing the principal balance to AUD 229.2 million (approximately $179.4 million).

Principal on short–term debt, long–term debt and capital leases as of December 31, 2004 are due and payable in the following periods (in thousands):

Subsidiary/Description	Total	2005	2006	2007	2008	2009	Thereafter
Xcel Energy Note	$ 10,000	$ —	$ 10,000	$ —	$ —	$ —	$ —
Credit Facility Due Dec. 2011	800,000	8,000	8,000	8,000	8,000	8,000	760,000
8% Second Priority Notes due Dec. 2013	1,725,000	400,000	—	—	—	—	1,325,000
NRG Energy Center Minneapolis, due 2013 and 2017	118,950	7,877	8,465	9,097	9,776	10,507	73,228
NRG Peaker Finance Co LLC	300,876	4,312	6,768	11,164	12,903	14,758	250,971
Flinders Power Finance Pty	202,856	11,564	13,443	14,633	15,931	14,083	133,202
NRG Energy Center San Francisco	129	32	31	37	29	—	—
Camas Pwr BLR LP Bank facility	6,275	2,442	2,533	1,300	—	—	—
Camas Pwr BLR LP Bonds	4,475	1,385	1,485	1,605	—	—	—
Itiquira Energetica S.A., due January 2012	20,078	2,845	2,845	2,845	2,845	2,845	5,853
Itiquira Energetica S.A., due April 2011	31,002	—	3,875	3,875	3,875	3,875	15,502
Northbrook New York	16,900	500	600	700	800	850	13,450
Northbrook Carolina	2,375	100	100	150	150	150	1,725
Northbrook STS HydroPower	24,329	477	523	572	627	807	21,323
Subtotal Debt, Bonds and Notes	3,263,245	439,534	58,668	53,978	54,936	55,875	2,600,254
Saale Energie GmbH, Schkopau (capital lease)	303,803	69,904	51,785	38,612	31,693	23,786	88,023
Audrain Generating (capital lease)	239,930	—	—	—	—	—	239,930
Conemaugh Fuels LLC (capital lease)	218	16	18	19	20	22	123
Subtotal Capital Leases	543,951	69,920	51,803	38,631	31,713	23,808	328,076
Total Debt	$3,807,196	$509,454	$110,471	$92,609	$86,649	$79,683	$2,928,330

These amounts reflect scheduled amortization of principal as of December 31, 2004, with the exception of the 8% Senior Secured Notes, for which 2005 amounts reflect early redemption and repurchases made through March 21, 2005. See Item 15 — Note 18 to the Consolidated Financial Statements for further discussion on events that may affect debt payment schedules.

On December 24, 2004, we amended and restated our senior credit facility, which now consists of a $450.0 million, seven–year senior secured term loan facility, a $350.0 million funded letter of credit facility, and a three–year revolving credit facility in an amount up to $150.0 million. At that time, we paid $13.8 million in prepayment breakage costs, $3.2 million in accrued but unpaid interest and fees, and $16.7 million in other costs associated with the amendment. The balance outstanding under this facility was $800.0 million as of December 31, 2004. Other expenses include commitment fees on the undrawn portion of the revolving credit facility, participation fees for the credit–linked deposit and other fees.

As of December 31, 2004, the $350.0 million letter of credit facility was fully funded and reflected as a funded letter of credit on the December 31, 2004 balance sheet. As of December 31, 2004, $157.1 million in letters of credit had been issued under this facility, leaving $192.9 million available for future issuances.

If we decide not to provide any additional funding or credit support to our subsidiaries, the inability of any of our subsidiaries that have near–term debt payment obligations to obtain non–recourse project financing may result in such subsidiary's insolvency and the loss of our investment in such subsidiary. Additionally, the loss of a significant customer at any of our subsidiaries could result in the need to restructure the non–recourse project

financing at that subsidiary, and the inability to successfully complete a restructuring of the non-recourse project financing may result in a loss of our investment in such subsidiary. Certain of our projects are subject to restrictions regarding the movement of cash. For additional information see Item 15 — Note 18 to the Consolidated Financial Statements.

Liquidity Estimates

For 2005, we anticipate utilizing $300 million of our letter of credit facility. In addition, PMI may require additional capital resources depending upon our hedging activity, fuel purchases and future market conditions. As part of our refinancing transactions, we have a $150.0 million revolving credit facility. The revolving credit facility was established to satisfy short-term working capital requirements, which may arise from time to time. It is not our current intention to draw funds under the revolving credit facility.

On February 4, 2005, utilizing net proceeds of $406.4 million from the sale of preferred securities in December 2004, we redeemed $375.0 million in Second Priority Notes. At the same time, we paid $30.0 million for the early redemption premium on the redeemed notes, $4.1 million in accrued but unpaid interest on the redeemed notes and $0.4 million in accrued but unpaid liquidated damages on the redeemed notes.

On March 15, 2005, we made a $3.9 million dividend payment to our preferred shareholders of record as of March 1, 2005. This represents the first quarterly dividend payment we anticipate making to our preferred shareholders.

Other Liquidity Matters

We expect our capital requirements to be met with existing cash balances, cash flows from operations, borrowings under our Second Priority Notes and Amended Credit Facility, and asset sales. We believe that our current level of cash availability and asset sales, along with our future anticipated cash flows from operations, will be sufficient to meet the existing operational and collateral needs of our business for the next 12 months. Subject to restrictions in our Second Priority Notes and our Amended Credit Facility, if cash generated from operations is insufficient to satisfy our liquidity requirements, we may seek to sell assets, obtain additional credit facilities or other financings and/or issue additional equity or convertible instruments. We cannot assure you, however, that our business will generate sufficient cash flow from operations, such that currently anticipated cost savings and operating improvements will be realized on schedule or that future borrowings will be available to us under our credit facilities in an amount sufficient to enable us to pay our indebtedness, or to fund our other liquidity needs. We may need to refinance all or a portion of our indebtedness, on or before maturity. We cannot assure you that we will be able to refinance any of our indebtedness, on commercially reasonable terms or at all. To service our indebtedness, we will require a significant amount of cash. Our ability to generate cash depends on many factors beyond our control.

Net Operating Loss Carryforwards

For the year ended December 31, 2004, we generated a net operating loss carryforward of $102.1 million which will expire through 2024. We believe that it is more likely than not that no benefit will be realized on the deferred tax assets relating to the net operating loss carryforwards. This assessment included consideration of positive and negative factors, including our current financial position and results of operations, projected future taxable income, including projected operating and capital gains, and available tax planning strategies. Therefore, as of December 31, 2004, a valuation allowance of $707.9 million was recorded against the net deferred tax assets, including net operating loss carryforwards in accordance with SFAS No. 109.

Off-Balance Sheet Items

As of December 31, 2004, we have not entered into any financing structure that is designed to be off-balance sheet that would create liquidity, financing or incremental market risk or credit risk to us. However, we have numerous investments with an ownership interest percentage of 50% or less in energy and energy related entities that are accounted for under the equity method of accounting as disclosed in Item 15 —

Note 13 to the Consolidated Financial Statements. Our pro-rata share of non-recourse debt held by unconsolidated affiliates was approximately $251.7 million as of December 31, 2004. The decline was largely a result of sales of our interest in Calpine Cogeneration, Loy Yang and Commonwealth Atlantic. In the normal course of business we may be asked to loan funds to the unconsolidated affiliates on both a long and short-term basis. Such transactions are generally accounted for as accounts payable and receivable to/from affiliates and notes payable/receivable to/from affiliates and if appropriate, bear market-based interest rates. See Item 15 — Note 11 to the Consolidated Financial Statements for additional information regarding amounts accounted for as notes receivable — affiliates.

Contractual Obligations and Commercial Commitments

We have a variety of contractual obligations and other commercial commitments that represent prospective cash requirements in addition to our capital expenditure programs. The following is a summarized table of contractual obligations. See additional discussion in Item 15 — Notes 18, 27 and 29 to the Consolidated Financial Statements.

	Payments Due by Period as of December 31, 2004				
Contractual Cash Obligations	Total	Short-term	2-3 Years	4-5 Years	After 5 Years
			(In thousands)		
Long-term debt	$4,783,626	$614,573	$461,833	$460,372	$3,246,848
Capital lease obligations (including estimated interest)	1,263,658	115,558	177,436	136,940	833,724
Operating leases	140,324	16,176	32,383	28,822	62,943
Coal purchase and transportation obligations	351,182	118,679	135,176	75,628	21,699
Total contractual cash obligations	$6,538,790	$864,986	$806,828	$701,762	$4,165,214

	Amount of Commitment Expiration per Period as of December 31, 2004				
Other Commercial Commitments	Total Amounts Committed	Short-term	2-3 Years	4-5 Years	After 5 Years
			(In thousands)		
Funded standby letters of credit	$157,144	$157,144	$ —	$ —	$ —
Unfunded standby letters of credit	16,103	16,103	—	—	—
Surety bonds	4,467	4,467	—	—	—
Asset sales guarantee obligations	73,515	1,000	250	12,500	59,765
Commodity sales guarantee obligations	57,600	24,100	—	—	33,500
Other guarantees	94,126	—	778	—	93,348
Total commercial commitments	$402,955	$202,814	$1,028	$12,500	$186,613

In December 2004, we entered into a long-term coal transport agreement with the Burlington Northern and Santa Fe Railway Company and affiliates of American Commercial Lines LLC to deliver low sulfur coal to our Big Cajun II facility in New Roads, Louisiana beginning April 1, 2005. In December 2004, we also entered into coal purchase contracts extending through 2007. In March 2005, we entered into an agreement to purchase 23.75 million tons of coal over a period of four years and nine months from Buckskin Mining Company or Buckskin. The coal will be sourced from Buckskin's mine in the Powder River Basin, Wyoming, and will be used primarily in NRG Energy's coal-burning generation plants in the South Central region.

In August 2004, we entered into a contract to purchase 1,540 aluminum railcars from Johnston America Corporation to be used for the transportation of low sulfur coal from Wyoming to NRG Energy's coal burning generating plants, including the Cajun Facilities. On February 18, 2005, we entered into a ten-year operating lease agreement with GE Railcar Services Corporation, or GE, for the lease of 1,500 railcars and delivery

commenced in February 2005. We have assigned certain of our rights and obligations for 1,500 railcars under the purchase agreement with Johnston America to GE. Accordingly, the railcars which we lease from GE under the arrangement described above will be purchased by GE from Johnston America in lieu of our purchase of those railcars.

Interdependent Relationships

We do not have any significant interdependent relationships.

Derivative Instruments

We may enter into long–term power sales contracts, long–term gas purchase contracts and other energy related commodities financial instruments to mitigate variability in earnings due to fluctuations in spot market prices, hedge fuel requirements at generation facilities and protect fuel inventories. In addition, in order to mitigate interest rate risk associated with the issuance of our variable rate and fixed rate debt, we enter into interest rate swap agreements.

The tables below disclose the trading activities that include non–exchange traded contracts accounted for at fair value. Specifically, these tables disaggregate realized and unrealized changes in fair value; identify changes in fair value attributable to changes in valuation techniques; disaggregate estimated fair values at December 31, 2004 based on whether fair values are determined by quoted market prices or more subjective means; and indicate the maturities of contracts at December 31, 2004.

Derivative Activity Gains/(Losses)

	Reorganized NRG
	(In thousands)
Fair value of contracts at December 31, 2003	$ (93,253)
Contracts realized or otherwise settled during the period	17,298
Changes in fair value	32,284
Fair value of contracts at December 31, 2004	$ (43,671)

Sources of Fair Value Gains/(Losses)

	Reorganized NRG Fair Value of Contracts at Period End as of December 31, 2004				
	Maturity Less than 1 Year	Maturity 1–3 Years	Maturity 4–5 Years	Maturity in excess of 5 Years	Total Fair Value
			(In thousands)		
Prices actively quoted	$47,131	$ 1,296	$ —	$ —	$ 48,427
Prices based on models and other valuation methods	1,371	(19,451)	(16,354)	(37,913)	(72,347)
Prices provided by other external sources	13,245	(1,643)	(6,500)	(24,853)	(19,751)
Total	$61,747	$ (19,798)	$ (22,854)	$ (62,766)	$ (43,671)

We may use a variety of financial instruments to manage our exposure to fluctuations in foreign currency exchange rates on our international project cash flows, interest rates on our cost of borrowing and energy and energy related commodities prices.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles

generally accepted in the United States. The preparation of these financial statements and related disclosures in compliance with generally accepted accounting principles, or GAAP, requires the application of appropriate technical accounting rules and guidance as well as the use of estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosures of contingent assets and liabilities. The application of these policies necessarily involves judgments regarding future events, including the likelihood of success of particular projects, legal and regulatory challenges. These judgments, in and of themselves, could materially impact the financial statements and disclosures based on varying assumptions, which may be appropriate to use. In addition, the financial and operating environment also may have a significant effect, not only on the operation of the business, but on the results reported through the application of accounting measures used in preparing the financial statements and related disclosures, even if the nature of the accounting policies have not changed.

On an ongoing basis, we evaluate our estimates, utilizing historic experience, consultation with experts and other methods we consider reasonable. In any case, actual results may differ significantly from our estimates. Any effects on our business, financial position or results of operations resulting from revisions to these estimates are recorded in the period in which the facts that give rise to the revision become known.

Our significant accounting policies are summarized in Item 15 — Note 2 to the Consolidated Financial Statements. The following table identifies certain of the significant accounting policies listed in Item 15 — Note 2 to the Consolidated Financial Statements. The table also identifies the judgments required, uncertainties involved in the application of each and estimates that may have a material impact on our results of operations and statement of financial position. These policies, along with the underlying assumptions and judgments made by our management in their application, have a significant impact on our consolidated financial statements. We identify our most critical accounting policies as those that are the most pervasive and important to the portrayal of our financial position and results of operations, and that require the most difficult, subjective and/or complex judgments by management regarding estimates about matters that are inherently uncertain.

Accounting Policy	Judgments/Uncertainties Affecting Application
Fresh Start Reporting	• The determination of the enterprise value and the allocation to the underlying assets and liabilities are based on a number of estimates and assumptions, which are inherently subject to significant uncertainties and contingencies • Determination at Fresh Start date • Consolidation of entities remaining in bankruptcy • Valuation of emission credit allowances and power sales contracts • Valuation of debt instruments • Valuation of equity investments
Capitalization Practices	• Determination of beginning and ending of capitalization periods • Allocation of purchase prices to identified assets
Asset Valuation and Impairment	• Recoverability of investment through future operations • Regulatory and political environments and requirements • Estimated useful lives of assets • Environmental obligations and operational limitations • Estimates of future cash flows • Estimates of fair value (fresh start) • Judgment about triggering events
Revenue Recognition	• Customer/counter-party dispute resolution practices

Accounting Policy	Judgments/Uncertainties Affecting Application
	• Market maturity and economic conditions • Contract interpretation
Uncollectible Receivables	• Economic conditions affecting customers, counter–parties, suppliers and market prices • Regulatory environment and impact on customer financial condition • Outcome of litigation and bankruptcy proceedings
Derivative Financial Instruments	• Market conditions in the energy industry, especially the effects of price volatility on contractual commitments • Assumptions used in valuation models • Documentation requirements • Counter–party credit risk • Market conditions in foreign countries • Regulatory and political environments and requirements
Litigation Claims and Assessments	• Impacts of court decisions • Estimates of ultimate liabilities arising from legal claims
Income Taxes and Valuation Allowance for Deferred Tax Assets	• Ability of tax authority decisions to withstand legal challenges or appeals • Anticipated future decisions of tax authorities • Application of tax statutes and regulations to transactions. • Ability to utilize tax benefits through carrybacks to prior periods and carryforwards to future periods.
Discontinued Operations	• Consistent application • Determination of fair value (recoverability) • Recognition of expected gain or loss prior to disposition
Pension	• Accuracy of management assumptions • Accuracy of actuarial consultant assumptions
Stock–Based Compensation	• Accuracy of management assumptions used to determine the fair value of the stock options

Of all of the accounting policies identified in the above table, we believe that the following policies and the application thereof to be those having the most direct impact on our financial position and results of operations.

Fresh Start Reporting

In connection with the emergence from bankruptcy, we adopted Fresh Start in accordance with the requirements of SOP 90–7. The application of SOP 90–7 resulted in the creation of a new reporting entity. Under Fresh Start, the reorganization value of our company was allocated among our assets and liabilities on a basis substantially consistent with purchase accounting in accordance with SFAS No. 141, *"Business Combinations."*

The bankruptcy court in its confirmation order approved our plan of reorganization on November 24, 2003. Under the requirements of SOP 90–7, the Fresh Start date is determined to be the confirmation date unless significant uncertainties exist regarding the effectiveness of the bankruptcy order. Our plan of

reorganization required completion of the Xcel Energy settlement agreement prior to emergence from bankruptcy. We believe this settlement agreement was a significant contingency and thus delayed the Fresh Start date until the Xcel Energy settlement agreement was finalized on December 5, 2003.

Under the requirements of Fresh Start, we adjusted our assets and liabilities, other than deferred income taxes, to their estimated fair values as of December 5, 2003. As a result of marking our assets and liabilities to their estimated fair values, we determined that there was no excess reorganization value to recognize as an intangible asset. Deferred taxes were determined in accordance with SFAS No. 109, *"Accounting for Income Taxes."* The net effect of all Fresh Start adjustments resulted in a gain of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations), which is reflected in the Predecessor Company's results for the period January 1, 2003 through December 5, 2003. The application of the Fresh Start provisions of SOP 90–7 created a new reporting entity having no retained earnings or accumulated deficit.

As part of the bankruptcy process we engaged an independent financial advisor to assist in the determination of the fair value of our reorganized enterprise value. The fair value calculation was based on management's forecast of expected cash flows from our core assets. Management's forecast incorporated forward commodity market prices obtained from a third party consulting firm. A discounted cash flow calculation was used to develop the enterprise value of Reorganized NRG, determined in part by calculating the weighted average cost of capital of the Reorganized NRG. The Discounted Cash Flow, or DCF, valuation methodology equates the value of an asset or business to the present value of expected future economic benefits to be generated by that asset or business. The DCF methodology is a "forward looking" approach that discounts all expected future economic benefits by a theoretical or observed discount rate. The independent financial advisor prepared a 30–year cash flow forecast using a discount rate of approximately 11%. The resulting reorganization enterprise value ranged from $5.5 billion to $5.7 billion. The independent financial advisor then subtracted our project–level debt and made several other adjustments to reflect the values of assets held for sale, excess cash and collateral requirements to estimate a range of Reorganized NRG equity value of between $2.2 billion and $2.6 billion.

In constructing our Fresh Start balance sheet upon our emergence from bankruptcy, we used a reorganization equity value of approximately $2.4 billion, as we believe this value to be the best indication of the value of the ownership distributed to the new equity owners. Our reorganization value of approximately $9.1 billion was determined by adding our reorganized equity value of $2.4 billion, $3.7 billion of interest bearing debt and our other liabilities of $3.0 billion. The reorganization value represents the fair value of an entity before liabilities and approximates the amount a willing buyer would pay for the assets of the entity immediately after restructuring. This value is consistent with the voting creditors and Court's approval of the Plan of Reorganization.

A separate plan of reorganization was filed for our Northeast Generating and South Central Generating entities that was confirmed by the bankruptcy court on November 25, 2003, and became effective on December 23, 2003, when the final conditions of the plan were completed. In connection with Fresh Start on December 5, 2003, we have accounted for these entities as if they had emerged from bankruptcy at the same time that we emerged, as we believe that we continued to maintain control over the Northeast Generating and South Central Generating facilities throughout the bankruptcy process.

Due to the adoption of Fresh Start upon our emergence from bankruptcy, the Reorganized NRG's post–fresh start balance sheet, statement of operations and statement of cash flows have not been prepared on a consistent basis with the Predecessor Company's financial statements and are therefore not comparable in certain respects to the financial statements prior to the application of Fresh Start.

Capitalization Practices

Reorganized NRG

In connection with the emergence from bankruptcy, we adopted Fresh Start in accordance with the requirements of SOP 90–7. The application of SOP 90–7 resulted in the creation of a new reporting entity.

Under Fresh Start, the reorganization value of our company was allocated to our assets and liabilities on a basis substantially consistent with purchase accounting in accordance with SFAS No. 141. We engaged a valuation specialist to help us determine the fair value of our fixed assets. The valuations were based on forecast power prices and operating costs determined by us. The valuation specialist also determined the estimated remaining useful lives of our fixed assets.

Predecessor Company

For those assets that were being constructed by us, the carrying value reflects the application of our property, plant and equipment policies which incorporate estimates, assumptions and judgments by management relative to the capitalized costs and useful lives of our generating facilities. Interest incurred on funds borrowed to finance projects expected to require more than three months to complete is capitalized. Capitalization of interest is discontinued when the asset under construction is ready for our intended use or when construction is terminated. An insignificant amount of interest was capitalized during 2003. Development costs and capitalized project costs include third party professional services, permits and other costs that are incurred incidental to a particular project. Such costs are expensed as incurred until an acquisition agreement or letter of intent is signed, and our board of directors has approved the project. Additional costs incurred after this point are capitalized.

Impairment of Long Lived Assets

We evaluate property, plant and equipment and intangible assets for impairment whenever indicators of impairment exist. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the assets to the future net cash flows expected to be generated by the asset, through considering project specific assumptions for long-term power pool prices, escalated future project operating costs and expected plant operations. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets by factoring in the probability weighting of different courses of action available to us. Generally, fair value will be determined using valuation techniques such as the present value of expected future cash flows. Assets to be disposed of are reported at the lower of the carrying amount or fair value less the cost to sell. For the year ended December 31, 2004, the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003 and for the year ended December 31, 2002, net income from continuing operations was reduced by $44.7 million, $0 million, $228.9 million and $2.5 billion, respectively, due to asset impairments. Asset impairment evaluations are by nature highly subjective.

Revenue Recognition and Uncollectible Receivables

We are primarily an electric generation company, operating a portfolio of majority-owned electric generating plants and certain plants in which our ownership is 50% or less which are accounted for under the equity method of accounting. We also produce thermal energy for sale to customers. Both physical and financial transactions are entered into to optimize the financial performance of our generating facilities. Electric energy revenue is recognized upon transmission to the customer. In regions where bilateral markets exist and physical delivery of electricity is common from our plants, we record revenue on a gross basis. In certain markets, which are operated/controlled by an independent system operator and in which we have entered into a netting agreement with the ISO, which results in our receiving a netted invoice, we have recorded purchased energy as an offset against revenues received upon the sale of such energy. Revenues derived from the buying and selling of electricity not sourced from our facilities are reported net. Capacity and ancillary revenue is recognized when contractually earned. Revenues from operations and maintenance services are recognized when the services are performed. We continually assess the collectibility of our receivables, and in the event we believe a receivable to be uncollectible, an allowance for doubtful accounts is recorded or, in the event of a contractual dispute, the receivable and corresponding revenue may be considered unlikely of recovery and not recorded in the financial statements until management is satisfied that it will be collected.

Derivative Financial Instruments

In January 2001, we adopted FAS No. 133, *"Accounting for Derivative Instruments and Hedging Activities,"* or SFAS No. 133, as amended by SFAS No. 137, SFAS No. 138 and SFAS No. 149. SFAS No. 133, as amended, requires us to record all derivatives on the balance sheet at fair value. In some cases hedge accounting may apply. The criteria used to determine if hedge accounting treatment is appropriate are a) the designation of the hedge to an underlying exposure, b) whether or not the overall risk is being reduced and c) if there is correlation between the value of the derivative instrument and the underlying obligation. Formal documentation of the hedging relationship, the nature of the underlying risk, the risk management objective, and the means by which effectiveness will be assessed is created at the inception of the hedge. Changes in the fair value of non-hedge derivatives are immediately recognized in earnings. Changes in the fair value of derivatives accounted for as hedges are either recognized in earnings as an offset to the changes in the fair value of the related hedged assets, liabilities and firm commitments or for forecasted transactions, deferred and recorded as a component of accumulated other comprehensive income, or OCI, until the hedged transactions occur and are recognized in earnings. We primarily account for derivatives under SFAS No. 133, as amended, such as long-term power sales contracts, long-term gas purchase contracts and other energy related commodities and financial instruments used to mitigate variability in earnings due to fluctuations in spot market prices, hedge fuel requirements at generation facilities and to protect investments in fuel inventories. SFAS No. 133, as amended, also applies to interest rate swaps and foreign currency exchange rate contracts. The application of SFAS No. 133, as amended, results in increased volatility in earnings due to the recognition of unrealized gains and losses. In determining the fair value of these derivative/financial instruments we use estimates, various assumptions, judgment of management and when considered appropriate third party experts in determining the fair value of these derivatives.

Discontinued Operations

We classify our results of operations that either have been disposed of or are classified as held for sale as discontinued operations if both of the following conditions are met: (a) the operations and cash flows have been (or will be) eliminated from our ongoing operations as a result of the disposal transaction and (b) we will not have any significant continuing involvement in the operations of the component after the disposal transaction. Prior periods are restated to report the operations as discontinued.

Pensions

The determination of our obligation and expenses for pension benefits is dependent on the selection of certain assumptions. These assumptions determined by management include the discount rate, the expected rate of return on plan assets and the rate of future compensation increases. Our actuarial consultants use assumptions for such items as retirement age. The assumptions used may differ materially from actual results, which may result in a significant impact to the amount of pension obligation or expense recorded by us.

Stock-Based Compensation

Effective January 1, 2003, we adopted the fair value recognition provisions of SFAS Statement No. 123, *"Accounting for Stock-Based Compensation,"* or SFAS No. 123. In accordance with SFAS Statement No. 148, *"Accounting for Stock-Based Compensation — Transition and Disclosure,"* or SFAS No. 148, we adopted SFAS No. 123 under the prospective transition method which requires the application of the recognition provisions to all employee awards granted, modified, or settled after the beginning of the fiscal year in which the recognition provisions are first applied. The Black-Scholes option-pricing model is used for all non-qualified stock options.

Recent Accounting Developments

In November 2004, the Emerging Issue Task Force, or EITF, issued EITF No. 03-13, "Applying the Conditions in Paragraph 42 of FASB Statement No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets,* in Determining Whether to Report Discontinued Operations". EITF 03-13 clarifies the

definition of cash flows of a component in which the seller engages in activities with the component after disposal, and significant continuing involvement in the operations of the component after the disposal transaction, and is effective for fiscal periods beginning after December 15, 2004. The adoption of this standard will not have a material effect on our consolidated financial position and results of operations.

In November 2004, the FASB issued SFAS No. 151, *"Inventory Costs — an amendment of ARB No. 43, Chapter 4"*. This statement amends the guidance in ARB No. 43, Chapter 4, "Inventory Pricing", and requires that idle facility expense, excessive spoilage, double freight, and rehandling costs be recognized as current–period charges regardless of whether they meet the criterion of "so abnormal" established by ARB No. 43. SFAS No. 151 is effective for inventory costs incurred during fiscal years beginning after June 15, 2005. The adoption of this statement will not have a material effect on our consolidated financial position and results of operations.

In December 2004, the FASB issued SFAS No. 123R, *"Share–Based Payment"*, a revision to SFAS No. 123, *"Accounting for Stock–Based Compensation"*, which supersedes APB Opinion No. 25, *"Accounting for Stock Issued to Employees"* and its related implementation guidance. SFAS 123R establishes standards for the accounting for transactions in which an entity exchanges its equity instruments for goods or services, including obtaining employee services in share–based payment transactions. SFAS 123R applies to all awards granted after the required effective date and to awards modified, repurchased, or cancelled after that date. Adoption of the provisions of SFAS 123R is effective as of the beginning of the first interim or annual reporting period that begins after June 15, 2005. We have previously adopted SFAS No. 123, and we are currently in the process of evaluating the potential impact that the adoption of SFAS 123R will have on our consolidated financial position and results of operations.

In December 2004, the FASB issued two FASB Staff Positions, or FSPs, regarding the accounting implications of the American Jobs Creation Act of 2004 related to (1) the deduction for qualified domestic production activities (FSP FAS 109–1) and (2) the one–time tax benefit for the repatriation of foreign earnings (FSP FAS 109–2). In FSP FAS 109–1, *"Application of FASB Statement No. 109, "Accounting for Income Taxes," to the Tax Deduction on Qualified Production Activities Provided by the American Jobs Creation Act of 2004"*, the Board decided that the deduction for qualified domestic production activities should be accounted for as a special deduction under FASB Statement No. 109, *"Accounting for Income Taxes"* and rejected an alternative view to treat it as a rate reduction. Accordingly, any benefit from the deduction should be reported in the period in which the deduction is claimed on the tax return. FSP FAS 109–2, *"Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004"*, addresses the appropriate point at which a company should reflect in its financial statements the effects of the one–time tax benefit on the repatriation of foreign earnings. Because of the proximity of the Act's enactment date to many companies' year–ends, its temporary nature, and the fact that numerous provisions of the Act are sufficiently complex and ambiguous, the Board decided that absent additional clarifying regulations, companies may not be in a position to assess the impact of the Act on their plans for repatriation or reinvestment of foreign earnings. Therefore, the Board provided companies with a practical exception to FAS 109's requirements by providing them additional time to determine the amount of earnings, if any, that they intend to repatriate under the Act's beneficial provisions. The Board confirmed, however, that upon deciding that some amount of earnings will be repatriated, a company must record in that period the associated tax liability, thereby making it clear that a company cannot avoid recognizing a tax liability when it has decided that some portion of its foreign earnings will be repatriated. We are currently in the process of evaluating the potential impact that the adoption of FSP FAS 109–1 and FSP FAS 109–2 will have on our consolidated financial position and results of operations.

Item 7A —*Quantitative and Qualitative Disclosures About Market Risk*

We are exposed to several market risks in our normal business activities. Market risk is the potential loss that may result from market changes associated with our "merchant" power generation or with an existing or forecasted financial or commodity transaction. The types of market risks we are exposed to are commodity price risk, interest rate risk and currency exchange risk. In order to manage these risks we utilize various fixed–

price forward purchase and sales contracts, futures and option contracts traded on the New York Mercantile Exchange, and swaps and options traded in the over–the–counter financial markets to:

- Manage and hedge our fixed–price purchase and sales commitments;
- Manage and hedge our exposure to variable rate debt obligations,
- Reduce our exposure to the volatility of cash market prices; and
- Hedge our fuel requirements for our generating facilities.

Commodity Price Risk

Commodity price risks result from exposures to changes in spot prices, forward prices, volatilities in commodities, and correlations between various commodities, such as natural gas, electricity, coal and oil. A number of factors influence the level and volatility of prices for energy commodities and related derivative products. These factors include:

- Seasonal daily and hourly changes in demand,
- Extreme peak demands due to weather conditions,
- Available supply resources,
- Transportation availability and reliability within and between regions,
- Changes in the nature and extent of federal and state regulations.

As part of our overall portfolio, we manage the commodity price risk of our "merchant" generation by entering into various derivative or non–derivative instruments to hedge the variability in future cash flows from forecasted sales of electricity and purchases of fuel. These instruments include forward purchase and sale contracts, futures and option contracts traded on the New York Mercantile Exchange, and swaps and options traded in the over–the–counter financial markets. The portion of forecasted transactions hedged may vary based upon management's assessment of market, weather, operational, and other factors.

While some of the contracts we use to manage risk represent commodities or instruments for which prices are available from external sources, other commodities and certain contracts are not actively traded and are valued using other pricing sources and modeling techniques to determine expected future market prices, contract quantities, or both. We use our best estimates to determine the fair value of commodity and derivative contracts we hold and sell. These estimates consider various factors including closing exchange and over–the–counter price quotations, time value, volatility factors, and credit exposure. However, it is likely that future market prices could vary from those used in recording mark–to–market derivative instrument valuation, and such variations could be material.

We measure the sensitivity of our portfolio to potential changes in market prices using value at risk. Value at risk is a statistical model that attempts to predict risk of loss based on market price volatility. We calculate value at risk using a variance/covariance technique that models positions using a linear approximation of their value. Our value at risk calculation includes mark–to–market and non mark–to–market energy assets and liabilities.

We utilize a diversified value at risk model to calculate the estimate of potential loss in the fair value of our energy assets and liabilities including generation assets, load obligations and bilateral physical and financial transactions. The key assumptions for our diversified model include (1) a lognormal distribution of price returns, (2) one–day holding period, (3) a 95% confidence interval, (4) a rolling 24–month forward looking period and (5) market implied price volatilities and historical price correlations.

This model encompasses the following generating regions: ENTERGY, NEPOOL, NYPP, PJM, WSCC and MAIN. The estimated maximum potential loss in fair value of our commodity portfolio, including generation assets, load obligations and bilateral physical and financial transaction, calculated using the diversified VAR model is as follows:

	(In millions)
Year end December 31, 2004	$26.7
Average	40.3
High	53.4
Low	26.7
Year end December 31, 2003	37.1
Average	45.7
High	53.0
Low	37.1

In order to provide additional information for comparative purposes to our peers we also utilize value at risk to model the estimate of potential loss of financial derivative instruments included in derivative instruments valuation assets and liabilities. This estimation includes those energy contracts accounted for as a hedge under SFAS No. 133, as amended. The estimated maximum potential loss in fair value of the financial derivative instruments calculated using the diversified VAR model as of December 31, 2004 is $17.6 million.

Due to the inherent limitations of statistical measures such as value at risk, the relative immaturity of the competitive markets for electricity and related derivatives, and the seasonality of changes in market prices, the value at risk calculation may not capture the full extent of commodity price exposure. Additionally, actual changes in the value of options may differ from the value at risk calculated using a linear approximation inherent in our calculation method. As a result, actual changes in the fair value of mark–to market energy assets and liabilities could differ from the calculated value at risk, and such changes could have a material impact on our financial results.

Interest Rate Risk

We are exposed to fluctuations in interest rates through our issuance of fixed rate and variable rate debt. Exposures to interest rate fluctuations may be mitigated by entering into derivative instruments known as interest rate swaps, caps, collars and put or call options. These contracts reduce exposure to interest rate volatility and result in primarily fixed rate debt obligations when taking into account the combination of the variable rate debt and the interest rate derivative instrument. Our risk management policy allows us to reduce interest rate exposure from variable rate debt obligations.

As of December 31, 2004, we had various interest rate swap agreements with notional amounts totaling approximately $1.3 billion. If the swaps had been discontinued on December 31, 2004, we would have owed the counter–parties approximately $35.6 million. Based on the investment grade rating of the counter–parties, we believe that our exposure to credit risk due to nonperformance by the counter–parties to our hedging contracts is insignificant.

We have both long and short–term debt instruments that subject us to the risk of loss associated with movements in market interest rates. As of December 31, 2004, a 100 basis point change in interest rates would result in a $5.7 million change in interest expense.

At December 31, 2004, the fair value of our long–term debt was $3.9 billion, compared with the carrying amount of $3.8 billion. We estimate that a 1% decrease in market interest rates would have increased the fair value of our long–term debt by $76.3 million.

Currency Exchange Risk

We expect to continue to be subject to currency risks associated with foreign denominated distributions from our international investments. In the normal course of business, we may receive distributions denomi–

nated in the Euro, Australian Dollar, British Pound and the Brazilian Real. We have historically engaged in a strategy of hedging foreign denominated cash flows through a program of matching currency inflows and outflows, and to the extent required, fixing the U.S. Dollar equivalent of net foreign denominated distributions with currency forward and swap agreements with highly credit worthy financial institutions. We would expect to enter into similar transactions in the future if management believes it to be appropriate.

As of December 31, 2004, neither we, nor any of our consolidating subsidiaries, had any outstanding foreign currency exchange contracts.

Credit Risk

Credit risk relates to the risk of loss resulting from non–performance or non–payment by counter–parties pursuant to the terms of their contractual obligations. We monitor and manage the credit risk of NRG Energy, Inc. and its subsidiaries through credit policies which include an (i) established credit approval process, (ii) daily monitoring of counter–party credit limits, (iii) the use of credit mitigation measures such as margin, collateral, credit derivatives or prepayment arrangements, (iv) the use of payment netting agreements and (v) the use of master netting agreements that allow for the netting of positive and negative exposures of various contracts associated with a single counter–party. Risks surrounding counter–party performance and credit could ultimately impact the amount and timing of expected cash flows. We have credit protection within various agreements to call on additional collateral support if necessary. As of December 31, 2004, we held collateral support of $155.5 million from counterparties.

Additionally NRG has concentrations of suppliers and customers among electric utilities, energy marketing and trading companies and regional transmission operators. These concentrations of counter–parties may impact NRG's overall exposure to credit risk, either positively or negatively, in that counter–parties may be similarly affected by changes in economic, regulatory and other conditions.

Item 8 —*Financial Statements and Supplementary Data*

The financial statements and schedules are listed in Part IV, Item 15 of this Form 10–K.

Item 9 —*Changes in and Disagreements with Accountants on Accounting and Financial Disclosures*

None.

Item 9A —*Controls and Procedures*

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive officer, principal financial officer and principal accounting officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined in Rule 13a–15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Based on this evaluation, our principal executive officer, principal financial officer and principal accounting officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this annual report on Form 10–K.

There have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a–15(f) and 15d–15(f) under the Exchange Act) during the fourth quarter that have materially affected, or are reasonably likely to materially affected, or are reasonably likely to materially affect our internal control over financial reporting.

Item 9B —*Other Information*

The following disclosure would otherwise have been filed on Form 8–K under the caption "Item 1.01. Entry into a Material Definitive Agreement." On December 7, 2004, the Board of Directors approved the following additional director compensation: an additional $10,000 for members of the Audit Committee due to the extraordinary number of meetings (19) held in 2004 and an additional $5,000 for members of the Board of

Directors who served on a special committee in connection with the sale of shares by MatlinPatterson Global Opportunities Partners L.P. and one of its affiliates to NRG Energy.

PART III

Item 10 —*Directors and Executive Officers of the Registrant*

NRG Energy has adopted a code of ethics entitled "NRG Code of Conduct" that applies to directors, officers and employees, including the chief executive officer and senior financial officers of NRG Energy, which may be viewed through NRG Energy's website at http://www.nrgenergy.com/investor/corpgov/.htm. NRG Energy also elects to disclose the information required by Form 8-K, Item 5.05, "Amendments to the registrant's code of ethics, or waiver of a provision of the code of ethics," through this website and such information will remain available on this website for at least a 12-month period. A copy of the "NRG Code of Conduct" is available in print to any shareholder who requests it.

Other information required by this Item will be contained in our definitive Proxy Statement for our 2005 Annual Meeting of Stockholders, to be filed on or before May 1, 2005, and such information is incorporated herein by reference.

Item 11 —*Executive Compensation*

Information required by this Item will be contained in our definitive Proxy Statement for our 2005 Annual Meeting of Stockholders, to be filed on or before May 1, 2005, and such information is incorporated herein by reference.

Item 12 —*Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters*

Information required by this Item will be contained in our definitive Proxy Statement for our 2005 Annual Meeting of Stockholders, to be filed on or before May 1, 2005, and such information is incorporated herein by reference.

Item 13 —*Certain Relationships and Related Transactions*

Information required by this Item will be contained in our definitive Proxy Statement for our 2005 Annual Meeting of Stockholders, to be filed on or before May 1, 2005, and such information is incorporated herein by reference.

Item 14 —*Principal Accountant Fees and Services*

Information required by this Item will be contained in our definitive Proxy Statement for our 2005 Annual Meeting of Stockholders, to be filed on or before May 1, 2005, and such information is incorporated herein by reference.

PART IV

Item 15 —*Exhibits and Financial Statement Schedules*

(a)(1) Financial Statements

The following consolidated financial statements of NRG Energy and related notes thereto, together with the reports thereon of KPMG LLP are included herein:

Consolidated Statement of Operations — Year ended December 31, 2004 (Reorganized NRG)

Consolidated Balance Sheet — December 31, 2004 (Reorganized NRG)

Consolidated Statement of Cash Flows — Year ended December 31, 2004 (Reorganized NRG)

Consolidated Statement of Stockholders' Equity/ (Deficit) and Comprehensive Income/ (Loss) — Year ended December 31, 2004 (Reorganized NRG)

Notes to Consolidated Financial Statements

The following consolidated financial statements of NRG Energy and related notes thereto, together with the reports thereon of PricewaterhouseCoopers LLP are included herein:

Consolidated Statements of Operations — The period December 6, 2003 to December 31, 2003 (Reorganized NRG), the period January 1, 2003 to December 5, 2003 and the Year ended December 31, 2002 (Predecessor Company)

Consolidated Balance Sheet — December 31, 2003 (Reorganized NRG)

Consolidated Statements of Cash Flows — The period December 6, 2003 to December 31, 2003 (Reorganized NRG), the period January 1, 2003 to December 5, 2003 and the Year ended December 31, 2002 (Predecessor Company)

Consolidated Statements of Stockholders' Equity/ (Deficit) and Comprehensive Income/ (Loss) — The period December 6, 2003 to December 31, 2003 (Reorganized NRG), the period January 1, 2003 to December 5, 2003 and the Year ended December 31, 2002 (Predecessor Company)

Notes to Consolidated Financial Statements

(a)(2) Financial Statement Schedule

The following Consolidated Financial Statement Schedule of NRG Energy is filed as part of Item 15(d) of this report and should be read in conjunction with the Consolidated Financial Statements.

Report of Independent Registered Public Accounting Firm on Financial Statement Schedule.

Schedule II — Valuation and Qualifying Accounts

All other schedules for which provision is made in the applicable accounting regulation of the Securities and Exchange Commission are not required under the related instructions or are inapplicable, and therefore, have been omitted.

(a)(3) *Exhibits:* See Exhibit Index submitted as a separate section of this report.

(b) Exhibits

(c) Financial Statement Schedule

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a−15(f). Under the supervision and with the participation of our management, including our principal executive officer, principal financial officer and principal accounting officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on our evaluation under the framework in Internal Control — Integrated Framework, our management concluded that our internal control over financial reporting was effective as of December 31, 2004.

Our management's assessment of the effectiveness of our internal control over financial reporting as of December 31, 2004 has been audited by KPMG LLP, our independent registered public accounting firm, as stated in its report which is included in this Form 10−K.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
NRG Energy, Inc.:

We have audited management's assessment, included in the accompanying Management's Report on Internal Control over Financial Reporting, that NRG Energy, Inc. and subsidiaries maintained effective internal control over financial reporting as of December 31, 2004, based on "criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)". NRG Energy, Inc.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, management's assessment that NRG Energy, Inc. and subsidiaries maintained effective internal control over financial reporting as of December 31, 2004, is fairly stated, in all material respects, based on "criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)". Also, in our opinion, NRG Energy, Inc. and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of December 31, 2004, based on "criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)".

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of NRG Energy, Inc. and subsidiaries as of December 31, 2004, and the related consolidated statements of operations, stockholders' equity/(deficit) and comprehensive income/(loss), and cash flows for the year then ended December 31, 2004, and our report dated March 29, 2005 expressed an unqualified opinion on those consolidated financial statements.

/s/ KPMG LLP
KPMG LLP

Philadelphia, Pennsylvania
March 29, 2005

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
NRG Energy, Inc.:

We have audited the accompanying consolidated balance sheet of NRG Energy, Inc. and subsidiaries as of December 31, 2004, and the related consolidated statements of operations, stockholders' equity/ (deficit) and comprehensive income/ (loss), and cash flows for the year then ended. In connection with our audit of the consolidated financial statements, we also have audited the financial statement schedule "Schedule II Valuation and Qualifying Accounts." These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards 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. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of NRG Energy, Inc. and subsidiaries as of December 31, 2004, and the results of their operations and their cash flows for the year then ended, in conformity with U.S. generally accepted accounting principles. Also in our opinion, the related financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of NRG Energy, Inc. and subsidiaries' internal control over financial reporting as of December 31, 2004, based on "criteria established in Internal Control — Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)", and our report dated March 29, 2005 expressed an unqualified opinion on management's assessment of, and the effective operation of, internal control over financial reporting.

/s/ KPMG LLP
KPMG LLP

Philadelphia, Pennsylvania
March 29, 2005

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of NRG Energy, Inc.:

In our opinion, the accompanying consolidated balance sheet and the related consolidated statements of operations, cash flows and stockholders' equity/ (deficit) and comprehensive income/(loss) present fairly, in all material respects, the financial position of NRG Energy, Inc. and its subsidiaries (Reorganized NRG) at December 31, 2003 and the results of their operations and their cash flows for the period from December 6, 2003 to December 31, 2003 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). These standards 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 audit provides a reasonable basis for our opinion.

As discussed in Notes 1 and 2 to the consolidated financial statements, the United States Bankruptcy Court for the Southern District of New York confirmed the NRG Energy, Inc. Plan of Reorganization on November 24, 2003. Confirmation of the plan resulted in the discharge of all claims against the Company that arose before May 14, 2003 and substantially alters rights and interests of equity security holders as provided for in the plan. The NRG Energy, Inc. Plan of Reorganization was substantially consummated on December 5, 2003, and NRG Energy, Inc. emerged from bankruptcy. In connection with its emergence from bankruptcy, NRG Energy, Inc. adopted fresh start accounting as of December 5, 2003.

/s/ PricewaterhouseCoopers LLP
PricewaterhouseCoopers LLP

Minneapolis, Minnesota
March 10, 2004, except as to Notes 6, 23, and 33, which are as of December 6, 2004

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholder of NRG Energy, Inc.:

In our opinion, the accompanying consolidated statements of operations, cash flows and stockholders' equity/ (deficit) and comprehensive income/(loss) present fairly, in all material respects, the results of operations and cash flows of NRG Energy, Inc. and its subsidiaries (Predecessor Company) for the period from January 1, 2003 to December 5, 2003, and for the year ended December 31, 2002 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with the standards of the Public Company Accounting Oversight Board (United States). These standards 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.

As discussed in Notes 1 and 2 to the consolidated financial statements, the Company filed a petition on May 14, 2003 with the United States Bankruptcy Court for the Southern District of New York for reorganization under the provisions of Chapter 11 of the Bankruptcy Code. NRG Energy, Inc.'s Plan of Reorganization was substantially consummated on December 5, 2003 and Reorganized NRG emerged from bankruptcy. In connection with its emergence from bankruptcy, the Company adopted fresh start accounting.

/s/ PricewaterhouseCoopers LLP
PricewaterhouseCoopers LLP

Minneapolis, Minnesota
March 10, 2004, except as to Notes 6, 23, and 33, which are as of December 6, 2004

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	December 6, 2003 Through December 31, 2003	January 1, 2003 Through December 5, 2003	Year Ended December 31, 2002
	(In thousands, except per share amounts)			
Operating Revenues				
Revenues from majority–owned operations	$2,361,424	$138,490	$ 1,798,387	$ 1,938,293
Operating Costs and Expenses				
Cost of majority–owned operations	1,494,336	95,541	1,355,909	1,332,446
Depreciation and amortization	209,295	11,808	218,843	207,027
General, administrative and development	211,240	12,518	170,330	218,852
Other charges (credits)				
Corporate relocation charges	16,167	—	—	—
Reorganization items	(13,390)	2,461	197,825	—
Restructuring and impairment charges	44,661	—	237,575	2,563,060
Fresh start reporting adjustments	—	—	(4,118,636)	—
Legal settlement	—	—	462,631	—
Total operating costs and expenses	1,962,309	122,328	(1,475,523)	4,321,385
Operating Income/(Loss)	399,115	16,162	3,273,910	(2,383,092)
Other Income/(Expense)				
Minority interest in earnings of consolidated subsidiaries	(1,045)	(134)	—	—
Equity in earnings of unconsolidated affiliates	159,825	13,521	170,901	68,996
Write downs and losses on sales of equity method investments	(16,270)	—	(147,124)	(200,472)
Other income, net	26,565	97	19,209	11,431
Refinancing expenses	(71,569)	—	—	—
Interest expense	(269,364)	(18,902)	(329,889)	(452,182)
Total other expense	(171,858)	(5,418)	(286,903)	(572,227)
Income/(Loss) From Continuing Operations Before Income Taxes	227,257	10,744	2,987,007	(2,955,319)
Income Tax Expense/(Benefit)	65,112	(661)	37,929	(166,867)
Income/(Loss) From Continuing Operations	162,145	11,405	2,949,078	(2,788,452)
Income/(Loss) on Discontinued Operations, net of Income Taxes	23,472	(380)	(182,633)	(675,830)
Net Income/(Loss)	$ 185,617	$ 11,025	$ 2,766,445	$(3,464,282)
Weighted Average Number of Common Shares Outstanding — Basic	99,616	100,000		
Income From Continuing Operations per Weighted Average Common Share — Basic	$ 1.62	$ 0.11		
Income From Discontinued Operations per Weighted Average Common Share — Basic	0.24	—		
Net Income per Weighted Average Common Share — Basic	$ 1.86	$ 0.11		
Weighted Average Number of Common Shares Outstanding — Diluted	100,371	100,060		
Income From Continuing Operations per Weighted Average Common Share — Diluted	$ 1.62	$ 0.11		
Income From Discontinued Operations per Weighted Average Common Share — Diluted	0.23	—		
Net Income per Weighted Average Common Shares — Diluted	$ 1.85	$ 0.11		

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	Reorganized NRG	
	December 31, 2004	December 31, 2003
	(In thousands)	
ASSETS		
Current Assets		
Cash and cash equivalents	$1,110,045	$ 551,223
Restricted cash	112,824	116,067
Accounts receivable–trade, less allowance for doubtful accounts of $1,011 and $0	272,101	201,921
Xcel Energy settlement receivable	—	640,000
Current portion of notes receivable and other investments — affiliates	—	200
Current portion of notes receivable and other investments	85,447	65,141
Income taxes receivable	37,484	—
Inventory	248,010	194,926
Derivative instruments valuation	79,759	772
Prepayments and other current assets	169,608	222,138
Deferred income taxes	—	1,850
Current assets — discontinued operations	3,010	119,601
Total current assets	2,118,288	2,113,839
Property, Plant and Equipment		
In service	3,564,658	3,885,465
Under construction	17,429	139,171
Total property, plant and equipment	3,582,087	4,024,636
Less accumulated depreciation	(207,536)	(11,800)
Net property, plant and equipment	3,374,551	4,012,836
Other Assets		
Equity investments in affiliates	734,950	737,998
Notes receivable and other investments, less current portion — affiliates, less reserve for uncollectible notes receivable of $4,402 and $0	128,046	130,152
Notes receivable and other investments, less current portion, less reserve for uncollectible notes receivable of $3,794 and $0	676,476	691,444
Decommissioning fund investments	4,954	4,809
Intangible assets, net of accumulated amortization of $55,010 and $5,212	294,350	432,361
Debt issuance costs, net of accumulated amortization of $3,635 and $454	48,485	74,337
Derivative instruments valuation	41,787	59,907
Funded letter of credit	350,000	250,000
Other assets	58,141	114,131
Non-current assets — discontinued operations	—	623,173
Total other assets	2,337,189	3,118,312
Total Assets	$7,830,028	$9,244,987

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS — (Continued)

	Reorganized NRG	
	December 31, 2004	December 31, 2003
	(In thousands)	
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities		
Current portion of long-term debt and capital leases	$ 512,252	$ 801,229
Short-term debt	—	19,019
Accounts payable — trade	166,131	158,646
Accounts payable — affiliates	5,591	3,092
Accrued income taxes	—	16,095
Accrued property, sales and other taxes	11,134	22,301
Accrued salaries, benefits and related costs	35,206	19,330
Accrued interest	11,057	8,982
Derivative instruments valuation	16,772	429
Deferred income taxes	334	—
Creditor pool obligation	—	540,000
Other bankruptcy settlement	175,576	220,000
Other current liabilities	152,526	102,861
Current liabilities — discontinued operations	1,362	114,197
Total current liabilities	1,087,941	2,026,181
Other Liabilities		
Long-term debt and capital leases	3,253,866	3,327,782
Deferred income taxes	134,325	149,493
Postretirement and other benefit obligations	116,383	105,946
Derivative instruments valuation	148,445	153,503
Other long-term obligations	389,719	480,938
Non-current liabilities — discontinued operations	1,081	558,884
Total non-current liabilities	4,043,819	4,776,546
Total liabilities	5,131,760	6,802,727
Minority interest	6,104	5,004
Commitments and Contingencies		
Stockholders' Equity		
4% Convertible perpetual preferred stock; $.01 par value; 10,000,000 shares authorized, 420,000 issued and outstanding at December 31, 2004 (shown at liquidation value net of issuance costs)	406,359	
Common stock; $.01 par value; 500,000,000 shares authorized; 100,041,935 and 100,000,000 shares issued at December 31, 2004 and 2003; 87,041,935 and 100,000,000 outstanding at December 31, 2004 and 2003	1,000	1,000
Additional paid-in capital	2,417,021	2,403,429
Retained earnings	196,642	11,025
Less treasury stock, at cost — 13,000,000 shares	(405,312)	—
Accumulated other comprehensive income	76,454	21,802
Total stockholders' equity	2,692,164	2,437,256
Total Liabilities and Stockholders' Equity	$7,830,028	$9,244,987

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	December 6, 2003 Through December 31, 2003	January 1, 2003 Through December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Cash Flows from Operating Activities				
Net income/(loss)	$ 185,617	$ 11,025	$ 2,766,445	$(3,464,282)
Adjustments to reconcile net income/(loss) to net cash provided by operating activities Distributions in excess of (less than) equity earnings of unconsolidated affiliates	(1,062)	2,229	(41,472)	(22,252)
Depreciation and amortization	214,620	13,041	256,700	286,623
Reserve for note and interest receivable	11,737	—	—	—
Amortization of financing costs and debt discount/(premium)	27,659	2,242	17,640	28,367
Write-off of deferred financing costs due to refinancings	42,137	—	—	—
Write downs and losses on sales of equity method investments	16,270	—	146,938	196,192
Deferred income taxes and investment tax credits	57,238	(3,262)	(1,893)	(230,134)
Unrealized (gains)/losses on derivatives	(73,792)	3,774	(34,616)	(2,743)
Minority interest	1,046	204	2,177	(19,325)
Amortization of power contracts and emission credits	51,652	(13,431)	—	(89,415)
Amortization of unearned equity compensations	13,592	—	—	—
Restructuring and impairment charges	44,661	—	408,377	3,144,509
Fresh start reporting adjustments	—	—	(3,895,541)	—
Gain on sale of discontinued operations	(22,419)	—	(186,331)	(2,814)
Cash provided by (used in) changes in certain working capital items, net of effects from acquisitions and dispositions				
Accounts receivable, net	(51,471)	18,030	28,261	(13,216)
Xcel Energy settlement receivable	640,000	—	—	—
Inventory	(55,613)	11,054	14,128	42,596
Prepayments and other current assets	48,772	(9,504)	(36,812)	(58,368)
Accounts payable	6,905	(40,095)	648,646	325,949
Accrued expenses	(21,163)	(66,673)	217,356	249,940
Creditor pool obligation payments	(540,000)	—	—	—
Other current liabilities	7,242	(510,867)	(22,797)	47,692
Other assets and liabilities	40,365	(6,642)	(48,697)	10,723
Net Cash Provided (Used) by Operating Activities	643,993	(588,875)	238,509	430,042
Cash Flows from Investing Activities				
Proceeds from sale of discontinued operations	252,676	—	18,612	160,791
Proceeds from sale of investments	50,693	—	107,174	68,517
Proceeds from sale of turbines	—	—	70,717	—
Decrease/(increase) in restricted cash and trust funds	(26,443)	375,272	(266,466)	(197,802)
Decrease/(increase) in notes receivable	25,109	1,182	(1,653)	(209,244)
Capital expenditures	(114,360)	(10,560)	(113,502)	(1,439,733)
Investments in projects	(2,990)	(2,522)	(561)	(63,996)
Net Cash Provided (Used) by Investing Activities	184,685	363,372	(185,679)	(1,681,467)
Cash Flows from Financing Activities				
Proceeds from issuance of preferred stock	406,359	—	—	—
Proceeds from issuance of stock	—	—	—	4,065
Purchase of treasury stock	(405,312)	—	—	—
Capital contributions from parent	—	—	—	500,000
Net borrowings under line of credit agreement	—	—	—	790,000
Proceeds from issuance of long-term debt	1,332,671	2,450,000	39,988	1,086,770
Deferred debt issuance costs	(25,506)	(74,795)	(18,540)	—
Funded letter of credit	(100,000)	(250,000)	—	—
Principal payments on short and long-term debt	(1,491,946)	(1,731,932)	(51,392)	(931,505)
Net Cash Provided (Used) by Financing Activities	(283,734)	393,273	(29,944)	1,449,330
Effect of Exchange Rate Changes on Cash and Cash Equivalents	3,007	(13,562)	(22,276)	24,950
Change in Cash from Discontinued Operations	10,871	1,033	34,512	51,267
Net Increase in Cash and Cash Equivalents	558,822	155,241	35,122	274,122
Cash and Cash Equivalents at Beginning of Period	551,223	395,982	360,860	86,738
Cash and Cash Equivalents at End of Period	$ 1,110,045	$ 551,223	$ 395,982	$ 360,860

See notes to consolidated financial statements.

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NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY/(DEFICIT) AND COMPREHENSIVE INCOME/(LOSS)

	Class A Common		Common						
	Stock	Shares	Stock	Shares	Additional Paid-In Capital	Retained Earnings/ (Deficit)	Treasury Stock	Accumulated Other Comprehensive Income/(Loss)	Total Stockholders' Equity/ (Deficit)
	(In thousands)								
Balances at December 31, 2001 (Predecessor Company)	$ 1,476	147,605	$ 509	50,939	$1,713,984	$ 635,349	$ —	$(114,189)	$ 2,237,129
Net loss						(3,464,282)			(3,464,282)
Foreign currency translation adjustments and other								64,054	64,054
Deferred unrealized loss on derivatives, net								(44,823)	(44,823)
Comprehensive loss for 2002									(3,445,051)
Contribution from parent					502,874				502,874
Issuance of common stock			6	591	8,843				8,849
Impact of exchange offer	(1,476)	(147,605)	(515)	(51,530)	1,991		—		—
Balances at December 31, 2002 (Predecessor Company)	$ —	—	$ —	—	$2,227,692	$(2,828,933)	$ —	$ (94,958)	$ (696,199)

	Serial Preferred		Common						
	Stock	Shares	Stock	Shares	Additional Paid-In Capital	Retained Earnings/ (Deficit)	Treasury Stock	Accumulated Other Comprehensive Income/(Loss)	Total Stockholders' Equity/ (Deficit)
	(In thousands)								
Balances at December 31, 2002 (Predecessor Company)	$ —	—	$ —	—	$ 2,227,692	$(2,828,933)	$ —	$ (94,958)	$ (696,199)
Net income						2,766,445			2,766,445
Foreign currency translation adjustments and other								127,754	127,754
Deferred unrealized loss on derivatives, net								(31,363)	(31,363)
Comprehensive income for the period from January 1, 2003 through December 5, 2003									2,862,836
Effects of reorganization					(2,227,692)	62,488		(1,433)	(2,166,637)
Issuance of common stock	—	—	1,000	100,000	2,403,000	—	—	—	2,404,000
Balances at December 5, 2003 (Predecessor Company)	$ —	—	$ 1,000	100,000	$ 2,403,000	$ —	$ —	$ —	$ 2,404,000
Net income						11,025			11,025
Foreign currency translation adjustments and other								22,325	22,325
Deferred unrealized loss on derivatives, net								(523)	(523)
Comprehensive income for the period from									32,827

December 6, 2003 through December 31, 2003									
Equity based compensation					429				429
Balances at December 31, 2003 (Reorganized NRG)	$—	—	$1,000	100,000	$2,403,429	$11,025	$—	$21,802	$2,437,256
Net income						185,617			185,617
Foreign currency translation adjustments and other								46,660	46,660
Deferred unrealized loss on derivatives, net								7,992	7,992
Comprehensive income for 2004									240,269
Equity based compensation				42	13,592				13,592
Issuance of preferred stock	406,359	420,000							406,359
Purchase of treasury stock	—	—	—	(13,000)	—	—	(405,312)	—	(405,312)
Balances at December 31, 2004 (Reorganized NRG)	$406,359	420,000	$1,000	87,042	$2,417,021	$196,642	$(405,312)	$76,454	$2,692,164

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1 — Organization

General

NRG Energy, Inc., or "NRG Energy", the "Company", "we", "our", or "us" is a wholesale power generation company, primarily engaged in the ownership and operation of power generation facilities, the transacting in and trading of fuel and transportation services and the marketing and trading of energy, capacity and related products in the United States and internationally. We have a diverse portfolio of electric generation facilities in terms of geography, fuel type and dispatch levels. Our principal domestic generation assets consist of a diversified mix of natural gas–, coal– and oil–fired facilities, representing approximately 40%, 31% and 29% of our total domestic generation capacity, respectively. In addition, 23% of our domestic generating facilities have dual– or multiple–fuel capacity, which may allow plants to dispatch with the lowest cost fuel option.

We seek to maximize operating income through the generation of energy, marketing and trading of energy, capacity and ancillary services into spot, intermediate and long–term markets and the effective transacting in and trading of fuel supplies and transportation–related services. We perform our own power marketing (except with respect to our West Coast Power and Rocky Road affiliates), which is focused on maximizing the value of our North American and Australian assets through the pursuit of asset–focused power and fuel marketing and trading activities in the spot, intermediate and long–term markets. Our principal objectives are the management and mitigation of commodity market risk, the reduction of cash flow volatility over time, the realization of the full market value of the asset base, and adding incremental value by using market knowledge to effectively trade positions associated with our asset portfolio. Additionally, we work with markets, independent system operators and regulators to promote market designs that provide adequate long–term compensation for existing generation assets and to attract the investment required to meet future generation needs.

As of December 31, 2004, we owned interests in 52 power projects in five countries having an aggregate net generation capacity of approximately 15,400 MW. Approximately 7,900 MW of our capacity consisted of merchant power plants in the Northeast region of the United States. Certain of these assets are located in transmission constrained areas, including approximately 1,400 MW of "in–city" New York City generation capacity and approximately 750 MW of southwest Connecticut generation capacity. We also own approximately 2,500 MW of capacity in the South Central region of the United States, with approximately 1,900 MW of that capacity supported by long–term power purchase agreements.

As of December 31, 2004, our assets in the West Coast region of the United States consisted of approximately 1,300 MW of capacity with the majority of such capacity owned via our 50% interest in West Coast Power LLC, or West Coast Power. Our assets in the West Coast region were supported by a power purchase agreement with the California Department of Water Resources that expired on December 31, 2004. One–year term reliability must–run, or RMR, agreements with the California Independent System Operator for approximately 568 MW in the San Diego area have been renewed for 2005. On January 1, 2005, a new RMR agreement for the 670 MW gross capacity of the West Coast Power El Segundo generating facility became effective. In January 2005, that generating facility entered into a tolling agreement for its entire gross generating capacity of 670 MW commencing May 1, 2005 and extending through December 31, 2005. During the term of this agreement, the purchaser will be entitled to primary energy dispatch right for the facility's generating capacity. The agreement is subject to the amendment of the El Segundo RMR agreement to switch to RMR Condition I and to otherwise allow the purchaser to exercise its primary dispatch rights under this agreement while preserving Cal ISO's ability to call on the El Segundo facility as a reliability resource under the RMR agreement, if necessary. Approximately 265 MW of capacity at the Long Beach generating facility was retired January 1, 2005.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

We own approximately 1,600 MW of net generating capacity in other regions of the U.S. We also own interests in plants having a net generation capacity of approximately 2,100 MW in various international markets, including Australia, Europe and Brazil. We operate substantially all of our generating assets, including the West Coast Power plants.

We were incorporated as a Delaware corporation on May 29, 1992. In March 2004, our common stock was listed on the New York Stock Exchange under the symbol "NRG". Our headquarters and principal executive offices are located at 211 Carnegie Center, Princeton, New Jersey 08540. Our telephone number is (609) 524-4500. The address of our website is www.nrgenergy.com. Our recent annual reports, quarterly reports, current reports and other periodic filings are available free of charge through our website.

We were formed in 1992 as the non-utility subsidiary of Northern States Power Company, or NSP, which was itself merged into New Century Energies, Inc. to form Xcel Energy, Inc., or Xcel Energy, in 2000. While owned by NSP and later by Xcel Energy, we pursued an aggressive high growth strategy focused on power plant acquisitions, high leverage and aggressive development, including site development and turbine orders. In 2002, a number of factors, most notably the aggressive prices paid by us for our acquisitions of turbines, development projects and plants, combined with the overall downturn in the power generation industry, triggered a series of credit rating downgrades which, in turn, precipitated a severe liquidity crisis at the Company. From May 14 to December 23, 2003, we and a number of our subsidiaries undertook a comprehensive reorganization and restructuring under chapter 11 of the United States Bankruptcy Code. With the exception of one subsidiary that remains in bankruptcy to effect its liquidation, all NRG entities had emerged from chapter 11 as of December 31, 2004.

As part of our reorganization, Xcel Energy relinquished its ownership interest in us, and we became an independent public company. We no longer have any material affiliation or relationship with Xcel Energy. As part of the reorganization, we eliminated approximately $5.2 billion of corporate level bank and bond debt and approximately $1.3 billion of additional claims and disputes by distributing a combination of equity and $1.04 billion in cash to our unsecured creditors.

As part of our restructuring, on December 23, 2003, we used the proceeds of a new $1.25 billion offering of 8% second priority senior secured notes due 2013, and borrowings under a new $1.45 billion secured credit facility, to retire approximately $1.7 billion of project-level debt. In January 2004, we used proceeds of a tack-on bond offering of the same notes to prepay $503.5 million of the outstanding borrowings under the secured credit facility.

In 2004, we completed our post-confirmation bankruptcy initiatives, including the liquidation of the chapter 11 subsidiaries deemed to be of no value to NRG Energy (LSP-Nelson Energy LLC and NRG Nelson Turbines LLC); the collection and distribution to creditors of amounts owing by our pre-bankruptcy parent company, Xcel Energy, Inc., under the plan of reorganization and related documents; and the settlement of several large disputed claims. We are still litigating or seeking to settle a number of unresolved disputed claims, for which we believe we have established an adequate disputed claims reserve pursuant to the NRG plan of reorganization. In all other respects, the reorganization process was completed in 2004.

On December 24, 2004, we entered into an amendment and restatement of our $1.45 billion seven-year secured credit facility, recasting it as a $950 million seven-year secured credit facility with more favorable covenants and interest rates, scheduled to expire in December 2011. On December 27, 2004, we completed the issuance of $420 million of perpetual convertible preferred stock, and used the proceeds to redeem $375 million of our 8% senior secured notes on February 4, 2005. In January 2005 and in March 2005, we purchased an additional $25 million and $15.8 million, respectively, of the notes.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 2 —Summary of Significant Accounting Policies

Principles of Consolidation and Basis of Presentation

Between May 14, 2003 and December 5, 2003, we operated as a debtor–in–possession under the supervision of the bankruptcy court. Our financial statements for reporting periods within that timeframe were prepared in accordance with the provisions of Statement of Position 90–7, *"Financial Reporting by Entities in Reorganization Under the Bankruptcy Code"*, or SOP 90–7.

For financial reporting purposes, close of business on December 5, 2003, represents the date of our emergence from bankruptcy. As used herein, the following terms refer to the Company and its operations:

"Predecessor Company"	The Company, pre–emergence from bankruptcy The Company's operations prior to December 6, 2003
"Reorganized NRG"	The Company, post–emergence from bankruptcy The Company's operations, December 6, 2003–December 31, 2004

In January 2003, the FASB issued FASB Interpretation No. 46, *"Consolidation of Variable Interest Entities,"* or FIN No. 46. FIN No. 46 requires an enterprise's consolidated financial statements to include subsidiaries in which the enterprise has a controlling interest. In December 2003, the FASB has published a revision to Interpretation 46, or FIN 46R, to clarify some of the provisions of FASB Interpretation No. 46, *"Consolidation of Variable Interest Entities,"* and to exempt certain entities from its requirements. As required by SOP 90–7, we adopted FIN No. 46R as of the adoption of Fresh Start. The nature of the operations consolidated consisted of hydropower facilities on the East Coast.

The consolidated financial statements include our accounts and operations and those of our subsidiaries in which we have a controlling interest. All significant intercompany transactions and balances have been eliminated in consolidation. Accounting policies for all of our operations are in accordance with accounting principles generally accepted in the United States of America. As discussed in Note 13, we have investments in partnerships, joint ventures and projects. Earnings from equity in international investments are recorded net of foreign income taxes.

Fresh Start Reporting

In accordance with SOP 90–7, certain companies qualify for fresh start reporting in connection with their emergence from bankruptcy. Fresh start reporting is appropriate on the emergence from chapter 11 if the reorganization value of the assets of the emerging entity immediately before the date of confirmation is less than the total of all post–petition liabilities and allowed claims, and if the holders of existing voting shares immediately before confirmation receive less than 50 percent of the voting shares of the emerging entity. We met these requirements and adopted Fresh Start reporting resulting in the creation of a new reporting entity designated as Reorganized NRG.

The bankruptcy court issued a confirmation order approving our plan of reorganization on November 24, 2003. Under the requirements of SOP 90–7, the Fresh Start date is determined to be the confirmation date unless significant uncertainties exist regarding the effectiveness of the bankruptcy order. Our plan of reorganization required completion of the Xcel Energy settlement agreement prior to emergence from bankruptcy. The Xcel Energy settlement agreement was entered into on December 5, 2003. We believe this settlement agreement was a significant contingency and thus delayed the Fresh Start date until the Xcel Energy settlement agreement was finalized on December 5, 2003.

Under the requirements of Fresh Start, we adjusted our assets and liabilities, other than deferred income taxes, to their estimated fair values as of December 5, 2003. As a result of marking our assets and liabilities to their estimated fair values, we determined that there was a negative reorganization value that was reallocated back to our tangible and intangible assets. Deferred taxes were determined in accordance with SFAS No. 109,

"Accounting for Income Taxes." The net effect of all Fresh Start adjustments resulted in a gain of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations), which is reflected in the Predecessor Company's results for the period January 1, 2003 through December 5, 2003. The application of the Fresh Start provisions of SOP 90–7 created a new reporting entity having no retained earnings or accumulated deficit.

As part of the bankruptcy process we engaged an independent financial advisor to assist in the determination of our reorganized enterprise value. The fair value calculation was based on management's forecast of expected cash flows from our core assets. Management's forecast incorporated forward commodity market prices obtained from a third party consulting firm. A discounted cash flow calculation was used to develop the enterprise value of Reorganized NRG, determined in part by calculating the weighted average cost of capital of the Reorganized NRG. The Discounted Cash Flow, or DCF, valuation methodology equates the value of an asset or business to the present value of expected future economic benefits to be generated by that asset or business. The DCF methodology is a "forward looking" approach that discounts expected future economic benefits by a theoretical or observed discount rate. The independent financial advisor prepared a 30–year cash flow forecast using a discount rate of approximately 11%. The resulting reorganization enterprise value as included in the bankruptcy Disclosure Statement ranged from $5.5 billion to $5.7 billion. The independent financial advisor then subtracted our project–level debt and made several other adjustments to reflect the values of assets held for sale, excess cash and collateral requirements to estimate a range of Reorganized NRG equity value of between $2.2 billion and $2.6 billion.

In constructing our Fresh Start balance sheet upon our emergence from bankruptcy, we used a reorganization equity value of approximately $2.4 billion, as we believe this value to be the best indication of the value of the ownership distributed to the new equity owners. Our reorganization value of approximately $9.1 billion was determined by adding our reorganized equity value of $2.4 billion, $3.7 billion of interest bearing debt and our other liabilities of $3.0 billion. The reorganization value represents the fair value of an entity before liabilities and approximates the amount a willing buyer would pay for the assets of the entity immediately after restructuring. This value is consistent with the voting creditors and Court's approval of the Plan of Reorganization.

A separate plan of reorganization was filed for our Northeast Generating and South Central Generating entities that was confirmed by the bankruptcy court on November 25, 2003, and became effective on December 23, 2003, when the final conditions of the plan were completed. In connection with Fresh Start on December 5, 2003, we have accounted for these entities as if they had emerged from bankruptcy at the same time that we emerged, as we believe that we continued to maintain control over the Northeast Generating and South Central Generating facilities throughout the bankruptcy process.

Due to the adoption of Fresh Start upon our emergence from bankruptcy, the Reorganized NRG statement of operations and statement of cash flows have not been prepared on a consistent basis with the Predecessor Company's financial statements and are therefore not comparable to the financial statements prior to the application of Fresh Start.

Nature of Operations

We are a wholesale power generation company, primarily engaged in the ownership and operation of power generation facilities and the sale of energy, capacity and related products in the United States and internationally. We have a diverse portfolio of electric generation facilities in terms of geography, fuel type, and dispatch levels, which help us mitigate risk. We seek to maximize operating income through the efficient procurement and management of fuel supplies and maintenance services, and the sale of energy, capacity and ancillary services into attractive spot, intermediate and long–term markets.

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Cash and Cash Equivalents

Cash and cash equivalents include highly liquid investments (primarily commercial paper) with an original maturity of three months or less at the time of purchase.

Restricted Cash

Restricted cash consists primarily of funds held to satisfy the requirements of certain debt agreements and funds held within our projects that are restricted in their use.

Inventory

Inventory is valued at the lower of weighted average cost or market and consists principally of fuel oil, spare parts, coal, kerosene, emission allowance credits and raw materials used to generate steam.

Property, Plant and Equipment

Property, plant and equipment are stated at cost however impairment adjustments are recorded whenever events or changes in circumstances indicate carrying values may not be recoverable. On December 5, 2003, we recorded adjustments to the property, plant and equipment to reflect such items at fair value in accordance with Fresh Start reporting. A new cost basis was established with these adjustments. Significant additions or improvements extending asset lives are capitalized, while repairs and maintenance that do not improve or extend the life of the respective asset are charged to expense as incurred. Depreciation will be computed using the straight–line method over the following estimated useful lives:

Facilities and equipment	6–40 years
Office furnishings and equipment	3–10 years

The assets and related accumulated depreciation amounts are adjusted for asset retirements and disposals with the resulting gain or loss included in operations.

Asset Impairments

Long–lived assets that are held and used are reviewed for impairment whenever events or changes in circumstances indicate carrying values may not be recoverable. Such reviews are performed in accordance with SFAS No. 144, *"Accounting for the Impairment or Disposal of Long–Lived Asset."* An impairment loss is recognized if the total future estimated undiscounted cash flows expected from an asset are less than its carrying value. An impairment charge is measured by the difference between an asset's carrying amount and fair value and included in operating costs and expenses in the statement of operations. Fair values are determined by a variety of valuation methods, including appraisals, sales prices of similar assets and present value techniques.

Investments accounted for by the equity method are reviewed for impairment in accordance with APB Opinion No. 18, *"The Equity Method of Accounting for Investments in Common Stock."* APB Opinion No. 18 requires that a loss in value of an investment that is other than a temporary decline should be recognized. We identify and measure losses in value of equity investments based upon a comparison of fair value to carrying value.

Discontinued Operations

Long–lived assets are classified as discontinued operations when all of the required criteria specified in SFAS No. 144 are met. These criteria include, among others, existence of a qualified plan to dispose of an asset, an assessment that completion of a sale within one year is probable and approval of the appropriate level

of management and board of directors. Discontinued operations are reported at the lower of the asset's carrying amount or fair value less cost to sell.

Capitalized Interest

Interest incurred on funds borrowed to finance projects expected to require more than three months to complete is capitalized. Capitalization of interest is discontinued when the asset under construction is ready for its intended use or when a project is terminated or construction ceased. Capitalized interest was approximately $112.8 thousand, $1.5 thousand, $15.9 thousand and $64.8 million for the year ended December 31, 2004, the periods December 6, 2003 to December 31, 2003 and January 1, 2003 to December 5, 2003, and for the year ended December 31, 2002, respectively.

Capitalized Project Costs

Development costs and capitalized project costs include third party professional services, permits, and other costs that are incurred incidental to a particular project. Such costs are expensed as incurred until an acquisition agreement or letter of intent is signed, and our Board of Directors has approved the project. Additional costs incurred after this point are capitalized. When a project begins operations, previously capitalized project costs are reclassified to equity investments in affiliates or property, plant and equipment and amortized on a straight-line basis over the lesser of the life of the project's related assets or revenue contract period. Capitalized costs are charged to expense if a project is abandoned or management otherwise determines the costs to be unrecoverable.

Debt Issuance Costs

Debt issuance costs are capitalized and amortized as interest expense on a basis which approximates the effective interest method over the terms of the related debt.

Intangible Assets

Intangible assets represent contractual rights held by us. Intangible assets are amortized over their economic useful life and reviewed for impairment on a periodic basis.

Income Taxes

The Reorganized NRG's income tax provision for the year ended December 31, 2004 and for the period December 6, 2003 through December 31, 2003 have been recorded on the basis that we and our U.S. subsidiaries will reconsolidate for federal income tax purposes as of December 6, 2003. The Reorganized NRG is no longer owned by Xcel Energy and thus, no longer included in the Xcel Energy affiliated group. The change in ownership allows us to file a consolidated federal income tax return with our U.S. subsidiaries starting on December 6, 2003.

The Predecessor Company's income tax provision has been recorded on the basis that Xcel Energy has not included us in its consolidated federal income tax return following Xcel Energy's acquisition of our public shares on June 3, 2002. Since we and our U.S. subsidiaries will not be included in the Xcel Energy's consolidated tax group, each of our U.S. subsidiaries that is classified as a corporation for U.S. income tax purposes must file a separate federal income tax return for the periods ended December 31, 2002 and December 5, 2003.

Deferred income taxes are recognized for the tax consequences in future years of temporary differences between the tax basis of assets and liabilities and their financial reporting amounts at each year-end based on enacted tax laws and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. Income tax expense is the tax payable for the period and the change during the period

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in deferred tax assets and liabilities. A valuation allowance is recorded to reduce deferred tax assets to the amount more likely than not to be realized.

Revenue Recognition

We are primarily an electric generation company, operating a portfolio of majority–owned electric generating plants and certain plants in which our ownership interest is 50% or less which are accounted for under the equity method of accounting. In connection with our electric generation business, we also produce thermal energy for sale to customers, principally through steam and chilled water facilities. We also collect methane gas from landfill sites, which are used for the generation of electricity. In addition, we sell small amounts of natural gas and oil to third parties.

Both physical and financial transactions are entered into to optimize the financial performance of our generating facilities. Electric energy revenue is recognized upon transmission to the customer. In regions where bilateral markets exist and physical delivery of electricity is common from our plants, we record revenue on a gross basis. In certain markets, which are operated/controlled by an independent system operator and in which we have entered into a netting agreement with the ISO, which results in our receiving a netted invoice, we have recorded purchased energy as an offset against revenues received upon the sale of such energy. Revenues derived from the buying and selling of electricity not sourced from our facilities are reported net. Capacity and ancillary revenue is recognized when contractually earned. Disputed revenues are not recorded in the financial statements until disputes are resolved and collection is assured.

Revenue from long–term power sales contracts that provide for higher pricing in the early years of the contract are recognized in accordance with Emerging Issues Task Force Issue No. 91–6, *"Revenue Recognition of Long–Term Power Sales Contracts."* This results in revenue deferrals and recognition on a levelized basis over the term of the contract.

We provide contract operations and maintenance services to some of our non–consolidated affiliates. Revenue is recognized as contract services are performed.

We recognize other income for interest income on loans to our non–consolidated affiliates, as the interest is earned and realizable.

Derivative Financial Instruments

In January 2001, we adopted FAS No. 133, *"Accounting for Derivative Instruments and Hedging Activities,"* or SFAS No. 133, as amended by SFAS No. 137, SFAS No. 138 and SFAS No. 149. SFAS No. 133, as amended, requires us to record all derivatives on the balance sheet at fair value. In some cases hedge accounting may apply. The criteria used to determine if hedge accounting treatment is appropriate are a) the designation of the hedge to an underlying exposure, b) whether or not the overall risk is being reduced and c) if there is correlation between the value of the derivative instrument and the underlying obligation. Formal documentation of the hedging relationship, the nature of the underlying risk, the risk management objective, and the means by which effectiveness will be assessed is created at the inception of the hedge. Changes in the fair value of non–hedge derivatives are immediately recognized in earnings. Changes in the fair value of derivatives accounted for as hedges are either recognized in earnings as an offset to the changes in the fair value of the related hedged assets, liabilities and firm commitments or for forecasted transactions, deferred and recorded as a component of accumulated other comprehensive income, or OCI, until the hedged transactions occur and are recognized in earnings. We primarily account for derivatives under SFAS No. 133, as amended, such as long–term power sales contracts, long–term gas purchase contracts and other energy related commodities and financial instruments used to mitigate variability in earnings due to fluctuations in spot market prices, hedge fuel requirements at generation facilities and to protect investments in fuel inventories. SFAS No. 133, as amended, also applies to interest rate swaps and foreign currency

exchange rate contracts. The application of SFAS No. 133, as amended, results in increased volatility in earnings due to the recognition of unrealized gains and losses. In determining the fair value of these derivative/financial instruments we use estimates, various assumptions, judgment of management and when considered appropriate third party experts in determining the fair value of these derivatives.

Foreign Currency Translation and Transaction Gains and Losses

The local currencies are generally the functional currency of our foreign operations. Foreign currency denominated assets and liabilities are translated at end-of-period rates of exchange. Revenues, expenses and cash flows are translated at weighted-average rates of exchange for the period. The resulting currency translation adjustments are accumulated and reported as a separate component of stockholders' equity and are not included in the determination of the results of operations. Foreign currency transaction gains or losses are reported in results of operations. We recognized foreign currency transaction gains (losses) of $(1.7) million, $0.4 million, $(19.8) million and $(10.4) million for the year ended December 31, 2004, the periods December 6, 2003 to December 31, 2003 and January 1, 2003 to December 5, 2003, and for the year ended December 31, 2002, respectively.

Concentrations of Credit Risk

Financial instruments, which potentially subject us to concentrations of credit risk, consist primarily of cash, accounts receivable, notes receivable and investments in debt securities. Cash accounts are generally held in federally insured banks. Accounts receivable, notes receivable and derivative instruments are concentrated within entities engaged in the energy industry. These industry concentrations may impact our overall exposure to credit risk, either positively or negatively, in that the customers may be similarly affected by changes in economic, industry or other conditions. Receivables are generally not collateralized; however, we believe the credit risk posed by industry concentration is offset by the diversification and creditworthiness of our customer base.

Fair Value of Financial Instruments

The carrying amount of cash and cash equivalents, receivables, accounts payables, and accrued liabilities approximate fair value because of the short maturity of these instruments. The carrying amounts of long-term receivables approximate fair value, as the effective rates for these instruments are comparable to market rates at year-end, including current portions. The fair value of long-term debt is estimated based on quoted market prices for those instruments which are traded or on a present value method using current interest rates for similar instruments with equivalent credit quality.

Pensions

The determination of our obligation and expenses for pension benefits is dependent on the selection of certain assumptions. These assumptions determined by management include the discount rate, the expected rate of return on plan assets and the rate of future compensation increases. Our actuarial consultants use assumptions for such items as retirement age. The assumptions used may differ materially from actual results, which may result in a significant impact to the amount of pension obligation or expense recorded by us.

Stock Based Compensation

During the fourth quarter of 2003, in accordance with SFAS Statement No. 148, "*Accounting for Stock-Based Compensation — Transition and Disclosure*" we adopted SFAS No. 123 under the prospective transition method which requires the application of the recognition provisions to all employee awards granted, modified, or settled after the beginning of the fiscal year in which the recognition provisions are first applied. As a result, we applied the fair value recognition provisions of SFAS No. 123 as of January 1, 2003. As

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discussed in Note 21, we recognized compensation expense for the grants issued under the Long–Term Incentive Plan. The Black–Scholes option–pricing model is used for all non–qualified stock options.

Net Income Per Share

Basic net income per share is calculated based on the weighted average of common shares outstanding during the period. Net income per share, assuming dilution is computed by dividing net income available to common stockholders by the weighted average number of common and common equivalent shares outstanding. Our common equivalent shares are those that result from dilutive common stock options, issuance of restricted stock units, conversion of deferred stock units and conversion of preferred stock.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, 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 these estimates.

In recording transactions and balances resulting from business operations, we use estimates based on the best information available. Estimates are used for such items as plant depreciable lives, tax provisions, uncollectible accounts, actuarially determined benefit costs and the valuation of long–term energy commodities contracts, among others. In addition, estimates are used to test long–lived assets for impairment and to determine fair value of impaired assets. As better information becomes available (or actual amounts are determinable), the recorded estimates are revised. Consequently, operating results can be affected by revisions to prior accounting estimates.

Reclassifications

Certain prior–year amounts have been reclassified for comparative purposes. These reclassifications had no effect on our net income or total stockholders' equity as previously reported.

Recent Accounting Developments

In November 2004, the Emerging Issue Task Force, or EITF, issued EITF No. 03–13, "Applying the Conditions in Paragraph 42 of FASB Statement No. 144, *Accounting for the Impairment or Disposal of Long–Lived Assets,* in Determining Whether to Report Discontinued Operations". EITF 03–13 clarifies the definition of cash flows of a component in which the seller engages in activities with the component after disposal, and significant continuing involvement in the operations of the component after the disposal transaction, and is effective for fiscal periods beginning after December 15, 2004. We are currently in the process of evaluating the potential impact that the adoption of this standard will have on our consolidated financial position and results of operations.

In November 2004, the FASB issued SFAS No. 151, *"Inventory Costs — an amendment of ARB No. 43, Chapter 4"*. This statement amends the guidance in ARB No. 43, Chapter 4, "Inventory Pricing", and requires that idle facility expense, excessive spoilage, double freight, and rehandling costs be recognized as current–period charges regardless of whether they meet the criterion of "so abnormal" established by ARB No. 43. SFAS No. 151 is effective for inventory costs incurred during fiscal years beginning after June 15, 2005. We are currently in the process of evaluating the potential impact that the adoption of this statement will have on our consolidated financial position and results of operations.

In December 2004, the FASB issued SFAS No. 123R, *"Share–Based Payment"*, a revision to SFAS No. 123, *"Accounting for Stock–Based Compensation"*, which supersedes APB Opinion No. 25,

"Accounting for Stock Issued to Employees" and its related implementation guidance. SFAS 123R establishes standards for the accounting for transactions in which an entity exchanges its equity instruments for goods or services, including obtaining employee services in share–based payment transactions. SFAS 123R applies to all awards granted after the required effective date and to awards modified, repurchased, or cancelled after that date. Adoption of the provisions of SFAS 123R is effective as of the beginning of the first interim or annual reporting period that begins after June 15, 2005. We have previously adopted SFAS No. 123, and we are currently in the process of evaluating the potential impact that the adoption of SFAS 123R will have on our consolidated financial position and results of operations.

In December 2004, the FASB issued two FASB Staff Positions, or FSPs, regarding the accounting implications of the American Jobs Creation Act of 2004 related to (1) the deduction for qualified domestic production activities (FSP FAS 109–1) and (2) the one–time tax benefit for the repatriation of foreign earnings (FSP FAS 109–2). In FSP FAS 109–1, *"Application of FASB Statement No. 109, "Accounting for Income Taxes," to the Tax Deduction on Qualified Production Activities Provided by the American Jobs Creation Act of 2004"*, the Board decided that the deduction for qualified domestic production activities should be accounted for as a special deduction under FASB Statement No. 109, *"Accounting for Income Taxes"* and rejected an alternative view to treat it as a rate reduction. Accordingly, any benefit from the deduction should be reported in the period in which the deduction is claimed on the tax return. FSP FAS 109–2, *"Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004"*, addresses the appropriate point at which a company should reflect in its financial statements the effects of the one–time tax benefit on the repatriation of foreign earnings. Because of the proximity of the Act's enactment date to many companies' year–ends, its temporary nature, and the fact that numerous provisions of the Act are sufficiently complex and ambiguous, the Board decided that absent additional clarifying regulations, companies may not be in a position to assess the impact of the Act on their plans for repatriation or reinvestment of foreign earnings. Therefore, the Board provided companies with a practical exception to FAS 109's requirements by providing them additional time to determine the amount of earnings, if any, that they intend to repatriate under the Act's beneficial provisions. The Board confirmed, however, that upon deciding that some amount of earnings will be repatriated, a company must record in that period the associated tax liability, thereby making it clear that a company cannot avoid recognizing a tax liability when it has decided that some portion of its foreign earnings will be repatriated. We are currently in the process of evaluating the potential impact that the adoption of FSP FAS 109–1 and FSP FAS 109–2 will have on our consolidated financial position and results of operations.

Note 3 —Emergence from Bankruptcy and Fresh Start Reporting

In accordance with the requirements of SOP 90–7, we determined the reorganization value of NRG and subsidiaries emerging from bankruptcy to be approximately $9.1 billion. Reorganization value generally approximates fair value of the entity before considering liabilities and approximates the amount a willing buyer would pay for the assets of the entity immediately after the restructuring. Several methods are used to determine the reorganization value; however, generally it is determined by discounting future cash flows for the reconstituted business that will emerge from chapter 11 bankruptcy. Our approach was consistent in that our independent financial advisor's estimated reorganization enterprise value of our ongoing projects used a discounted cash flow approach.

We allocated the reorganization value of $9.1 billion to our assets in conformity with the procedures specified by SFAS No. 141. We used a third party to complete an independent appraisal of our tangible assets, equity investments and intangible assets and contracts. In completing the fair value allocation our assets were calculated to be greater than the reorganization value. As a result, we reallocated the negative reorganization value to our tangible and intangible assets in accordance with SFAS No. 141. In preparing our balance sheet we also recorded each liability existing at the plan confirmation date, other than deferred taxes, at the present value of amounts to be paid determined at appropriate current interest rates. Deferred taxes were reported in

conformity with generally accepted accounting principles under SFAS No. 109. Our equity was recorded at approximately $2.4 billion representing a price per share of $24.04 for the issuance of 100,000,000 shares of common stock upon emergence from bankruptcy. We pushed down the effects of fresh start reporting to all of our subsidiaries.

In constructing our Fresh Start balance sheet using our reorganization value upon our emergence from bankruptcy, we used a reorganization equity value of approximately $2.4 billion, as we believe this value to be the best indication of the value of the ownership distributed to the new equity owners. Accordingly, our reorganization value of $9.1 billion was determined by adding our reorganized equity value of $2.4 billion, $3.7 billion of interest bearing debt and our other liabilities of $3.0 billion. This value is consistent with the voting creditors and Court's approval of the Plan of Reorganization.

The determination of the enterprise value and the allocations to the underlying assets and liabilities were based on a number of estimates and assumptions, which are inherently subject to significant uncertainties and contingencies.

We recorded approximately $3.9 billion of net reorganization income (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations) in the Predecessor Company's statement of operations for 2003, which includes the gain on the restructuring of debt and equity and the discharge of obligations subject to compromise for less than recorded amounts, as well as adjustments to the historical carrying values of our assets and liabilities to fair market value.

Due to the adoption of Fresh Start as of December 5, 2003, the Reorganized NRG statement of operations and statement of cash flows have not been prepared on a consistent basis with the Predecessor Company's financial statements and are not comparable in certain respects to the financial statements prior to the application of Fresh Start. The accompanying Consolidated Financial Statements have been prepared to distinguish between Reorganized NRG and the Predecessor Company.

APB No. 18, *"The Equity Method of Accounting for Investments in Common Stock"*, requires us to effectively push down the effects of Fresh Start reporting to our unconsolidated equity method investments and to recognize an adjustment to our share of the earnings or losses of an investee as if the investee was a consolidated subsidiary. As a result of pushing down the impact of Fresh Start to our West Coast Power affiliate we determined that a contract based intangible asset with a one year remaining life, consisting of the value of West Coast Power's California Department of Water Resources energy sales contract, must be established and recognized as a basis adjustment to our share of the future earnings generated by West Coast Power. This adjustment reduced our equity earnings in the amount of approximately $10.4 million per month during 2004 until the contract expired in December 2004.

Note 4 — Debtors' Statements

As stated above, we and certain of our subsidiaries filed voluntary petitions for reorganization under chapter 11 of the Bankruptcy Code during 2003. On December 5, 2003, we and five of our subsidiaries emerged from bankruptcy. As of the respective bankruptcy filing dates, the debtors' financial records were closed for the pre-petition period. As required by SOP 90-7 *"Financial Reporting by Entities in Reorganization Under the Bankruptcy Code"*, below are the condensed combined financial statements of our remaining debtors since the date of the bankruptcy filings, or the Debtors' Statements.

The Debtors' Statements consist of the following wholly-owned consolidated entities which remained in bankruptcy as of December 6, 2003: Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Berrians I Gas Turbine Power, LLC, Big Cajun II Unit 4 LLC, Connecticut Jet Power LLC, Devon Power LLC, Dunkirk Power LLC, Huntley Power LLC, Louisiana Generating LLC, LSP-Nelson Energy LLC, Middletown Power LLC, Montville Power LLC, Northeast Generation Holding LLC, Norwalk Power LLC, NRG Central US LLC, NRG Eastern LLC, NRG McClain LLC, NRG Nelson Energy LLC, NRG New

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Roads Holdings LLC, NRG Northeast Generating LLC, NRG South Central Generating LLC, Oswego Harbor Power LLC, Somerset Power LLC, and South Central Generation Holding LLC. As of December 31, 2004, one entity remains in bankruptcy to effect its liquidation.

Debtors' Condensed Combined Statement of Operations

	For the Period May 15, 2003 – December 5, 2003
	(In thousands)
Operating revenue	$ 731,413
Operating costs and expenses	(620,199)
Fresh start reporting adjustments — asset write-downs, net	(1,244,016)
Reorganization items	(27,158)
Restructuring and impairment charges	(23,359)
Operating loss	(1,183,319)
Other expense	(160,246)
Net loss	$(1,343,565)

Debtors' Condensed Combined Statement of Cash Flows

	For the Period May 15, 2003 – December 5, 2003
	(In thousands)
Net cash provided by operating activities	$ 65,951
Net cash used by investing activities	(72,667)
Net cash used by financing activities	—
Net increase in cash and cash equivalents	(6,716)
Cash and cash equivalents at beginning of period	23,137
Cash and cash equivalents at end of period	$ 16,421

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 5 —Financial Instruments

The estimated fair values of our recorded financial instruments are as follows:

	Reorganized NRG			
	December 31, 2004		December 31, 2003	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
	(In thousands)			
Cash and cash equivalents	$1,110,045	$1,110,045	$ 551,223	$ 551,223
Restricted cash	112,824	112,824	116,067	116,067
Accounts receivable — trade	272,101	272,101	201,921	201,921
Notes receivable, including current portion	889,969	889,969	886,937	886,937
Decommissioning fund investments	4,954	4,954	4,809	4,809
Accounts payable — trade	166,131	166,131	158,646	158,646
Accounts payable — affiliates	5,591	5,591	3,092	3,092
Long-term debt, including current portion	3,766,118	3,906,623	4,129,011	4,186,136

For cash and cash equivalents, restricted cash, accounts receivable and accounts payable, the carrying amount approximates fair value because of the short-term maturity of those instruments. The fair value of notes receivable is based on expected future cash flows discounted at market interest rates. Decommissioning fund investments are comprised of various U.S. debt securities carried at amortized cost, which approximates their fair value. The fair value of long-term debt is estimated based on quoted market prices for those instruments which are traded or on a present value method using current interest rates for similar instruments with equivalent credit quality.

Note 6 —Discontinued Operations

We have classified certain business operations, and gains/(losses) recognized on sale, as discontinued operations for projects that were sold or have met the required criteria for such classification. The financial results for all of these businesses have been accounted for as discontinued operations. Accordingly, current period operating results and prior periods have been restated to report the operations as discontinued.

SFAS No. 144 requires that discontinued operations be valued on an asset-by-asset basis at the lower of carrying amount or fair value less costs to sell. In applying those provisions our management considered cash flow analyses, bids and offers related to those assets and businesses. This amount is included in income/(loss) on discontinued operations, net of income taxes in the accompanying Statement of Operations. In accordance with the provisions of SFAS No. 144, assets held for sale will not be depreciated commencing with their classification as such.

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The assets and liabilities of the discontinued operations are reported in the December 31, 2004 and 2003 balance sheets as discontinued operations. The major classes of assets and liabilities are presented by geographic area in the following table.

	Reorganized NRG				
	December 31, 2004	December 31, 2003			
	Wholesale Power Generation	Wholesale Power Generation	All Other		
			Wholesale Power Generation		
	Other North America	Other North America	Other International	Alternative Energy	Total
	Consists of McClain	Consists of PERC, McClain and LSP Energy	Consists of Cobee and Hsin Yu	Consists of four NEO projects	
	(In thousands)				
Cash and cash equivalents	$1,684	$ 4,292	$ 8,264	$ —	$ 12,556
Restricted cash	1,326	60,292	—	—	60,292
Receivables, net	—	12,676	11,259	—	23,935
Inventory	—	8,722	3,538	—	12,260
Other current assets	—	3,731	6,787	40	10,558
Current assets — discontinued operations	$3,010	$ 89,713	$ 29,848	$ 40	$119,601
Property, plant and equipment, net	$ —	$487,753	$ 75,250	$ —	$563,003
Deferred income taxes	—	—	31,469	—	31,469
Other non-current assets	—	14,765	9,731	4,205	28,701
Non-current assets — discontinued operations	$ —	$502,518	$116,450	$4,205	$623,173
Current portion of long-term debt	$ —	$ 6,206	$ 49,744	$ —	$ 55,950
Accounts payable — trade	732	3,057	23,037	3,998	30,092
Accrued interest	630	13,182	757	—	13,939
Other current liabilities	—	8,248	5,946	22	14,216
Current liabilities — discontinued operations	$1,362	$ 30,693	$ 79,484	$4,020	$114,197
Long-term debt	$ —	$313,738	$ 19,779	$ —	$333,517
Minority interest	—	31,879	406	—	32,285
Other non-current liabilities	1,081	184,972	8,110	—	193,082
Non-current liabilities — discontinued operations	$1,081	$530,589	$ 28,295	$ —	$558,884

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The following table summarizes our discontinued operations for all periods presented in our consolidated financial statements:

Project	Segment	Initial Discontinued Operations Treatment Date	Disposal Date
Bulo Bulo	Other International	Second Quarter 2002	Fourth Quarter 2002
Crockett Cogeneration	Other North America	Third Quarter 2002	Fourth Quarter 2002
Csepel and Entrade	Other International	Third Quarter 2002	Fourth Quarter 2002
Killingholme	Other International	Fourth Quarter 2002	First Quarter 2003
NLGI	Alternative Energy	Second Quarter 2003	Second Quarter 2003
TERI	Non-Generation	Third Quarter 2003	Third Quarter 2003
McClain	Other North America	Third Quarter 2003	Third Quarter 2004
NEO Corporation (NEO Fort Smith LLC, NEO Woodville LLC, NEO Phoenix LLC)	Alternative Energy	Fourth Quarter 2003	Fourth Quarter 2003
Cahua and Energia Pacasmayo	Other International	Fourth Quarter 2003	Fourth Quarter 2003
PERC	Other North America	First Quarter 2004	Second Quarter 2004
Cobee	Other International	First Quarter 2004	Second Quarter 2004
Hsin Yu	Other International	Second Quarter 2004	Second Quarter 2004
LSP Energy (Batesville)	Other North America	Second Quarter 2004	Third Quarter 2004
NEO Corporation (NEO Nashville LLC, NEO Hackensack LLC, NEO Prima Deshecha LLC and NEO Tajiguas LLC)	Alternative Energy	Third Quarter 2004	Third Quarter 2004

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Summarized results of operations were as follows:

Description	Reorganized NRG Year Ended December 31, 2004	Reorganized NRG For the Period December 6 – December 31, 2003	Predecessor Company For the Period January 1 – December 5, 2003	Predecessor Company Year Ended December 31, 2002
		(In thousands)		
Operating revenues	$108,428	$19,195	$ 263,404	$ 982,263
Operating costs and other expenses	106,389	19,565	619,714	1,670,709
Pre–tax income/(loss) from operations of discontinued components	2,039	(370)	(356,310)	(688,446)
Income tax expense/(benefit)	986	10	(21,868)	(6,810)
Income/(loss) from operations of discontinued components	1,053	(380)	(334,442)	(681,636)
Disposal of discontinued components — pre–tax gain (net)	30,273	—	151,809	2,814
Income tax expense/(benefit)	7,854	—	—	(2,992)
Disposal of discontinued components — gain (net)	22,419	—	151,809	5,806
Income/(loss) on discontinued operations, net of income taxes	$ 23,472	$ (380)	$(182,633)	$ (675,830)

The components of income tax expense/(benefit) attributable to discontinued operations were as follows:

Discontinued Operations:	Reorganized NRG Year Ended December 31, 2004	Reorganized NRG For the Period December 6 – December 31, 2003	Predecessor Company For the Period January 1 – December 5, 2003	Predecessor Company Year Ended December 31, 2002
		(In thousands)		
Current				
U.S.	$ —	$ —	$ (6)	$ 935
Foreign	918	10	(831)	(5,126)
	918	10	(837)	(4,191)
Deferred				
U.S.	20	—	—	(1,947)
Foreign	48	—	(21,031)	(672)
	68	—	(21,031)	(2,619)
Income tax expense/(benefit) on discontinued operations	986	10	(21,868)	(6,810)
U.S. tax expense/(benefit) on disposal of discontinued components — gain (net)	7,854	—	—	(2,992)
Total income tax expense/(benefit)	$8,840	$ 10	$(21,868)	$(9,802)

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Operating costs and other expenses for 2004 shown in the table above include asset impairment charges of approximately $0.2 million. Operating costs and other expenses for 2003 include asset impairment charges of approximately $124.3 million, comprised of approximately $100.7 million for McClain and $23.6 million for NLGI. Operating costs and other expenses for 2002 included asset impairment charges of approximately $502.0 million of which approximately $477.9 million is attributable to the Killingholme project, $121.9 million for the Hsin Yu project, $64.7 million for the Batesville turbine project, $12.4 million for the NEO Landfill Gas, Inc. project and $11.7 million for the TERI project offset by other credits of $186.6 million. The pre-tax gain or loss on disposals of discontinued components consist of the following:

		Reorganized NRG		Predecessor Company	
Project	Segment	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
		(In millions)			
McClain	Other North America	$ (3.0)	$ —	$ —	$ —
PERC	Other North America	3.2	—	—	—
Cobee	Other International	2.8	—	—	—
LSP Energy — Batesville	Other North America	11.0	—	—	—
Hsin Yu	Other International	10.3	—	—	—
NEO Nashville, Hackensack, Prima Deshecha, Tajiguas	Alternative Energy	6.0	—	—	—
NEO Fort Smith, Woodville, Phoenix	Alternative Energy	—	—	—	—
Killingholme	Other International	—	—	191.2	—
TERI	Non-Generation	—	—	1.0	—
Cahua and Energia Pacasmayo	Other International	—	—	(36.9)	—
Crockett Cogeneration	Other North America	—	—	—	(11.5)
Bulo Bulo	Other International	—	—	—	(10.6)
Csepel and Entrade	Other International	—	—	—	24.0
Others		—	—	(3.5)	0.9
Total gain on disposal of discontinued components — pre-tax		$30.3	$ —	$151.8	$ 2.8

McClain — We reviewed the recoverability of our McClain assets pursuant to SFAS No. 144 and recorded a charge of $100.7 million in the second quarter of 2003. On August 14, 2003, NRG's Board of Directors approved a plan to sell its 77% interest in McClain Generating Station, a 520-MW combined-cycle, natural gas-fired facility located in New Castle, Oklahoma. On July 9, 2004, NRG McClain completed the sale of its 77% interest in the McClain Generating Station to Oklahoma Gas & Electric Company. The Oklahoma Municipal Power Authority will continue to own the remaining 23% interest in the facility. The proceeds of $160.2 million from the sale were used to repay outstanding project debt under the secured term loan and working capital facility. A loss of $3.0 million was recognized as of June 30, 2004 based upon the final terms of the sale.

Penobscot Energy Recovery Company (PERC) — During the first quarter of 2004, we received board authorization to proceed with the sale of our interest in PERC to SET PERC Investment LLC which reached financial closing in April 2004. Upon completion of the transaction, we received net proceeds of $18.4 million, resulting in a gain of $3.2 million.

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Cobee — During the first quarter of 2004, we entered into an agreement for the sale of our interest in our Cobee project to Globeleq Holdings Limited, which reached financial closing in April 2004. Upon completion of the transaction, we received net proceeds of approximately $50.0 million, resulting in a gain of $2.8 million.

LSP Energy — Batesville — On August 24, 2004, we completed the sale of our 100 percent interest in an 837–megawatt generating plant in Batesville, Mississippi to CEP Batesville Acquisition, LLC. CEP Batesville Acquisition, LLC assumed approximately $300 million of outstanding project debt. The transaction resulted in the elimination of $289.3 million in consolidated debt from NRG Energy's balance sheet. In exchange for the sale, we received cash proceeds of $27.6 million. We recorded a gain of $11.0 million in 2004.

Hsin Yu — During the second quarter of 2004, we entered into an agreement for the sale of our interest in our Hsin Yu project to a minority interest shareholder, Asia Pacific Energy Development Company Ltd., which reached financial closing in May 2004. Upon completion of the transaction, we received net proceeds of $0.2 million, resulting in a gain of approximately $10.3 million, resulting from our negative equity in the project. In addition, although we have no continuing involvement in the project, we retained the prospect of receiving an additional $1.0 million in additional proceeds upon final closing of Phase II of the project.

NEO Corporation — In August of 1995, we entered into a Marketing, Development and Joint Proposing Agreement, or the Marketing Agreement, with Cambrian Energy Development LLC, or Cambrian. Various claims had arisen in connection with this Marketing Agreement. In November 2003, we entered into a settlement agreement with Cambrian where we agreed to transfer our 100% interest in three gasco projects (NEO Ft. Smith, NEO Phoenix and NEO Woodville). During the third quarter of 2004, we completed the sale of four wholly–owned entities — NEO Nashville LLC, NEO Hackensack LLC, NEO Prima Deshecha LLC and NEO Tajiguas LLC, as well as the sale of several NEO investments — Four Hills LLC, Minnesota Methane II LLC, NEO Montauk Genco LLC and NEO Montauk Gasco LLC to Algonquin Power of Canada (see Note 7). Upon completion of the transaction, we received cash proceeds of $5.8 million, resulting in a $6.0 million gain associated with the four wholly–owned entities sold and received cash proceeds of $6.1 million resulting in a loss of approximately $3.8 million attributable to the equity investments sold. The sale of these equity investments do not qualify for reporting purposes as discontinued operations.

Killingholme — During third quarter 2002, we recorded an impairment charge of $477.9 million. In January 2003, we completed the sale of our interest in the Killingholme project to our lenders for a nominal value and forgiveness of outstanding debt with a carrying value of approximately $360.1 million at December 31, 2002. The sale of our interest in the Killingholme project and the release of debt obligations resulted in a gain on sale in the first quarter of 2003 of approximately $191.2 million. The gain results from the write–down of the project's assets in the third quarter of 2002 below the carrying value of the related debt.

NLGI — During 2002, we recorded an impairment charge of $12.4 million related to subsidiaries of NLGI, an indirect wholly–owned subsidiary of NRG Energy. The charge was related largely to asset impairments based on a revised project outlook. During the quarter ended March 31, 2003, we recorded impairment charges of $23.6 million related to subsidiaries of NLGI and a charge of $14.5 million to write off our 50% investment in Minnesota Methane, LLC. (See Note 7). Through April 30, 2003, NRG Energy and NLGI failed to make certain payments causing a default under NLGI's term loan agreements. In May 2003, the project lenders to the wholly–owned subsidiaries of NLGI and Minnesota Methane LLC foreclosed on our membership interest in the NLGI subsidiaries and our equity interest in Minnesota Methane LLC. There was no material gain or loss recognized as a result of the foreclosure.

TERI — During 2002, we recorded an impairment charge of $11.7 million based on a revised project outlook. In September 2003, we completed the sale of TERI, a biomass waste–fuel power plant located in Florida and a wood processing facility located in Georgia, to DG Telogia Power, LLC. The sale resulted in net proceeds of approximately $1.0 million. We entered into an agreement to sell the wood processing facility on

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behalf of DG Telogia Power, LLC. This sale was completed during fourth quarter 2003 and we received cash consideration of approximately $1.0 million, resulting in a net gain on sale of approximately $1.0 million.

Cahua and Energia Pacasmayo — In November 2003, we completed the sale of Cahua and Energia Pacasmayo resulting in net cash proceeds of approximately $16.2 million and a loss of $36.9 million. In addition, we received an additional consideration adjustment of approximately $0.7 million during 2004.

Crockett Cogeneration Project — In September 2002, we announced that we had reached an agreement to sell our 57.7% interest in the Crockett Cogeneration Project, a 240 MW natural gas fueled cogeneration plant near San Francisco, California, to Energy Investment Fund Group, an existing LP, and a unit of GE Capital. In November 2002, the sale closed and we realized net cash proceeds of approximately $52.1 million (net of cash transferred of $0.2 million) and a loss on disposal of approximately $11.5 million.

Bulo Bulo — In June 2002, we began negotiations to sell our 60% interest in Compania Electrica Central Bulo Bulo S.A. (Bulo Bulo), a Bolivian corporation. The transaction reached financial close in the fourth quarter of 2002 resulting in cash proceeds of $10.9 million (net of cash transferred of $8.6 million) and a loss of $10.6 million.

Csepel and Entrade — In September 2002, we announced that we had reached agreements to sell our Csepel power generating facilities (located in Budapest, Hungary) and our interest in Entrade (an electricity trading business headquartered in Prague) to Atel, an independent energy group headquartered in Switzerland. The sales of Csepel and Entrade closed before year-end 2002 and resulted in cash proceeds of $92.6 million (net of cash transferred of $44.1 million) and a gain of approximately $24.0 million.

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Note 7 —Write Downs and Losses on Sales of Equity Method Investments

Investments accounted for by the equity method are reviewed for impairment in accordance with APB Opinion No. 18. APB Opinion No. 18 requires that a loss in value of an investment that is other than a temporary decline should be recognized. Gains or losses are recognized on completion of the sale. Write downs and losses on sales of equity method investments recorded in other income/expense in the consolidated statement of operations includes the following:

		Reorganized NRG		Predecessor Company	
	Segment	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
		(In thousands)			
Commonwealth Atlantic Limited Partnership	Other North America	$ 4,614	$ —	$ —	$ —
James River Power LLC	Other North America	7,293	—	—	—
NEO Corporation	Alternative Energy	3,830	—	—	—
Calpine Cogeneration	Other North America	(735)	—	—	—
NLGI — Minnesota Methane	Alternative Energy	—	—	12,257	12,292
NLGI — MM Biogas	Alternative Energy	—	—	2,613	3,251
Kondapalli	Other International	—	—	(519)	12,751
ECKG	Other International	—	—	(2,871)	—
Loy Yang	Australia	1,268	—	146,354	111,383
Mustang	Other North America	—	—	(12,124)	—
Energy Development Limited (EDL)	Australia	—	—	—	14,220
Sabine River Works	Other North America	—	—	—	48,375
Kingston	Other International	—	—	—	(9,876)
Mt. Poso	West Coast	—	—	—	1,049
Powersmith	Other North America	—	—	—	3,441
Collinsville Power Station	Australia	—	—	—	3,586
Other		—	—	1,414	—
Total write downs and losses on sales of equity method investments		$ 16,270	$ —	$ 147,124	$ 200,472

Commonwealth Atlantic Limited Partnership (CALP) — In June 2004, we executed an agreement to sell our 50% interest in CALP. During the third quarter of 2004, we recorded an impairment charge of approximately $3.7 million to write down the value of our investment in CALP to its fair value. The sale closed in November 2004 resulting in net cash proceeds of $14.9 million. Total impairment charges as a result of the sale were $4.6 million.

James River Power LLC — In September 2004, we executed an agreement with Colonial Power Company LLC to sell all of our outstanding shares of stock in Capistrano Cogeneration Company, a wholly–owned subsidiary of NRG Energy which owns a 50% interest in James River Cogeneration Company. During the third quarter of 2004, we recorded an impairment charge of approximately $6.0 million to write down the value of our investment in James River to its fair value. During the fourth quarter of 2004, the sales agreement

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was terminated. We continue to impair any additional equity earnings based on its fair value. Total impairment charges for 2004 were $7.3 million.

NEO Corporation — On September 30, 2004, we completed the sale of several NEO investments — Four Hills LLC, Minnesota Methane II LLC, NEO Montauk Genco LLC and NEO Montauk Gasco LLC to Algonquin Power of Canada. The sale also included four wholly–owned NEO subsidiaries (see Note 6). We received cash proceeds of $6.1 million. The sale resulted in a loss of approximately $3.8 million attributable to the equity investment entities sold.

Calpine Cogeneration — In January 2004, we executed an agreement to sell our 20% interest in Calpine Cogeneration Corporation to Calpine Power Company. The transaction closed in March 2004 and resulted in net cash proceeds of $2.5 million and a net gain of $0.2 million. During the second quarter of 2004, we received additional consideration on the sale of $0.5 million, resulting in an adjusted net gain of $0.7 million.

NLGI — Minnesota Methane — We recorded an impairment charge of $12.3 million during 2002 to write–down our 50% investment in Minnesota Methane. We recorded an additional impairment charge of $14.5 million during the first quarter of 2003. These charges were related to a revised project outlook and management's belief that the decline in fair value was other than temporary. In May 2003, the project lenders to the wholly–owned subsidiaries of NEO Landfill Gas, Inc. and Minnesota Methane LLC foreclosed on our membership interest in the NEO Landfill Gas, Inc. subsidiaries and our equity interest in Minnesota Methane LLC. Upon completion of the foreclosure, we recorded a gain of $2.2 million resulting in a net impairment charge of $12.3 million. The gain upon completion of the foreclosure resulted from the release of certain obligations upon completion of the foreclosure.

NLGI — MM Biogas — We recorded an impairment charge of $3.2 million during 2002 to write–down our 50% investment in MM Biogas. This charge was related to a revised project outlook and management's belief that the decline in fair value was other than temporary. In November 2003, we entered into a sales agreement with Cambrian Energy Development to sell our 50% interest in MM Biogas. We recorded an additional impairment charge of $2.6 million during the fourth quarter of 2003 due to developments related to the sale that indicated an impairment of our book value that was considered to be other than temporary.

Kondapalli — In the fourth quarter of 2002, we wrote down our investment in Kondapalli by $12.7 million due to recent estimates of sales value, which indicated an impairment of our book value that was considered to be other than temporary. On January 30, 2003, we signed a sale agreement with the Genting Group of Malaysia, or Genting, to sell our 30% interest in Lanco Kondapalli Power Pvt Ltd, or Kondapalli, and a 74% interest in Eastern Generation Services (India) Pvt Ltd (the O&M company). Kondapalli is based in Hyderabad, Andhra Pradesh, India, and is the owner of a 368 MW natural gas fired combined cycle gas turbine. In the first quarter of 2003, we wrote down our investment in Kondapalli by $1.3 million based on the final sale agreement. The sale closed on May 30, 2003 resulting in net cash proceeds of approximately $24 million and a gain of approximately $1.8 million resulting in a net gain of $0.5 million. The gain resulted from incurring lower selling costs than estimated as part of the first quarter impairment.

ECKG — In September 2002, we announced that we had reached agreement to sell our 44.5% interest in the ECKG power station in connection with our Csepel power generating facilities, and our interest in Entrade, an electricity trading business, to Atel, an independent energy group headquartered in Switzerland. The transaction closed in January 2003 and resulted in cash proceeds of $65.3 million and a net loss of less than $1.0 million. In accordance with the purchase agreement, we were to receive additional consideration if Atel purchased shares held by our partner. During the second quarter of 2003, we received approximately $3.7 million of additional consideration resulting in a net gain of $2.9 million.

Loy Yang — Based on a third party market valuation and bids received in response to marketing Loy Yang for possible sale, we recorded a write down of our investment of approximately $111.4 million during 2002. This write–down reflected management's belief that the decline in fair value of the investment was other

than temporary. In May 2003, we entered into negotiations that culminated in the completion of a Share Purchase Agreement to sell 100% of the Loy Yang project. Consequently, we recorded an additional impairment charge of approximately $146.4 million during 2003. In April 2004 we completed the sale of Loy Yang which resulted in net cash proceeds of $26.7 million and a loss of $1.3 million.

Mustang Station — On July 7, 2003, we completed the sale of our 25% interest in Mustang Station, a gas-fired combined cycle power generating plant located in Denver City, Texas, to EIF Mustang Holdings I, LLC. The sale resulted in net cash proceeds of approximately $13.3 million and a net gain of approximately $12.1 million.

Energy Development Limited — On July 25, 2002, we announced that we completed the sale of our ownership interests in an Australian energy company, Energy Development Limited, or EDL. EDL is a listed Australian energy company engaged in the development and management of an international portfolio of projects with a particular focus on renewable and waste fuels. In October 2002, we received proceeds of AUD 78.5 million, or approximately $43.9 million (USD), in exchange for our ownership interest in EDL with the closing of the transaction. During the third quarter of 2002, we recorded an impairment charge of approximately $14.2 million to write down the carrying value of our equity investment due to the pending sale.

Sabine River — In September 2002, we agreed to transfer our indirect 50% interest in SRW Cogeneration LP, or SRW, to our partner in SRW, Conoco, Inc. in consideration for Conoco's agreement to terminate or assume all of our obligations, in relation to SRW. SRW owns a cogeneration facility in Orange County, Texas. We recorded a charge of approximately $48.4 million during the quarter ended September 30, 2002 to write down the carrying value of our investment due to the pending sale. The transaction closed on November 5, 2002.

Kingston — In December 2002, we completed the sale of our 25% interest in Kingston Cogeneration LP, based near Toronto, Canada to Northland Power Income Fund. We received net proceeds of $15.0 million resulting in a gain on sale of approximately $9.9 million.

Mt. Poso — In September 2002, we agreed to sell our 39.5% indirect partnership interest in the Mt. Poso Cogeneration Company, a California limited partnership, or Mt. Poso, for approximately $10 million to Red Hawk Energy, LLC. Mt. Poso owns a 49.5 MW coal-fired cogeneration power plant and thermally enhanced oil recovery facility located 20 miles north of Bakersfield, California. The sale closed in November 2002 resulting in a loss of approximately $1.0 million.

Powersmith — During the fourth quarter of 2002, we wrote down our investment in Powersmith in the amount of approximately $3.4 million due to recent developments, which indicated impairment of our book value that was considered to be other than temporary.

Collinsville Power Station — Based on third party market valuation and bids received in response to marketing the investment for possible sale, we recorded a write down of our investment of approximately $4.1 million during the second quarter of 2002. In August 2002, we announced that we had completed the sale of our 50% interest in the 192 MW Collinsville Power Station in Australia, to our partner, a subsidiary of Transfield Services Limited for AUD 8.6 million, or approximately $4.8 million (USD). Our ultimate loss on the sale of Collinsville Power Station was approximately $3.6 million.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 8 — Other Charges (Credits)

Other charges and credits included in operating expenses in the Consolidated Statement of Operations include the following:

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Corporate relocation charges	$ 16,167	$ —	$ —	$ —
Reorganization items	(13,390)	2,461	197,825	—
Impairment charges	44,661	—	228,896	2,451,745
Restructuring charges	—	—	8,679	111,315
Fresh Start adjustments	—	—	(4,118,636)	—
Legal settlement	—	—	462,631	—
Total	$ 47,438	$ 2,461	$ (3,220,605)	$ 2,563,060

Corporate Relocation Charges

On March 16, 2004, we announced plans to implement a new regional business strategy and structure. The new structure called for a reorganized leadership team and a corporate headquarters relocation to Princeton, New Jersey. The corporate headquarters staff were streamlined as part of the relocation, as functions were either reduced or shifted to the regions. As of December 31, 2004, the transition of our corporate headquarters is substantially complete.

For the year ended December 31, 2004, we recorded $16.2 million for charges related to our corporate relocation activities, primarily for employee severance and termination benefits and employee related transition costs. These charges are classified separately in our statement of operations, in accordance with SFAS No. 146, *"Accounting for Costs Associated with Exit or Disposal Activities"*. We expect to incur an additional $7.7 million of SFAS No. 146–classified expenses in connection with corporate relocation charges for a total of $23.9 million. Of this total, relocating, recruiting and other employee–related transition costs are expected to be approximately $11.9 million and have been and will continue to be expensed as incurred. These costs and cash payments are expected to be incurred through the second quarter of 2005. Severance and termination benefits of $7.2 million are expected to be incurred through the second quarter of 2005 with cash payments being made through the fourth quarter of 2005. Building lease termination costs are expected to be $4.8 million. These costs are expected to be incurred through the first quarter of 2005 with cash payments being made through the fourth quarter of 2006.

A summary of the significant components of the restructuring liability is as follows:

	Balance at December 31, 2003	Relocation Related Charges	Cash Payments	Balance at December 31, 2004
	(In thousands)			
Employee related transition costs	$ —	$ 8,595	$ (10,020)	$ (1,425)
Severance and termination benefits	—	6,505	(2,316)	4,189
Lease termination costs	—	1,067	(271)	796
Total	$ —	$ 16,167	$ (12,607)	$ 3,560

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

As of December 31, 2004, the net restructuring liability was $3.6 million, the majority of which is included in other current liabilities on the consolidated balance sheet. Charges related to the employee related transition costs, severance and termination benefits and lease termination costs are recorded at our corporate level within our All Other — Other segment, in the corporate relocation charges line on the consolidated statement of operations.

Reorganization Items

For the year ended December 31, 2004, we recorded a net credit of $13.4 million related primarily to the settlement of obligations recorded under Fresh Start. For the periods December 6, 2003 to December 31, 2003 and January 1, 2003 to December 5, 2003, we incurred $2.5 million and $197.8 million, respectively, in reorganization costs. All reorganization costs have been incurred since we filed for bankruptcy in May 2003. The following table provides the detail of the types of costs incurred. There were no reorganization items in 2002.

	Reorganized NRG		Predecessor Company
	Year Ended December 31, 2004	For the period December 6 – December 31, 2003	For the period January 1 – December 5, 2003
		(In thousands)	
Reorganization items			
Professional fees	$ 7,383	$2,461	$ 82,186
Deferred financing costs	—	—	55,374
Pre-payment settlement	—	—	19,609
Interest earned on accumulated cash	—	—	(1,059)
Contingent equity obligation	—	—	41,715
Settlement of obligations and other gains	(20,773)	—	—
Total reorganization items	$(13,390)	$2,461	$197,825

Impairment Charges

We review the recoverability of our long-lived assets in accordance with the guidelines of SFAS No. 144. As a result of this review, we recorded impairment charges of $44.7 million, $228.9 million and $2.5 billion, for the year ended December 31, 2004, the period January 1, 2003 through December 5, 2003 and for the year ended December 31, 2002, respectively, as shown in the table below.

To determine whether an asset was impaired, we compared asset-carrying values to total future estimated undiscounted cash flows. If an asset was determined to be impaired based on the cash flow testing performed, an impairment loss was recorded to write down the asset to its fair value.

Impairment charges (credits) included the following asset impairments (realized gains) for the year ended December 31, 2004, the period January 1, 2003 to December 5, 2003 and for the year ended December 31, 2002. There were no impairment charges for the period December 6, 2003 to December 31, 2003.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Project Name	Project Status	Reorganized NRG — Year Ended December 31, 2004	Predecessor Company — For the Period January 1 – December 5, 2003	Predecessor Company — Year Ended December 31, 2002	Fair Value Basis
			(In thousands)		
Louisiana Generating LLC	Office building and land being marketed	$ 493	$ —	$ —	Estimated market price
New Roads Holding LLC (turbine)	Non-operating asset — abandoned	2,416	—	—	Projected cash flows
Devon Power LLC	Operating at a loss in 2003	247	64,198	—	Projected cash flows
Middletown Power LLC	Operating at a loss	—	157,323	—	Projected cash flows
Arthur Kill Power, LLC	Terminated construction project	—	9,049	—	Projected cash flows
Langage (UK)	Terminated	—	(3,091)	42,333	Estimated market price/Realized gain
Turbines	Sold	—	(21,910)	—	Realized gain
Berrians Project	Terminated	—	14,310	—	Realized loss
TermoRio	Terminated	—	6,400	—	Realized loss
Nelson	Sold	—	—	467,523	Similar asset prices
Pike	Terminated	—	—	402,355	Similar asset prices
Bourbonnais	Terminated	—	—	264,640	Similar asset prices
Meriden (turbine only)	Pending sale	15,000	—	144,431	Similar asset prices
Brazos Valley	Foreclosure completed in 2003	—	—	102,900	Projected cash flows
Kendall	Sold	26,505	—	55,300	Realized loss
Turbines & equipment	Equipment being marketed	—	—	701,573	Similar asset prices
Audrain	Operating at a loss	—	—	66,022	Projected cash flows
Somerset	Operating at a loss	—	—	49,289	Projected cash flows
Bayou Cove	Operating at a loss	—	—	126,528	Projected cash flows
Other		—	2,617	28,851	
Total impairment charges		$44,661	$228,896	$2,451,745	

Louisiana Generating LLC — In January 2004, we closed the South Central regional office in Baton Rouge, Louisiana and offered it for sale. During the fourth quarter of 2004, we recorded a charge of $0.5 million related to the impairment to net realizable value based on two offers received. Louisiana Generating is included in our South Central segment.

New Roads Holding LLC — During the second quarter of 2004, we reviewed the recoverability of our New Roads assets pursuant to SFAS No. 144 and recorded a charge of approximately $1.7 million related to the impairment to realizable value of a turbine acquired in March 2000 from Cajun Electric. During the third quarter of 2004, we recorded an additional charge of $0.7 million to write the turbine's value down to its scrap value. New Roads Holding is included in our South Central segment.

Connecticut Facilities (Devon Power LLC and Middletown Power LLC) — As a result of regulatory developments and changing circumstances in the second quarter of 2003, we updated the facilities' cash flow models to incorporate changes to reflect the impact of the April 25, 2003 FERC's orders on regional and locational pricing, and to update the estimated impact of future locational capacity or deliverability requirements. Based on these revised cash flow models, management determined that the new estimates of pricing and cost recovery levels were not projected to return sufficient revenue to cover the fixed costs at Devon Power LLC and Middletown Power LLC. As a consequence, during the second quarter of 2003 we recorded $64.2 million and $157.3 million as impairment charges for Devon Power LLC and Middletown

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Power LLC, respectively. In the third quarter of 2004, ISO–NE informed the Company that it would not extend the RMR contract for Devon units 7 and 8. As a result, both units have been placed on deactivated reserve and we recorded an additional impairment charge of $0.2 million for Devon Power LLC. Devon Power and Middletown Power are included in our Northeast segment.

Arthur Kill Power, LLC — During the third quarter of 2003, we cancelled our plans to re–establish fuel oil capacity at our Arthur Kill plant. This resulted in a charge of approximately $9.0 million to write–off assets under development. Arthur Kill Power is included in our Northeast segment.

Langage (UK) — During the third quarter of 2002, we reviewed the recoverability of our Langage assets pursuant to SFAS No. 144 and recorded a charge of $42.3 million. In August 2003 we closed on the sale of Langage to Carlton Power Limited resulting in net cash proceeds of approximately $1.5 million, of which $1.0 million was received in 2003 and $0.5 million was received during the first quarter of 2004, and a net gain of approximately $3.1 million. Langage is included in our All Other segment under the Other International category.

Turbines — In October 2003, we closed on the sale of three turbines and related equipment. The sale resulted in net cash proceeds of $70.7 million and a gain of approximately $21.9 million. Turbines are included in our All Other segment under the Other category.

Berrians Project — During the fourth quarter of 2003, we cancelled plans to construct the Berrians peaking facility on the land adjacent to our Astoria facility. Berrians was originally scheduled to commence operations in the summer of 2005; however, based on the remaining costs to complete and the current risk profile of merchant peaking units, the construction project was terminated. This resulted in a charge of approximately $14.3 million to write off the project's assets. Berrians is included in our Other North America segment.

TermoRio — TermoRio was a green field cogeneration project located in the state of Rio de Janeiro, Brazil. Based on the project's failure to meet certain key milestones, we exercised our rights under the project agreements to sell our debt and equity interests in the project to our partner, Petroleo Brasileiro S.A. Petrobras, or Petrobras. On May 17, 2002, Petrobras commenced an arbitration. On March 8, 2003, the arbitral tribunal decided most, but not all, of the issues in our favor and awarded us approximately US $80 million. On June 4, 2004, NRG Energy commenced a lawsuit in U.S. District Court for the Southern District of New York, seeking to enforce the arbitration award. On February 16, 2005, a conditional settlement agreement was signed with our former partner Petrobras, whereby Petrobras is obligated to pay us US $70.8 million. Such payment was received by us at a closing held on February 25, 2005. We have a note receivable of $57.3 million related to the arbitration award. The amounts received in excess of $57.3 million will be recorded to earnings in the first quarter of 2005. In addition to the settlement above, we retain the right to continue to seek recovery of US $12.3 million in a related dispute with a third party in Brazil. TermoRio is included in our All Other segment under the Other International category.

Meriden — During the third quarter of 2004, we reviewed the recoverability of our Meriden assets pursuant to SFAS No. 144 and recorded a charge of $15.0 million related to the impairment to realizable value of a turbine. An agreement for the sale of equipment previously located at the Meriden site has been executed and we expect to complete the sale in the first quarter of 2005. Meriden is included in our All Other segment under the Other category.

Kendall — In September 2004, we executed an agreement to sell our 1,160 MW generating plant in Minooka, Illinois to an affiliate of LS Power Associates, L.P and recorded a charge of approximately $24.5 million related to the impairment to realizable value. Under the terms of the agreement, we have the right to acquire a 40% interest in the plant within a 10–year period for a nominal amount. Therefore, the transaction was treated as a partial sale for accounting purposes. In December 2004 we completed the sale and

received net proceeds of $1.0 million, resulting in a loss on sale of $2.0 million and a total loss of $26.5 million. Kendall is included in our Other North America segment.

Credit rating downgrades, defaults under certain credit agreements, increased collateral requirements and reduced liquidity experienced during the third quarter of 2002 were "triggering events" which required us to review the recoverability of our long-lived assets. Adverse economic conditions resulted in declining energy prices. Consequently, we determined that many of our construction projects and operational projects were impaired during the third quarter of 2002 and should be written down to fair market value. We recorded total impairment charges of $2.5 billion for the year ended December 31, 2002.

Restructuring Charges

We incurred $8.7 million of employee separation costs and advisor fees during 2003 until we filed for bankruptcy in May 2003. Subsequent to that date we recorded all advisor fees as reorganization costs. We incurred total restructuring charges of approximately $111.3 million for the year ended December 31, 2002 consisting of employee separation costs and advisor fees.

Fresh Start Adjustments

During the fourth quarter of 2003, we recorded a net credit of $3.9 billion (comprised of a $4.1 billion gain from continuing operations and a $0.2 billion loss from discontinued operations) in connection with fresh start adjustments as discussed in Note 3.

Following is a summary of the significant effects of the reorganization and Fresh Start:

	(In millions)
Discharge of corporate level debt	$ 5,162
Discharge of other liabilities	811
Establishment of creditor pool	(1,040)
Receivable from Xcel	640
Revaluation of fixed assets	(1,392)
Revaluation of equity investments	(207)
Valuation of SO_2 emission credits	374
Valuation of out of market contracts, net	(400)
Fair market valuation of debt	108
Valuation of pension liabilities	(61)
Other valuation adjustments	(100)
Total Fresh Start adjustments	3,895
Less discontinued operations	(224)
Total Fresh Start adjustments — continuing operations	$ 4,119

Legal Settlement Charges

During the period January 1, 2003 to December 5, 2003, we recorded $462.6 million of legal settlement charges which consisted of the following. We recorded $396.0 million in connection with the resolution of an arbitration claim asserted by FirstEnergy Corp. As a result of this resolution, FirstEnergy retained ownership of the Lake Plant Assets and received an allowed general unsecured claim of $396.0 million under NRG Energy's Plan of Reorganization. In November 2003, we settled litigation with Fortistar Capital in which Fortistar Capital released us from all litigation claims in exchange for a $60.0 million pre-petition

bankruptcy claim and an $8.0 million post-petition bankruptcy claim. We had previously recorded $10.8 million in connection with various legal disputes with Fortistar Capital; accordingly, we recorded an additional $57.2 million during November 2003. In November 2003, we settled our dispute with Dick Corporation in connection with Meriden Gas Turbines LLC through the payment of a general unsecured claim and a post-petition pre-confirmation payment. This settlement resulted in our recording an additional liability of $8.0 million in November 2003.

In August 1995, we entered into a Marketing, Development and Joint Proposing Agreement, or the Marketing Agreement, with Cambrian Energy Development LLC, or Cambrian. Various claims arose in connection with the Marketing Agreement. In November 2003, we entered into a settlement agreement with Cambrian where we agreed to transfer our 100% interest in three gasco projects (NEO Ft. Smith, NEO Phoenix and NEO Woodville) and our 50% interest in two genco projects (MM Phoenix and MM Woodville) to Cambrian. In addition, we paid approximately $1.8 million in settlement of royalties incurred in connection with the Marketing Agreement. We had previously recorded a liability for royalties owed to Cambrian, therefore, we recorded an additional $1.4 million during November 2003.

Note 9 —Asset Retirement Obligation

Effective January 1, 2003, we adopted SFAS No. 143, *"Accounting for Asset Retirement Obligations"* or SFAS No. 143. SFAS No. 143 requires an entity to recognize the fair value of a liability for an asset retirement obligation in the period in which it is incurred. Upon initial recognition of a liability for an asset retirement obligation, an entity shall capitalize an asset retirement cost by increasing the carrying amount of the related long-lived asset by the same amount as the liability. Over time, the liability is accreted to its present value each period, and the capitalized cost is depreciated over the useful life of the related asset. Retirement obligations associated with long-lived assets included within the scope of SFAS No. 143 are those for which a legal obligation exists under enacted laws, statutes and written or oral contracts, including obligations arising under the doctrine of promissory estoppel.

We identified certain retirement obligations within our power generation operations in the Northeast region, the South Central region and Australia. We also identified retirement obligations within our All Other segment under the Alternative Energy category and the Non-Generation category. These asset retirement obligations are related primarily to the future dismantlement of equipment on leased property and environment obligations related to ash disposal site closures and fuel storage facilities. We also identified other asset retirement obligations including plant dismantlement that could not be calculated because the assets associated with the retirement obligations were determined to have an indeterminate life. The adoption of SFAS No. 143 resulted in recording a $2.6 million increase to property, plant and equipment and a $4.2 million increase to other long-term obligations. The cumulative effect of adopting SFAS No. 143 was recorded as a $0.6 million increase to depreciation expense and a $1.6 million increase to cost of majority-owned operations in the period from January 1, 2003 to December 5, 2003 as we considered the cumulative effect to be immaterial.

The following represents the balances of the asset retirement obligation as of January 1, 2003 and the additions and accretion of the asset retirement obligation for the period January 1, 2003 through December 5, 2003, the period of December 6, 2003 through December 31, 2003 and the year ended December 31, 2004. The asset retirement obligation is included in other long-term obligations in the consolidated balance sheet. Prior to December 5, 2003, we completed our annual review of asset retirement obligations. As part of that review we made revisions to our previously recorded obligation in the amount of $4.0 million. The revisions included identification of new obligations as well as changes in costs required at retirement date. As a result of adopting Fresh Start we revalued our asset retirement obligations on December 6, 2003. We recorded an additional asset retirement obligation of $7.3 million in connection with fresh start reporting. This amount

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results from a change in the discount rate used between adoption and fresh start reporting as of December 5, 2003, equal to 500 to 600 basis points.

	Reorganized NRG					
	Beginning Balance December 6, 2003	Accretion for Period December 6 – December 31, 2003	Ending Balance December 31, 2003	Additions for Year Ended December 31, 2004	Accretion for Year Ended December 31, 2004	Ending Balance December 31, 2004
	(In thousands)					
Northeast Region	$11,691	$ 59	$11,750	$ 660	$ 810	$13,220
South Central Region	2,623	15	2,638	—	184	2,822
Australia	9,116	322	9,438	2,854	1,683	13,975
Alternative Energy	830	5	835	—	58	893
Non–generation	1,326	7	1,333	—	93	1,426
Total asset retirement obligation	$25,586	$408	$25,994	$3,514	$2,828	$32,336

	Predecessor Company				
Description	Beginning Balance January 1, 2003	Revisions to Estimate	Accretion for Period Ended December 5, 2003	Adjustment for Fresh Start Reporting	Ending Balance December 5, 2003
	(In thousands)				
Northeast Region	$ 2,045	$4,034	$ 634	$4,978	$11,691
South Central Region	396	—	57	2,170	2,623
Australia	5,834	—	3,282	—	9,116
Alternative Energy	629	—	73	128	830
Non–generation	1,171	9	93	53	1,326
Total asset retirement obligation	$10,075	$4,043	$4,139	$7,329	$25,586

The following represents the pro–forma effect on our net income for the period January 1, 2003 to December 5, 2003 and for the year ended December 31, 2002, as if we had adopted SFAS No. 143 as of January 1, 2002:

	Predecessor Company	
	For the Period January 1– December 5, 2003	Year Ended December 31, 2002
	(In thousands)	
Income (loss) from continuing operations as reported	$2,949,078	$(2,788,452)
Pro–forma adjustment to reflect retroactive adoption of SFAS No. 143	2,154	(677)
Pro–forma income (loss) from continuing operations	$2,951,232	$(2,789,129)
Net income (loss) as reported	$2,766,445	$(3,464,282)
Pro–forma adjustment to reflect retroactive adoption of SFAS No. 143	2,154	(677)
Pro–forma net income (loss)	$2,768,599	$(3,464,959)

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Note 10 —Inventory

Inventory, which is stated at the lower of weighted average cost or market, consists of:

	Reorganized NRG	
	December 31, 2004	December 31, 2003
	(In thousands)	
Fuel oil	$114,092	$75,272
Coal	74,646	59,555
Natural gas	392	856
Other fuels	106	75
Spare parts	54,113	54,522
Emission credits	4,218	4,478
Other	443	168
Total inventory	$248,010	$194,926

Note 11 —Notes Receivable and Other Investments

Notes receivable consist primarily of fixed and variable rate notes secured by equity interests in partnerships and joint ventures.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The notes receivable and other investments are as follows:

	Reorganized NRG	
	December 31, 2004	December 31, 2003
	(In thousands)	
Investment in Bonds		
Audrain County, due December 2023, 10%(1)	$239,930	$239,930
Notes Receivable		
O'Brien Cogen II, due 2008, non–interest bearing	—	692
Omega Energy, LLC, due 2004, 12.5%	3,744	3,708
Omega Energy II, LLC, due 2009, 11%	1,583	1,583
Bullock Development Corporation, due November 2005, 8.5%	73	84
Elk River — GRE, due December 31, 2008, non–interest bearing	1,278	1,564
Dakota Wood Grinding	24	134
Audrain Generating LLC	—	118
Termo Rio (via NRGenerating Luxembourg (No. 2) S.a.r.l), 8.0%	57,323	57,323
Other		
Saale Energie GmbH, due August 31, 2021, 13.88% (direct financing lease)(2)	461,762	451,449
Notes receivable and bonds — non–affiliates	765,717	756,585
Reserve for uncollectible notes receivable	(3,794)	—
Notes receivable, net	761,923	756,585
NEO notes to various affiliates due primarily 2012, prime +2%	4,000	9,419
NRG (LSP Nelson)	—	200
Saale Energie GmbH, indefinite maturity date, 4.75%–7.79%(3)	119,644	111,892
Northbrook Texas LLC, due February 2024, 9.25%	8,804	8,841
Notes receivable — affiliates	132,448	130,352
Reserve for uncollectible notes receivable	(4,402)	—
Notes receivable — affiliates, net	128,046	130,352
Subtotal	889,969	886,937
Less current maturities	85,447	65,341
Total	$804,522	$821,596

(1) Investment in bonds is comprised of marketable debt securities. These securities consist of municipal bonds of Audrain County, Missouri which mature in 2023. These investments in bonds are classified as held to maturity and are recorded at amortized cost. The carrying value of these bonds approximates fair value. The Audrain County bonds are pledged as collateral for the related debt owed to Audrain County. As further described in Note 18, this transaction has an offsetting obligation.

(2) Saale Energie GmbH has sold 100% of its share of energy from the Schkopau power plant under a 25–year contract, which is more than 83% of the useful life of the plant. The direct financing lease receivable amount was calculated based on the present value of the income to be received over the life of the contract.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

(3) Saale Energie GmbH entered into a note receivable with Kraftwerke Schkopau GBR, a partnership between Saale Energie GmbH and E.On Kraftwerke GmbH. The note was used to fund Saale's initial capital contribution to the partnership and to cover project liquidity shortfalls during construction of a power plant. The note is subject to repayment upon the disposition of the Schkopau plant.

Note 12 — Property, Plant and Equipment

The major classes of property, plant and equipment were as follows:

	Depreciable Lives	Reorganized NRG December 31, 2004	Reorganized NRG December 31, 2003	Average Remaining Useful Life
		(In thousands)		
Facilities and equipment	1–42 Years	$3,414,189	$3,732,391	15
Land and improvements		129,716	134,888	
Office furnishings and equipment	2–10 Years	20,753	18,186	3
Construction in progress		17,429	139,171	
Total property, plant and equipment		3,582,087	4,024,636	
Accumulated depreciation		(207,536)	(11,800)	
Net property, plant and equipment		$3,374,551	$4,012,836	

Note 13 — Investments Accounted for by the Equity Method

We have investments in various international and domestic energy projects. The equity method of accounting is applied to such investments in affiliates, which include joint ventures and partnerships, because the ownership structure prevents us from exercising a controlling influence over operating and financial policies of the projects. Under this method, equity in pretax income or losses of domestic partnerships and, generally, in the net income or losses of international projects, are reflected as equity in earnings of unconsolidated affiliates.

A summary of certain of our more significant equity–method investments, which were in operation at December 31, 2004, is as follows:

Name	Geographic Area	Economic Interest
West Coast Power	USA	50%
James River	USA	50%
NRG Saguaro LLC	USA	50%
Rocky Road Power	USA	50%
Gladstone Power Station	Australia	37.5%
MIBRAG GmbH	Germany	50%
Enfield	UK	25%
Central and Eastern European Energy Power Fund	Various	22.2%
Scudder LA Power Fund I	Latin America	25%

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During 2004, we sold our equity investments in Commonwealth Atlantic Limited Partnership, four NEO investments (Four Hills LLC, Minnesota Methane II LLC, NEO Montauk Genco LLC and NEO Montauk Gasco LLC), Calpine Cogeneration, Loy Yang, Kondapalli, and ECKG. Summarized financial information for investments in unconsolidated affiliates accounted for under the equity method is as follows:

	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Operating revenues	$2,427,760	$ 268,348	$2,212,280	$2,394,256
Costs and expenses	1,965,915	202,725	2,035,812	2,284,582
Net income	$ 461,845	$ 65,623	$ 176,468	$ 109,674
Current assets	$ 844,821	$ 829,525	$ 783,669	$1,069,239
Noncurrent assets	2,902,798	6,541,003	6,452,014	6,853,250
Total assets	$3,747,619	$7,370,528	$7,235,683	$7,922,489
Current liabilities	$ 205,459	$1,275,724	$1,215,827	$1,075,785
Noncurrent liabilities	1,739,968	3,592,342	3,528,600	3,861,285
Equity	1,802,192	2,502,462	2,491,256	2,985,419
Total liabilities and equity	$3,747,619	$7,370,528	$7,235,683	$7,922,489
NRG's share of equity	$ 808,883	$1,051,959	$1,079,336	$1,171,726
NRG's share of net income	$ 159,825	$ 13,521	$ 170,901	$ 68,996

We have ownership interests in two companies that were considered significant as defined by applicable SEC regulations as of December 31, 2004: West Coast Power LLC and Enfield Energy Centre Limited. We account for our investments using the equity method. Our carrying value of equity investments is impacted by impairments, unrealized gains and losses on derivatives and movements in foreign currency exchange rates as well as other adjustments.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

West Coast Power LLC Summarized Financial Information

We have a 50% interest in West Coast Power LLC. Upon adoption of Fresh Start we adjusted our investment in West Coast Power to fair value as of December 6, 2003. In accordance with APB Opinion 18, we have reconciled the value of our investment as of December 6, 2003 to our share of West Coast Powers partner's equity. As a result of pushing down the impact of Fresh Start to the project's balance sheet, we determined that a contract based intangible asset with a one year remaining life, consisting of the value of West Coast Power's CDWR energy sales contract, must be established and recognized as a basis adjustment to our share of the future earnings generated by West Coast Power. This adjustment reduced our equity earnings in the amount of $115.8 million for the year ended December 31, 2004 until the contract expired in December 2004. Offsetting this reduction in earnings is a favorable adjustment to reflect a lower depreciation expense resulting from the corresponding reduced value of the project's fixed assets from Fresh Start reporting. During the year ended December 31, 2004 we recorded equity earnings of $68.9 million for West Coast Power after adjustments for the reversal of $31.7 million project-level depreciation expense, offset by a decrease in earnings related to $115.8 million amortization of the intangible asset for the CDWR contract. During the period December 6, 2003 through December 31, 2003 we recorded equity earnings of $9.4 million for West Coast Power after adjustments for the reversal of $2.6 million project-level depreciation expense, offset by a decrease in earnings related to $8.8 million amortization of the intangible asset for the CDWR contract. The following table summarizes financial information for West Coast Power LLC, including interests owned by us and other parties for the periods shown below:

Results of Operations

	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Operating revenues	$1,334	$ 53	$643	$585
Operating income	304	31	201	48
Net income (pre-tax)	306	31	202	34

Financial Position

	December 31, 2004	December 31, 2003
	(In thousands)	
Current assets	$430	$257
Other assets	394	454
Total assets	$824	$711
Current liabilities	$ 83	$ 55
Other liabilities	5	8
Equity	736	648
Total liabilities and equity	$824	$711

Enfield Energy Centre Limited

We own a 25% interest in Enfield Energy Centre Limited, or EECL, located in Enfield, North London, UK. EECL owns and operates a 396 MW, natural gas-fired combined cycle gas turbine power station. EECL sells electricity generated from the plant in North London and the gas generated from the plant under a long-

term gas supply contract. Enfield has a long–term agreement that effectively fixes the purchase price of its gas supply. The purpose of the contract, which was executed in August 1997 and extends through October 2014, is to mitigate the risk associated with fluctuations in the price of gas utilized in the generation of electricity at our facility. This contract is considered a derivative as defined by SFAS No. 133, and is afforded mark–to–market accounting treatment. We are subject to volatility in earnings associated with fluctuations in the market price of gas. Enfield has the ability to consume the gas for generation, and therefore our risk of loss associated with the contract is minimal. Given an increase in the price of natural gas in the UK market during the course of 2004, we recorded gains of $23.3 million associated with the value of this contract.

Note 14 —Decommissioning Funds

We are required by the Louisiana Department of Environmental Quality, or LADEQ, to rehabilitate our Big Cajun II ash and wastewater impoundment areas, subsequent to the Big Cajun II facilities' removal from service. On July 1, 1989, a guarantor trust fund, or the Solid Waste Disposal Trust Fund, was established to accumulate the estimated funds necessary for such purpose. Approximately $1.1 million was initially deposited in the Solid Waste Disposal Trust Fund in 1989, and $116,000 has been funded annually thereafter, based upon an estimated future rehabilitation cost (in 1989 dollars) of approximately $3.5 million and the remaining estimated useful life of the Big Cajun II facilities. At December 31, 2004 and 2003, the carrying value of the trust fund investments was approximately $5.0 million and $4.8 million, respectively. The trust fund investments are comprised of various debt securities of the United States and are carried at amortized cost, which approximates their fair value. The amounts required to be deposited in this trust fund are separate from our calculation of the asset retirement obligation recorded for the Big Cajun II ash and wastewater impoundment areas discussed in Note 9.

Note 15 — Intangible Assets

Reorganized NRG

Upon the adoption of Fresh Start, we established certain intangible assets for power sales agreements and plant emission allowances. These intangible assets will be amortized over their respective lives based on a straight–line or units of production basis to resemble our realization of such assets.

Power sale agreements are amortized as a reduction to revenue over the terms and conditions of each contract. The weighted average remaining amortization period is two years for the power sale agreements. Emission allowances are amortized as additional fuel expense based upon the actual level of emissions from the respective plants through 2023. Aggregate amortization recognized for the year ended December 31, 2004 and the period December 6, 2003 to December 31, 2003 was approximately $49.8 million and $5.2 million, respectively. The annual aggregate amortization for each of the five succeeding years, starting with 2005, is expected to approximate $22.6 million in 2005, $16.5 million in 2006, $15.9 million in 2007, $10.5 million in 2008 and $10.0 million in 2009 for both the power sale agreements and emission allowances. The expected annual amortization of these amounts is expected to change as we relieve our tax valuation allowance, as explained below.

For the year ended December 31, 2004, we reduced our deferred tax valuation allowance by $64.3 million (see Note 24) and recorded a corresponding reduction of $55.5 million related to our intangible assets at our wholly–owned subsidiaries. The remaining $8.8 million was recorded as a reduction to our intangible asset related to our equity investments in West Coast Power (see Note 13). In accordance with SOP 90–7, any future income tax benefits realized from reducing the valuation allowance should first reduce intangible assets until exhausted, and thereafter be recorded as a direct addition to paid–in capital. Intangible assets were also reduced by $32.7 million consisting of a $10.4 million reduction in connection with the recognition of certain tax credits to be claimed on our New York state franchise tax return and $22.3 million of adjustments related

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

to a true-up of certain other tax evaluations and the recognition of Itiquira Energetica S.A. preferred stock as debt for U.S. generally accepted accounting purposes.

Intangible assets consisted of the following:

	Power Sale Agreements	Emission Allowances	Total
		(In thousands)	
Original balance as of December 6, 2003	$ 64,055	$373,518	$437,573
Amortization	(5,212)	—	(5,212)
Balance as of December 31, 2003	58,843	373,518	432,361
Tax valuation adjustments	(5,308)	(50,180)	(55,488)
Other valuation adjustments	(1,521)	(31,204)	(32,725)
Amortization	(31,969)	(17,829)	(49,798)
Balance as of December 31, 2004	$ 20,045	$274,305	$294,350

Predecessor Company

We had intangible assets that were amortized and consisted of service contracts. Aggregate amortization expense for the period January 1, 2003 to December 5, 2003 and for the year ended December 31, 2002 was approximately $3.8 million and $2.7 million, respectively.

Note 16 —Accounting for Derivative Instruments and Hedging Activities

SFAS No. 133 *"Accounting for Derivative Instruments and Hedging Activities"* as amended by SFAS No. 137, SFAS No. 138 and SFAS No. 149 requires us to recognize all derivative instruments on the balance sheet as either assets or liabilities and measure them at fair value each reporting period. If certain conditions are met, we may be able to designate our derivatives as cash flow hedges and defer the effective portion of the change in fair value of the derivatives in Accumulated Other Comprehensive Income (OCI) and subsequently recognize in earnings when the hedged items impact income. The ineffective portion of a cash flow hedge is immediately recognized in income.

For derivatives designated as hedges of the fair value of assets or liabilities, the changes in fair value of both the derivatives and the hedged items are recorded in current earnings. The ineffective portion of a hedging derivative instrument's change in fair values will be immediately recognized in earnings.

For derivatives that are neither designated as cash flow hedges or do not qualify for hedge accounting treatment, the changes in the fair value will be immediately recognized in earnings.

Under the guidelines established by SFAS No. 133, as amended, certain derivative instruments may qualify for the normal purchase and sale exception and are therefore exempt from fair value accounting treatment.

SFAS No. 133 applies to our energy related commodity contracts, interest rate swaps and foreign exchange contracts discussed in further detail below.

Derivative Financial Instruments

Energy Related Commodities

As part of our risk management activities, we manage the commodity price risk associated with our competitive supply activities and the price risk associated with power sales from our electric generation

facilities. In doing so, we may enter into a variety of derivative and non-derivative instruments, including but not limited to the following:

- Forward contracts, which commit us to purchase or sell energy commodities in the future.
- Futures contracts, which are exchange-traded standardized commitments to purchase or sell a commodity or financial instrument.
- Swap agreements, which require payments to or from counter-parties based upon the differential between two prices for a predetermined contractual (notional) quantity.
- Option contracts, which convey the right to buy or sell a commodity, financial instrument, or index at a predetermined price.

The objectives for entering into such hedges include:

- Fixing the price for a portion of anticipated future electricity sales at a level that provides an acceptable return on our electric generation operations.
- Fixing the price of a portion of anticipated fuel purchases for the operation of our power plants.
- Fixing the price of a portion of anticipated energy purchases to supply our load-serving customers.

At December 31, 2004 we had hedge and non-hedge energy related commodities financial instruments extending through March 2025. Our energy related contracts that are components of our derivative assets and liabilities as of December 31, 2004 are as follows:

- Electric forward and futures contracts sales of electricity economically hedging our generation assets forecasted output through 2006.
- Natural gas forward and futures contracts purchases of natural gas relating to the forecasted usage of our generation assets into 2005.

Also, at December 31, 2004 we had other energy related contracts that did not qualify as derivatives under the guidelines established by SFAS No. 133, or we elected to apply the normal purchase and sale exception as follows:

- Coal purchase contracts extending through 2007 (designated as normal purchases and disclosed as part of our contractual cash obligations. See Note 27 Commitments and Contingencies).
- Natural gas transportation and storage agreements (these contracts are not derivatives and are disclosed as part of our contractual cash obligations. See Note 27 Commitments and Contingencies).
- Load-following forward electric sales contracts extending through 2025 (these contracts are not considered derivatives).

No ineffectiveness was recognized on commodity cash flow hedges during the year ended December 31, 2004, the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003, or during the year ended December 31, 2002.

Our pre-tax earnings for the year ended December 31, 2004, the period December 6, 2003 through December 31, 2003, the period January 1, 2003 through December 5, 2003, and the year ended December 31, 2002 were affected by an unrealized gain of $80.8 million, an unrealized loss of $0.7 million, an unrealized gain of $53.7 million and a unrealized gain of $20.0 million, respectively, associated with changes in the fair value of energy related derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

During the year ended December 31, 2004, we reclassified losses of $3.2 million from OCI to current period earnings. During the period December 6, 2003 through December 31, 2003 no gains or losses were

reclassified from OCI to current–period earnings. Our plan of reorganization became effective December 5, 2003 and, accordingly, we made adjustments for Fresh Start in accordance with SOP 90–7. These Fresh Start adjustments resulted in a write–off of net gains recorded in OCI of $61.0 million on energy related derivative instruments accounted for as hedges. During the period January 1, 2003 through December 5, 2003, we reclassified gains of $112.5 million from OCI to current period earnings. During the year ended December 31, 2002, we reclassified gains of $83.7 million from OCI to current–period earnings. We expect to reclassify an additional $3.9 million of deferred gains to earnings during the next twelve months on energy related derivative instruments accounted for as hedges.

Interest Rates

We are exposed to changes in interest rates through our issuance of variable rate and fixed rate debt. In order to manage this interest rate risk, we have entered into interest–rate swap agreements. At December 31, 2004 our consolidating subsidiaries had various interest–rate swap agreements extending through June 2019 with combined notional amounts of $1.3 billion. If these swaps had been terminated at December 31, 2004 we would have owed the counter–parties $35.6 million.

At December 31, 2004 all of our interest rate swap arrangements have been designated as either cash flow or fair value hedges.

No ineffectiveness was recognized on interest rate swaps that qualify as hedges during the year ended December 31, 2004, the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003 and the year ended December 31, 2002.

Our pre–tax earnings for the year ended December 31, 2004 were increased by an unrealized gain of $0.4 million associated with changes in the fair value of interest rate derivative instruments not accounted for as hedges in accordance with SFAS No. 133. One of these instruments is a $400 million swap to pay fixed, which was not designated as a hedge of the expected cash flows at March 31, 2004. As of April 1, 2004, this instrument was designated as a cash flow hedge under SFAS No. 133. As a result, changes in value subsequent to April 1, 2004 are deferred and recorded as part of OCI.

Our pre–tax earnings for the period December 6, 2003 through December 31, 2003 and the period January 1, 2003 through December 5, 2003 were increased by an unrealized gain of $2.0 million and decreased by an unrealized loss of $15.1 million, respectively, associated with changes in the fair value of interest rate derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

Our pre–tax earnings for the year ended December 31, 2002 were decreased by an unrealized loss of $32.0 million associated with changes in the fair value of interest rate derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

During the year ended December 31, 2004, we reclassified losses of $5.0 million from OCI to current period earnings. During the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003, losses of $0 and $29.7 million, respectively, were reclassified from OCI to current–period earnings. Our plan of reorganization became effective December 5, 2003 and, accordingly, we made adjustments for Fresh Start in accordance with SOP 90–7. These Fresh Start adjustments resulted in a write–off of net losses recorded in OCI of $65.9 million on interest rate swaps accounted for as hedges. During the year ended December 31, 2002, we reclassified gains of $0.9 million from OCI to current–period earnings. We do not expect to reclassify any deferred gains or losses to earnings during the next twelve months associated with interest rate swaps accounted for as hedges.

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Foreign Currency Exchange Rates

To preserve the U.S. dollar value of projected foreign currency cash flows, we may hedge, or protect those cash flows if appropriate foreign hedging instruments are available. As of December 31, 2004 and 2003, neither we nor our consolidating subsidiaries had any outstanding foreign currency exchange contracts.

No ineffectiveness occurred on foreign currency cash flow hedges during the year ended December 31, 2004, the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003, or during the year ended December 31, 2002.

During the year ended December 31, 2004 and the period December 6, 2003 to December 31, 2003, our pre-tax earnings were not affected by any gain or loss associated with foreign currency hedging instruments not accounted for as hedges in accordance with SFAS No. 133.

Our pre-tax earnings for the period January 1, 2003 through December 5, 2003, and for the year ended December 31, 2002 were increased by an unrealized gain of $0.1 million and $0.3 million, respectively, associated with foreign currency hedging instruments not accounted for as hedges in accordance with SFAS No. 133.

During the year ended December 31, 2004, we reclassified losses of $0.2 million from OCI to current period earnings. During the periods December 6, 2003 through December 31, 2003 and January 1, 2003 through December 5, 2003, no amounts were reclassified from OCI to current period earnings. Our plan of reorganization became effective December 5, 2003 and, accordingly, we made adjustments for Fresh Start in accordance with SOP 90-7. These Fresh Start adjustments resulted in a write-off of net losses recorded in OCI of $0.2 million on foreign currency swaps accounted for as hedges. During the year ended December 31, 2002, we reclassified losses of $2.1 million from OCI to current period earnings. We do not expect to reclassify any deferred gains or losses to earnings during the next twelve months on foreign currency swaps accounted for as hedges.

Accumulated Other Comprehensive Income

The following table summarizes the effects of SFAS No. 133, as amended, on our other comprehensive income balance attributable to hedged derivatives for the year ended December 31, 2004 before income taxes:

	Reorganized NRG			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Accum. OCI balance at December 31, 2003	$(1,953)	$ 1,600	$(170)	$ (523)
Unwound from OCI during period:				
— due to unwinding of previously deferred amounts	3,241	5,030	170	8,441
Mark to market of hedge contracts (net of tax of $4,273)	4,194	(4,643)	—	(449)
Accum. OCI balance at December 31, 2004	$ 5,482	$ 1,987	$ —	$7,469
Gains/(Losses) expected to unwind from OCI during next 12 months	$ 3,902	$ —	$ —	$3,902

During the year ended December 31, 2004, losses of approximately $8.4 million were reclassified from OCI to current period earnings due to the unwinding of previously deferred amounts. These amounts are recorded on the same line in the statement of operations in which the hedged items are recorded. Also during the year ended December 31, 2004, we recorded a loss in OCI of $0.4 million related to changes in the fair

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

values of derivatives accounted for as hedges. The net balance in OCI relating to SFAS No. 133 as of December 31, 2004 was an unrecognized gain of approximately $7.5 million. We expect $3.9 million of deferred net gains on derivative instruments accumulated in OCI to be recognized in earnings during the next twelve months.

The following table summarizes the effects of SFAS No. 133, as amended, on our other comprehensive income balance attributable to hedged derivatives for the period December 6, 2003 to December 31, 2003 before income taxes:

	Reorganized NRG			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Accum. OCI balance at December 6, 2003	$ —	$ —	$ —	$ —
Unwound from OCI during period:				
— due to unwinding of previously deferred amounts	—	—	—	—
Mark to market of hedge contracts	(1,953)	1,600	(170)	(523)
Accum. OCI balance at December 31, 2003	$(1,953)	$1,600	$(170)	$(523)

During the period ended December 31, 2003, we recorded a loss in OCI of approximately $0.5 million related to changes in the fair values of derivatives accounted for as hedges. The net balance in OCI relating to SFAS No. 133, as amended, as of December 31, 2003 was an unrecognized loss of approximately $0.5 million.

The following table summarizes the effects of SFAS No. 133, as amended, on our other comprehensive income balance attributable to hedged derivatives for the period January 1, 2003 to December 5, 2003 before income taxes:

	Predecessor Company			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Accum. OCI balance at December 31, 2002	$ 129,496	$(102,957)	$(261)	$ 26,278
Unwound from OCI during period:				
— due to forecasted transactions probable of no longer occurring	—	32,025	—	32,025
— due to unwinding of previously deferred amounts	(112,501)	(2,280)	—	(114,781)
Mark to market of hedge contracts	43,979	7,358	56	51,393
Accum. OCI balance at December 5, 2003	60,974	(65,854)	(205)	(5,085)
— due to Fresh Start reporting write-off	(60,974)	65,854	205	5,085
Accum. OCI balance at December 6, 2003	$ —	$ —	$ —	$ —

During the period ended December 5, 2003, we reclassified losses of $32.0 million from OCI to current-period earnings as a result of the discontinuance of cash flow hedges because it is probable that the original forecasted transactions will not occur by the end of the originally specified time period. Additionally, gains of $114.8 million were reclassified from OCI to current period earnings

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

values of derivatives accounted for as hedges. Our plan of reorganization became effective December 5, 2003 and, accordingly, we made adjustments for Fresh Start in accordance with SOP 90–7. These Fresh Start adjustments resulted in a write–off of net losses recorded in OCI of $5.1 million.

The following table summarizes the effects of SFAS No. 133, as amended, on our other comprehensive income balance attributable to hedged derivatives for the year ended December 31, 2002 before income taxes:

	Predecessor Company			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Accum. OCI balance at December 31, 2001	$142,919	$ (69,455)	$(2,363)	$ 71,101
Unwound from OCI during period:				
— due to forecasted transactions probable of no longer occurring	—	(23,263)	—	(23,263)
— due to termination of hedged items by counter–party	(6,130)	—	—	(6,130)
— due to unwinding of previously deferred amounts	(77,576)	22,337	2,075	(53,164)
Mark to market of hedge contracts	70,283	(32,576)	27	37,734
Accum. OCI balance at December 31, 2002	$129,496	$(102,957)	$ (261)	$ 26,278

During the year ended December 31, 2002, we reclassified gains of $23.3 million from OCI to current–period earnings as a result of the discontinuance of cash flow hedges because it is probable that the original forecasted transactions will not occur by the end of the originally specified time period. Also, gains of $6.1 million were reclassified from OCI to current period earnings due to the hedge items being terminated by the counter–parties. Additionally, gains of $53.2 million were reclassified from OCI to current period earnings during the year ended December 31, 2002 due to the unwinding of previously deferred amounts. These amounts are recorded on the same line in the statement of operations in which the hedged items are recorded. Also during the year ended December 31, 2002, we recorded a gain in OCI of approximately $37.7 million related to changes in the fair values of derivatives accounted for as hedges. The net balance in OCI relating to SFAS No. 133, as amended, as of December 31, 2002 was an unrecognized gain of approximately $26.3 million.

Statement of Operations

The following tables summarize the pre–tax effects of non–hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the year ended December 31, 2004:

	Reorganized NRG			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Revenue from majority–owned subsidiaries	$57,313	$ —	$ —	$57,313
Cost of operations	(255)	—	—	(255)
Other income	—	—	—	—
Equity in earnings of unconsolidated subsidiaries	23,735	—	—	23,735
Interest expense	—	411	—	411
Total Statement of Operations impact before tax	$80,793	$411	$ —	$81,204

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The following tables summarize the pre–tax effects of non–hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the period from December 6, 2003 through December 31, 2003:

	Reorganized NRG			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Revenue from majority–owned subsidiaries	$(627)	$ —	$ —	$ (627)
Cost of operations	508	—	—	508
Other income	—	—	—	—
Equity in earnings of unconsolidated subsidiaries	(630)	—	—	(630)
Interest expense	—	1,983	—	1,983
Total Statement of Operations impact before tax	$(749)	$1,983	$—	$1,234

The following tables summarize the pre–tax effects of non–hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the period from January 1, 2003 through December 5, 2003:

	Predecessor Company			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Revenue from majority–owned subsidiaries	$30,027	$ —	$ —	$ 30,027
Cost of operations	4,607	—	—	4,607
Other income	—	—	92	92
Equity in earnings of unconsolidated subsidiaries	19,022	—	—	19,022
Interest expense	—	(15,104)	—	(15,104)
Total Statement of Operations impact before tax	$53,656	$(15,104)	$ 92	$ 38,644

The following tables summarize the pre–tax effects of non–hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the year ended December 31, 2002:

	Predecessor Company			
	Energy Commodities	Interest Rate	Foreign Currency	Total
	(Gains/(Losses) in thousands)			
Revenue from majority–owned subsidiaries	$ 9,085	$ —	$ —	$ 9,085
Cost of operations	9,530	—	—	9,530
Equity in earnings of unconsolidated subsidiaries	1,426	970	—	2,396
Other income	—	—	344	344
Interest expense	—	(32,953)	—	(32,953)
Total Statement of Operations impact before tax	$20,041	$(31,983)	$344	$(11,598)

Note 17 — Creditor Pool and Other Settlements

A principal component of our plan of reorganization is a settlement with Xcel Energy in which Xcel Energy agreed to make a contribution consisting of cash (and, under certain circumstances, its stock) in the

NRG ENERGY, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

aggregate amount of up to $640 million to be paid in three separate installments following the effective date of our plan of reorganization. The Xcel Energy settlement agreement resolves any and all claims existing between Xcel Energy and us and/or our creditors and, in exchange for the Xcel Energy contribution, Xcel Energy received a complete release of claims from us and our creditors, except for a limited number of creditors who have preserved their claims as set forth in the confirmation order entered on November 24, 2003. We received $288.0 million, $328.5 million and $23.5 million from Xcel Energy on February 20, 2004, April 30, 2004 and May 28, 2004, respectively. We used the proceeds from the Xcel Energy settlement to reduce our creditor pool obligation. As of December 31, 2004 and 2003 the balance of our creditor pool obligation was $0.0 million and $540.0 million, respectively. On February 20, 2004, April 30, 2004, May 28, 2004 and October 29, 2004, we made payments of $163.0 million, $328.5 million, $23.5 million and $25.0 million, respectively. In addition, our other bankruptcy settlement obligation as of December 31, 2004 and 2003 was $175.6 million and $220.0 million, respectively. This obligation relates to the allowed claims against NRG Energy related to our Audrain and Pike facilities. See Note 27 — NRG FinCo Settlement. The net change in the balance of $44.4 million reflects the sale of certain of these assets, the proceeds of which were paid to the FinCo lenders.

Note 18 — Debt and Capital Leases

Long-term debt and capital leases consist of the following:

	Stated Rate	Effective Rate	Principal December 31, 2004	Fair Value Adjustment December 31, 2004	Principal December 31, 2003	Fair Value Adjustment December 31, 2003
	(Percent)		(In thousands)			
NRG Recourse Debt:						
NRG Energy 2nd priority senior notes, due December 15, 2013(4)(5)	8.00%	—%	$1,725,000	$ 9,790	$1,250,000	$ —
NRG New Credit Facility, due June 23, 2010	(1)	—	—	—	1,200,000	—
NRG Amended Credit Facility, due December 24, 2011	(1)	—	800,000	—	—	—
NRG Promissory Note, Xcel Energy, due June 5, 2006	3.00	9.00	10,000	(758)	10,000	(1,310)
NRG Project-Level, Non-Recourse Debt:						
NRG Peaker Finance Co. LLC, due June 2019	(1)	L+3.5(2)	300,876	(64,446)	311,373	(72,105)
Flinders Power Finance Pty, due September 2012	(1)	6.00	202,856	9,984	187,668	10,632
NRG Energy Center Minneapolis LLC, Senior secured notes, due 2013 and 2017, 7.12%–7.31%	(1)	L+2(2)	118,950	5,896	126,279	7,030
NRG Energy Center San Francisco LLC, Senior secured notes, due November 2004	10.61	L+2(2)	—	—	860	41
NRG Energy Center San Francisco LLC, Senior secured notes, due September 2008	7.63	L+2(2)	129	6	—	—
NRG Energy Center Pittsburgh LLC, senior secured notes, due November 2004	10.61	L+2(2)	—	—	1,550	66
Northbrook STS HydroPower, due March 2023	9.13	9.70	24,329	(893)	24,506	(930)
Northbrook Carolina Hydro, due December 2016	(1)	L+4(2)	2,375	(150)	2,475	(177)
Northbrook New York, due September 2018	(1)	L+3(2)	16,900	(297)	17,199	(315)

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	Stated Rate	Effective Rate	Principal December 31, 2004	Fair Value Adjustment December 31, 2004	Principal December 31, 2003	Fair Value Adjustment December 31, 2003
	(Percent)		(In thousands)			
Camas Power Boiler LP, unsecured term loan, due June 2007	(1)	L+2(2)	6,275	(168)	8,628	(277)
Camas Power Boiler LP, revenue bonds, due August 2007	3.38	L+2(2)	4,475	(42)	5,765	(108)
Itiquira Energetica S.A., due December 2013	12.00		31,002	—	—	—
Itiquira Energetica S.A., due January 2012	(1)		20,078	—	—	—
Meriden promissory note, due May 2003	10.00	—	—	—	500	—
LSP Kendall Energy LLC, due November 2006	(1)	L+3.5(2)	—	—	487,013	(30,370)
Cobee term loans, due July 2007(3)	(1)	15.00	—	—	31,800	(2,815)
Hsin Yu, due various(3)	(1)	—	—	—	85,300	(44,480)
LSP Energy LLC (Batesville), due 2014 and 2025, 7.16%–8.16%(3)	(1)	8.23–9.00	—	—	307,175	(12,292)
PERC notes, due 2017 and 2018(3)	6.75	L+2(2)	—	—	26,265	(1,203)
Capital leases:						
Saale Energie GmbH, Schkopau capital lease, due 2021	(1)	—	303,803	—	342,469	—
Audrain County, MO, capital lease, due December 2023	10.00	—	239,930	—	239,930	—
Conemaugh Fuels LLC, capital lease, due August 2014	7.00	—	218	—	—	—
NRG Processing Solutions, capital lease, due November 2004	9.00	L+2(2)	—	—	326	10
Subtotal			3,807,196	(41,078)	4,667,081	(148,603)
Less discontinued operations			—	—	450,540	(61,073)
Less current maturities				2,798	901,242	(100,013)
Total			$3,297,742	$(43,876)	$3,315,299	$ 12,483

(1) Distinguishes debt with various interest rates.

(2) L+ equals LIBOR plus x%

(3) Discontinued operations.

(4) Fair value adjustment as of December 31, 2004 reflects $16.1 million reduction for an interest rate swap.

(5) $415.8 million in bonds have been paid in 2005, of which $375.0 million were redeemed and $40.8 million were assumed by NRG Energy and therefore remain outstanding.

As a result of adopting Fresh Start on December 6, 2003, the fair value of long–term debt was calculated using the indicated effective interest rates which approximate market rates. The fair value adjustments for these notes and capital leases are amortized into interest expense using the effective interest rate method. A fair value adjustment was not necessary for the senior notes and the credit facility as both of these obligations were entered into subsequent to Fresh Start. For those notes and capital leases where market pricing was not available, we used carrying amounts, which we believe approximated the market values as of December 6, 2003.

NRG ENERGY, INC. AND SUBSIDIARIES
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As of December 31, 2004, we have timely made scheduled payments on interest and/or principal on all of our recourse debt and were not in default under any of our related recourse debt instruments. Additionally, we are not in default on any obligations to post collateral.

While we were in bankruptcy, we ceased accruing interest on unsecured debt that was not probable of being paid.

Short–Term Debt

Short–term debt at December 31, 2003 consisted of a $19.0 million revolving loan undertaken by Itiquira Energetica S.A., an indirectly wholly–owned subsidiary of ours. This loan was replaced by a long–term financing arrangement on July 15, 2004.

Long–term Debt and Capital Leases

Senior Securities

On December 23, 2003, we issued $1.25 billion in 8% Second Priority Notes, due and payable on December 15, 2013. On January 28, 2004, we issued an additional $475.0 million in Second Priority Notes, under the same terms and indenture as our December 23, 2003 offering. Proceeds of the offering were used to prepay $503.5 million of the outstanding principal on the term loan under the New Credit Facility. Included in refinancing expenses for the year ended December 31, 2004 are $15 million of prepayment penalties and a $15 million write–off of deferred financing costs related to refinancing certain amounts of our term loans with the additional $475.0 million in Second Priority Notes.

The Second Priority Notes are general obligations of ours. They are secured on a second–priority basis by security interests in all assets of ours, with certain exceptions, subject to the liens securing our obligations under the Amended Credit Agreement (described below) and any other priority lien debt. The notes are effectively subordinated to our obligations under the Amended Credit Facility and any other priority lien obligation, which are secured on a first–priority basis by the same assets that secure the Second Priority Notes. The Second Priority Notes are senior in right of payment to any future subordinated indebtedness. Interest on the Second Priority Notes accrues at the rate of 8.0% per annum and is payable semi–annually in arrears on June 15 and December 15, commencing on June 15, 2004. Accrued but unpaid interest was $6.1 million and $2.2 million as of December 31, 2004 and 2003, respectively. As of December 31, 2004, we had an interest rate swap in place to exchange fixed–rate interest payments for floating–rate interest payments. This swap agreement became effective March 26, 2004 and terminates December 15, 2013. The swap agreement has provisions for early termination that are linked to any prepayment of the Second Priority Notes. Under the agreement, we agree to pay semi–annually in arrears, commencing June 15, 2004, a floating interest rate on a notional amount of $400.0 million, and receive semi–annually in arrears a fixed interest rate payment on the same notional amount. The floating interest rate is based upon six–month LIBOR plus a spread. Depending on market interest rates, we or the swap counter–party may be required to post collateral on a daily basis in support of this swaps, to the benefit of the other party. On December 31, 2004 and as of March 21, 2005, we had $0 and $4.1 million in collateral posted.

When we issued the Second Priority Senior Secured Notes in December 2003, we entered into a Registration Rights Agreement with the purchasers of the Notes. Under the Registration Rights Agreement, we were required to file a Registration Statement with the SEC by May 21, 2004 (150 days after the issuance of the Notes) to permit the bonds to be publicly traded. When we did not meet this deadline, we were required to accrue liquidated damages, starting May 22, 2004 until the exchange is executed. Accrued amounts are due and payable on the same dates that we pay interest (semi–annually on June 15 and December 15, or upon early redemption). Liquidated damages are calculated as a rate per $1000 outstanding on a weekly basis, with the rate increasing from $0.05 up to $0.50 per $1000 each 90 day period, commencing May 22, 2004. Accrued

but unpaid liquidated damages were $0.6 million and $0.0 million as of December 31, 2004 and 2003, respectively. As of December 31, 2004, we were accruing liquidated damages of $0.15 per $1000 per week, or $0.3 million per week.

In January 2005 and in March 2005, we used existing cash to purchase, at market prices, $25 million and $15.8 million, respectively, in face value of our Second Priority Notes. On February 4, 2005, we redeemed $375.0 million in Second Priority Notes. At the same time, we paid $30.0 million for the early redemption premium on the redeemed notes, $4.1 million in accrued but unpaid interest on the redeemed notes and $0.4 million in accrued but unpaid liquidated damages on the redeemed notes.

Also on December 23, 2003, concurrently with the initial offering of the Second Priority Notes, we and PMI entered into the New Credit Facility for up to $1.45 billion with Credit Suisse First Boston, as Administrative Agent, and Lehman Commercial Paper, Inc., as Syndication Agent and a group of lenders. The New Credit Facility consisted of a $950.0 million, six and a half–year senior secured term loan facility, a $250.0 million funded letter of credit facility, and a four–year revolving credit facility in an amount up to $250.0 million. The balance outstanding under this facility was $1.2 billion as of December 31, 2003.

On December 24, 2004, the credit facility was amended and restated, or the Amended Credit Facility, whereby we repaid outstanding amounts and issued a $450.0 million, seven–year senior secured term loan facility, a $350.0 million funded letter of credit facility, and a three–year revolving credit facility in an amount up to $150.0 million. At that time, we paid $13.8 million in prepayment breakage costs, $3.2 million in accrued but unpaid interest and fees, and wrote off $27 million of deferred financing costs associated with the amendment. Refinancing expenses for the year ended December 31, 2004 included the $13.8 million of prepayment penalties and the $27 million write–off of deferred financing costs. The balance outstanding under this facility was $800.0 million as of December 31, 2004. Other expenses include commitment fees on the undrawn portion of the revolving credit facility, participation fees for the credit–linked deposit and other fees.

Refinancing expenses were $71.6 million for the year ended December 31, 2004. This amount includes $15 million of prepayment penalties and a $15 million write–off of deferred financing costs related to refinancing certain amounts of our term loans with additional Second Priority Notes in January 2004 and $13.8 million of prepayment penalties and a $27 million write–off of deferred financing costs related to refinancing the senior credit facility in December 2004.

As of December 31, 2004, the $350.0 million letter of credit facility was fully funded and reflected as a funded letter of credit on the December 31, 2004 balance sheet. As of December 31, 2004, $157.1 million in letters of credit had been issued under this facility, leaving $192.9 million available for future issuances. Most of these letters of credit are issued in support of our obligations to perform under commodity agreements, financing or other arrangements. These letters of credit expire within one year of issuance, and it is not unusual for us to renew many of them on similar terms.

The Amended Credit Facility is secured by, among other things, first–priority perfected security interests in all of the property and assets owned at any time or acquired by us and our subsidiaries, other than the property and assets of certain excluded project subsidiaries, foreign subsidiaries and certain other subsidiaries, with some exceptions.

The Amended Credit Facility bears interest at an interest rate of 1.875% over LIBOR which was 2.42% as of December 31, 2004. We can elect to convert to a rate of 0.875% over prime at the end of any LIBOR period. As of December 31, 2004, we had an interest rate swap in place to hedge against fluctuations in prime or LIBO rates. The swap agreement became effective March 26, 2004 and terminates March 31, 2006. Under the agreement, we agree to pay quarterly a fixed interest rate on a notional amount of $400.0 million, commencing on March 31, 2004, and receive quarterly a floating–rate interest rate payment on the same notional amount. The floating rate is based upon three–month LIBOR, subject to a floor.

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Significant affirmative covenants of the Second Priority Notes and the Amended Credit Facility include the provision of financial reports, reports of any events of default or developments that could have a material adverse effect, provision of notice with respect to changes in corporate structure or collateral. In addition, the borrower must maintain segregated cash accounts for certain deposits or settlements and meet certain ratio tests. Certain restricted payments are permitted under both credit facilities, pursuant to our meeting certain ratio tests and the absence of any defaults.

Significant negative covenants of the Second Priority Notes and the Amended Credit Facility include limitations on additional indebtedness, liens, acquisitions and certain asset dispositions.

Events of default under the Second Priority Notes and the Amended Credit Facility include materially false representation or warranty; payment default on principal or interest; covenant defaults; cross–defaults to material indebtedness; our or a material subsidiary's bankruptcy and insolvency; material unpaid judgments; ERISA events; failure to be perfected on any material collateral; and a change in control.

On December 5, 2003, we entered into a $10 million promissory note with Xcel Energy. The note accrues interest at a rate of 3% per year, payable quarterly in arrears. All principal is due at maturity on June 5, 2006.

Project Financings

The following are descriptions of certain indebtedness of NRG's project subsidiaries that remain outstanding on December 31, 2004. The indebtedness described below is non–recourse to NRG, unless otherwise described.

Peakers

In June 2002, NRG Peaker Financing LLC, or Peakers, an indirect wholly–owned subsidiary, issued $325 million in floating rate bonds due June 2019. Peakers subsequently swapped such floating rate debt for fixed rate debt at an all–in cost of 6.67% per annum. Principal, interest, and swap payments are guaranteed by XL Capital Assurance, or XLCA, through a financial guaranty insurance policy. Such notes are also secured by, among other things, substantially all of the assets of and membership interests in Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, NRG Sterlington Power LLC, NRG Rockford LLC, NRG Rockford II LLC and NRG Rockford Equipment LLC (all subsidiaries of NRG). As of December 31, 2004, $300.9 million in principal remained outstanding on these bonds. In January 2004, terms of the financing arrangement were restructured, at which time we issued a $36.2 million letter of credit, under our corporate funded letter of credit facility to the Peakers' Collateral Agent. The letter of credit may be drawn if the project is unable to meet principal or interest payments. There are no provisions requiring us to replenish the letter of credit once it is fully drawn.

Flinders

At December 31, 2004, NRG Flinders, a wholly–owned subsidiary of NRG, had AUD 315 million available in senior debt bank financing pursuant to two bank facilities. The first was an AUD 150 million floating–rate syndicated facility that matured in September 2012. The second facility, intended to fund the refurbishment of the Playford station, allowed Flinders to draw up to AUD 137 million (approximately US $107 million) at a floating–rate of interest on drawn amounts and matures coterminous with the first facility. As of December 31, 2004, outstanding principal was AUD 259.2 million (approximately US $202.9 million) on the two facilities. In addition, Flinders had an AUD 20.0 million (approximately US $15.7 million) working capital facility. At December 31, 2004 the facility was undrawn. Flinders agreed with the lenders to hedge not less than 60% of its floating interest exposure until September 30, 2005 and not less than 40% of its floating interest exposure through the end of the loan. Under this financing arrangement, Flinders was required to fully fund, and NRG was required to guarantee, a debt service reserve account. The

reserve amount of AUD 70 million (approximately US $54.8 million) was fully funded as of December 31, 2004.

In February 2005, Flinders amended its floating-rate debt facility of AUD 279.4 million (approximately US $218.5 million). The amendment extended the maturity to February 2017, reduced borrowing costs and reserve requirements, minimized debt service coverage ratios, removed mandatory cash sharing arrangements, and made other minor modifications to terms and conditions. The facility includes an AUD 20 million (approximately US $15.7 million) working capital and performance bond facility. NRG Flinders is required to maintain interest-rate hedging contracts on a rolling 5-year basis at a minimum level of 60% of principal outstanding. Upon execution of the amendment, a voluntary principal prepayment of AUD 50 million (approximately US $39.1 million) was made, reducing the principal balance of the term loan to AUD 209.2 million (approximately US $163.7 million). As of March 21, 2005, the revolver remained undrawn.

NRG Thermal

NRG Thermal LLC, or NRG Thermal, has several subsidiaries with outstanding long-term debt. Such indebtedness is secured principally by the subsidiaries' long-term assets and is guaranteed by NRG Thermal and "cross-collateralized" by NRG Thermal's ownership interests in all of its subsidiaries. In July 2002, NRG Energy Center Minneapolis LLC issued $55 million of 7.25% Series A notes due August 2017, of which $50.0 million remained outstanding as of December 31, 2004; $20 million of 7.12% Series B notes due August 2017, of which $18.2 million remained outstanding as of December 31, 2004; and in August 1993, NRG Energy Center Minneapolis LLC issued $84 million of 7.31% senior secured notes due June 2013, of which $50.8 million remained outstanding as of December 31, 2004. NRG Energy Center San Francisco LLC has issued $360 thousand of 7.63% senior secured term notes due September 2008, of which $129 thousand remained outstanding at December 31, 2004. The NRG Energy Center San Francisco LLC 10.61% senior secured term notes and the NRG Energy Center Pittsburgh LLC 10.61% senior secured term notes were paid in full on November 5, 2004.

STS Hydropower

STS Hydropower, LTD, or STS Hydropower, which is indirectly 50% owned by NEO Corporation, a wholly-owned subsidiary of NRG Energy, entered into a Note Purchase Agreement in March 1995 with Allstate Life Insurance Co., or Allstate. Allstate purchased from STS Hydropower $22 million of 9.155% senior secured debt due December 30, 2016. The agreement was amended in 1996 to add $700,000 of 8.24% senior secured debt due March 2011. The debt is secured by substantially all assets of and interest in STS Hydropower. Because of poor hydroelectric output due to drought conditions, no principal or interest payments have been made on this loan facility since October 2001. In May 2003, the facility was restructured and currently has a maturity of March 2023 and an interest rate of 9.133%. As of December 31, 2004, all required covenants under the restructured facility had been met and $24.3 million was outstanding.

Northbrook Carolina Hydro and Northbrook New York

Northbrook Carolina Hydro, LLC, or NCH, which is indirectly 50% owned by NEO, entered into a $2.6 million loan arrangement in December 2001 with Heller Financial. In order to secure the NCH financing, Heller Financial's credit agreement with Northbrook New York LLC, or NNY, was amended to cross-collateralize the NCH and NNY notes. NNY is indirectly 70% owned by the NEO Corporation. In 2002, GE Capital Services purchased Heller Financial and assumed the loan facility. This loan facility is secured by substantially all hydroelectric assets of and membership interests in NCH and NNY. The NCH facility bears interest at an interest rate of LIBOR plus 4% and matures in December 2016. As of December 31, 2004, the outstanding balance was $2.4 million.

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In September 1999, NNY entered into a $17.5 million term loan agreement with Heller Financial. In addition to the term loan, there is a $1.5 million revolver, which was undrawn as of December 31, 2004. In December 2001, the credit agreement with Heller Financial was amended to include $2.6 million of financing for NCH, an affiliated entity, and to cross-collateralize the NNY and NCH notes. Heller Financial was subsequently purchased by GE Capital Services, which assumed the notes. The NNY facility bears an interest rate of LIBOR plus 3% and matures in December 2018. It is secured by substantially all of the assets of and membership interests in the NNY and NCH facilities. The principal amount outstanding as of December 31, 2004 was $16.9 million.

Camas

In November 1990, Clark County, Washington issued $15.0 million in aggregate principal amount of 7.2% fixed interest Series A tax-exempt bonds due August 15, 2007 to fund the construction of the Camas project. The bonds were re-marketed with a 4.65% interest rate in August 1997 and again at a 3.375% interest rate in August 2002. This facility pursuant to the indenture, can no longer be re-marketed. As of December 31, 2004, $4.5 million remains outstanding. In 1997, Camas also acquired a $19.6 million floating-rate bank loan from Fort James Corporation, maturing in June 2007. The principal outstanding on this facility was $6.3 million as of December 31, 2004.

Itiquira Energetica S.A.

On July 15, 2004, Itiquira Energetica S. A., a majority-owned subsidiary of ours, executed a long-term financing arrangement with União de Bancos Brasileiros S.A., or Unibanco, for a 55 million Brazilian reals term loan maturing in January 2012. The facility bears a floating interest rate and amortizes on a schedule that is indexed to certain foreign exchange rates. The facility replaces a revolving loan undertaken with Unibanco which was classified as short-term debt on our balance sheet as of December 31, 2003. The current facility is classified as long-term debt as of December 31, 2004. The principal obligation as of December 31, 2004 was $20.1 million. Eletrobrãs owns preferred shares in Itiquira, which for U.S. GAAP purposes are reflected as debt. The preferred shares accrue cumulative dividends of 12% per year, payable only at such time Itiquira has sufficient retained profits or reserves. The balance at December 31, 2004 was $31.0 million.

LSP Kendall

The LSP Kendall Energy LLC, or LSP Kendall, credit facility was non-recourse to us and consisted of a construction and term loan, working capital and letter of credit facilities. As of December 31, 2003, there were borrowings totaling $487.0 million outstanding under the facility at a weighted average annual interest rate of 2.58%. LSP Kendall was sold on December 1, 2004.

Capital Leases

Schkopau

The Kraftwerke Schkopau GbR, or Schkopau, partnership, which is indirectly 41.9% owned by NRG, issued debt pursuant to multiple facilities totaling approximately €886.8 million (approximately US $1,203.1 million) to finance a construction project. As of December 31, 2004, €463.5 million (approximately US $628.8 million) remained outstanding. Interest on the individual loans accrues at fixed rates averaging 6.68% per annum, with maturities occurring between years 2005 and 2015. Schkopau is a partnership between Saale Energie GmbH, an NRG subsidiary and German Limited Liability Company, and E.ON Kraftwerke GmbH, a German Limited Liability Company. As a result, lenders to the project rely almost exclusively on the creditworthiness of E.ON Kraftwerke GmbH. Saale Energie remains liable to the lenders as a partner in the borrower, but there is no recourse to NRG.

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Schkopau is not permitted to retain funds for its own account, so funds received from electricity sales are retained by the partners and Schkopau calls for funds from the partners on a pro rata basis to meet debt service payments as they fall due. In the early years of the project these were at a low level, which allowed Saale Energie to accumulate cash that in 1999 was lent upstream for use elsewhere within the NRG group. Saale Energie is now projecting that cash calls to meet debt service payments over the next four years will at times exceed the cash available to meet them. NRG agreed to cover the periodic shortfalls by way of partial repayments of an upstream loan followed by cash dividend payments on high levels to NRG in 2007. For U.S. GAAP purposes, the Schkopau debt obligations are classified as capital leases on its balance sheet. As of December 31, 2004 the capital lease obligation was $303.8 million.

Audrain

In connection with our acquisition of the Audrain facilities, we have recognized a capital lease on our balance sheet classified within long-term debt in the amount of $239.9 million as of December 31, 2004 and 2003. The capital lease obligation is recorded at the net present value of the minimum lease obligation payable. The lease terminates in December 2023. During the term of the lease only interest payments are due, no principal is due until the end of the lease. In addition, we have recorded, in notes receivable, an amount of approximately $239.9 million, which represents our investment in the bonds that the county of Audrain issued to finance the project. During December 2004, we received a notice of a waiver of a $24.0 million interest payment due on the capital lease obligation, allowing us to defer payment of the interest due in December 2004, and waiving any default associated with the deferral. In connection with the transfer of the security in the Audrain projects to NRG FinCo Lenders, the Audrain entity will be liquidated resulting in the termination of the lease obligation and the note receivable.

Consolidated annual maturities and future minimum lease payments:

Annual maturities of long-term debt and capital leases for the years ending after December 31, 2004 are as follows:

	Total
	(In thousands)
2005	$ 509,454
2006	110,471
2007	92,609
2008	86,649
2009	79,683
Thereafter	2,928,330
Total	$3,807,196

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Future minimum lease payments for capital leases included above at December 31, 2004 are as follows:

	(In thousands)
2005	$ 115,558
2006	96,039
2007	81,397
2008	73,418
2009	63,522
Thereafter	833,724
Total minimum obligations	1,263,658
Interest	719,707
Present value of minimum obligations	543,951
Current portion	69,920
Long-term obligations	$ 474,031

Assets related to our capital leases were revalued as of December 6, 2003, to $171.0 million and remained at $171.0 million with no accumulated amortization at December 31, 2004 and 2003, as the amounts have been recorded at recoverable values.

Note 19 — Capital Stock

Reorganized Capital Structure

In connection with the consummation of our reorganization, on December 5, 2003, all shares of our old common stock were canceled and 100,000,000 shares of new common stock of NRG Energy were distributed pursuant to such plan in accordance with Section 1145 of the bankruptcy code to the holders of certain classes of claims. We received no proceeds from such issuance. A certain number of shares of common stock were issued and placed in the Disputed Claims Reserve for distribution to holders of disputed claims as such claims are resolved or settled. See Item 3 — Legal Proceedings — Disputed Claims Reserve. In the event our disputed claims reserve is inadequate, it is possible we would have to issue additional shares of our common stock to satisfy such pre-petition claims or contribute additional cash proceeds. Our authorized capital stock consists of 500,000,000 shares of NRG Energy common stock and 10,000,000 shares of preferred stock. A total of 4,000,000 shares of our common stock are available for issuance under our long-term incentive plan. We have also filed with the Secretary of State of Delaware a Certificate of Designation of our 4% Convertible Perpetual Preferred Stock, or Preferred Stock, as more fully described in Note 20.

Repurchase of Common Stock

Upon emergence from chapter 11, investment partnerships managed by MatlinPatterson LLC owned approximately 21.5 million (21.5%) of our common shares. In December 2004, we used existing cash to repurchase 13 million shares of common stock from MatlinPatterson at a purchase price of $31.16 per share plus transaction costs of $0.2 million. In addition to a reduction in total shares of common stock outstanding by 13 million, the share repurchase resulted in (i) the reduction of MatlinPatterson's share ownership of NRG Energy to less than 10% from the prior 21.5%, (ii) termination of MatlinPatterson's registration rights, and (iii) resignation from our Board of Directors of three directors affiliated with MatlinPatterson. Our Board's Governance and Nominating Committee is in the process of identifying appropriate independent directors to fill the three vacancies.

Note 20 — Convertible Perpetual Preferred Stock

On December 27, 2004, we completed the sale of 420,000 shares of convertible perpetual preferred stock with a dividend coupon rate of 4%. The Preferred Stock has a liquidation preference of $1,000 per share of Preferred Stock. Holders of Preferred Stock are entitled to receive, when declared by our Board of Directors, cash dividends at the rate of 4% per annum, payable quarterly in arrears on March 15, June 15, September 15 and December 15 of each year, commencing on March 15, 2005. The Preferred Stock is convertible, at the option of the holder, at any time into shares of our common stock at an initial conversion price of $40.00 per share, which is equal to an approximate conversion rate of 25 shares of common stock per share of Preferred Stock, subject to specified adjustments. On or after December 20, 2009, we may redeem, subject to certain limitations, some or all of the Preferred Stock with cash at a redemption price equal to 100% of the liquidation preference, plus accumulated but unpaid dividends, including liquidated damages, if any, to the redemption date.

If we are subject to a fundamental change, as defined in the Certificate of Designation of the 4.0% Convertible Perpetual Preferred Stock, each holder of shares of Preferred Stock has the right, subject to certain limitations, to require us to purchase any or all of its shares of Preferred Stock at a purchase price equal to 100% of the liquidation preference, plus accumulated and unpaid dividends, including liquidated damages, if any, to the date of purchase. Final determination of a fundamental change must be approved by the Board of Directors.

Each holder of Preferred Stock has one vote for each share of Preferred Stock held by the holder on all matters voted upon by the holders of our common stock, as well as voting rights specifically provided for in our amended and restated certificate of incorporation or as otherwise from time to time required by law. In addition, whenever (1) dividends on the Preferred Stock or any other class or series of stock ranking on a parity with the Preferred Stock with respect to the payment of dividends are in arrears for dividend periods, whether or not consecutive, containing in the aggregate a number of days equivalent to six calendar quarters, or (2) we fail to pay the redemption price on the date shares of Preferred Stock are called for redemption or the purchase price on the purchase date for shares of Preferred Stock following a fundamental change, then, in each case, the holders of Preferred Stock (voting separately as a class with all other series of preferred stock upon which like voting rights have been conferred and are exercisable) are entitled to vote for the election of two of the authorized number of our directors at the next annual meeting of stockholders and at each subsequent meeting until all dividends accumulated or the redemption price on the Preferred Stock have been fully paid or set apart for payment. The term of office of all directors elected by holders of the Preferred Stock terminates immediately upon the termination of the rights of the holders of the Preferred Stock to vote for directors. Upon election of any additional directors, the number of directors that comprise our Board of Directors will be increased by the number of such additional directors.

The Preferred Stock is, with respect to dividend rights and rights upon liquidation, winding up or dissolution: junior to all of our existing and future debt obligations; junior to each other class or series of our capital stock other than (1) our common stock and any other class or series of our capital stock which provides that such class or series will rank junior to the Preferred Stock and (2) any other class or series of our capital stock the terms of which provide that such class or series will rank on a parity with the Preferred Stock; on a parity with any other class or series of our capital stock the terms of which provide that such class or series will rank on parity with the Preferred Stock; senior to our common stock and any other class or series of our capital stock the terms of which provide that such class or series will rank junior to the Preferred Stock; and effectively junior to all of our subsidiaries (1) existing and future liabilities and (2) capital stock held by others.

The proceeds of $406.4 million net of issuance costs of approximately $13.6 million, were used to redeem $375.0 million of Second Priority Notes on February 4, 2005.

On March 15, 2005, we made a $3.9 million dividend payment to our preferred shareholders of record as of March 1, 2005. This represents the first quarterly dividend payment we anticipate making to our preferred shareholders.

Note 21 —Stock–Based Compensation

Incentive Compensation Plans

Effective January 1, 2003, we adopted the fair value recognition provisions of SFAS Statement No. 123, *"Accounting for Stock–Based Compensation"*, or SFAS No. 123. In accordance with SFAS Statement No. 148, *"Accounting for Stock–Based Compensation — Transition and Disclosure"*, or SFAS No. 148, we adopted SFAS No. 123 under the prospective transition method which requires the application of the recognition provisions to all employee awards granted, modified, or settled after the beginning of the fiscal year in which the recognition provisions are first applied. As a result, we recognized compensation expense for any grants issued on or after January 1, 2003.

During 2004 and 2003, we recognized approximately $13.6 million and $0.4 million, respectively, of stock based compensation expense under the Long–Term Incentive Plan as follows:

	2004	2003
	(In thousands)	
Stock options	$ 6,353	$429
Restricted stock	5,184	—
Deferred stock units	2,055	—
Total	$13,592	$429

In December 2003, we adopted a new long–term incentive plan, or the Long–Term Incentive Plan, which is described below.

Long–Term Incentive Plan

The Long–Term Incentive Plan became effective upon our emergence from bankruptcy and was also approved by our stockholders on August 4, 2004. The Long–Term Incentive Plan provides for grants of stock options, stock appreciation rights, restricted stock, performance awards, deferred stock units and dividend equivalent rights. Our directors, officers and employees, as well as other individuals performing services for, or to whom an offer of employment has been extended by us, are eligible to receive grants under the Long–Term Incentive Plan. The purpose of the Long–Term Incentive Plan is to promote our long–term growth and profitability by providing these individuals with incentives to maximize stockholder value and otherwise contribute to our success and to enable us to attract, retain and reward the best available persons for positions of responsibility.

A total of 4,000,000 shares of our common stock are available for issuance under the Long–Term Incentive Plan, subject to adjustment in the event of a reorganization, recapitalization, stock split, reverse stock split, stock dividend, combination of shares, merger or similar change in our structure or our outstanding shares of common stock. There were 2,053,294 and 3,367,249 shares of common stock remaining available for grants of stock options under our Long–Term Incentive Plan as of December 31, 2004 and 2003, respectively.

The Compensation Committee of our Board of Directors administers the Long–Term Incentive Plan. If for any reason a Compensation Committee has not been appointed by our board to administer the Long–Term Incentive Plan, our Board of Directors has the authority to administer the plan and to take all actions under the plan.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following is a summary of the material terms of the Long-Term Incentive Plan, but does not include all of the provisions of the plan.

Eligibility. Our directors, officers and employees, as well as other individuals performing services for, or to whom an offer of employment has been extended by, us are eligible to receive grants under the Long-Term Incentive Plan. In each case, the Compensation Committee selects the actual grantees.

Stock Options. Under the Long-Term Incentive Plan, the Compensation Committee may award grants of incentive stock options conforming to the requirements of Section 422 of the Internal Revenue Code, or non-qualified stock options. The Compensation Committee may not award to any one person in any calendar year options to purchase more than 1,000,000 shares of common stock. In addition, it may not award incentive stock options first exercisable in any calendar year whose underlying shares have a fair market value greater than $100,000, determined at the time of grant.

The Compensation Committee determines the exercise price of any options granted under the Long-Term Incentive Plan. However, the exercise price of any option may not be less than 100% of the fair market value of a share of our common stock on the date of grant, and the exercise price of an incentive stock option granted to a person who owns stock constituting more than 10% of the voting power of all classes of our stock may not be less than 110% of the fair market value of a share of our common stock on the date of grant.

Unless the Compensation Committee determines otherwise, the exercise price of any option may be paid in any of the following ways:

- in cash;
- by delivery of shares of common stock with a fair market value equal to the exercise price;
- by means of any cashless exercise procedure approved by the Compensation Committee; or
- by any combination of the foregoing.

The Compensation Committee determines the term of each option in its discretion. However, no term may exceed 10 years from the date of grant or, in the case of an incentive stock option granted to a person who owns stock constituting more than 10% of the voting power of all classes of our stock, five years from the date of grant. In addition, all options under the Long-Term Incentive Plan, whether or not then exercisable, generally cease vesting when a grantee ceases to be a director, officer or employee of, or to otherwise perform services for, us. Vested options generally expire 90 days after the date of cessation of service.

There are exceptions depending upon the circumstances of cessation. In the case of a grantee's death, all options become fully vested and remain exercisable for a period of one year after the date of death. In the case of a grantee's termination due to disability, vested options remain exercisable for a period of one year after the date of termination due to disability while his or her unvested options are forfeited. In the event of retirement, a grantee's vested options remain exercisable for a period of two years after the date of retirement while his or her unvested options are forfeited. Upon termination for cause, all options terminate immediately. Upon a change in control of NRG Energy, all of the options become fully vested and remain exercisable until the expiration date of the options. In addition, the Compensation Committee has the authority to grant options that become fully vested and exercisable automatically upon a change in control, whether or not the grantee is subsequently terminated.

Upon a reorganization, merger, consolidation or sale or other disposition of all or substantially all of our assets, the Compensation Committee may cancel any or all outstanding options under the Long-Term Incentive Plan in exchange for payment of an amount equal to the portion of the consideration that would have been payable to the grantees in the transaction if their options had been fully exercised immediately prior to the transaction, less the exercise price that would have been payable, or if the exercise price is greater than the consideration that would have been payable in the transaction, then for no consideration or payment.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Stock Appreciation Rights. Under the Long–Term Incentive Plan, the Compensation Committee may grant stock appreciation rights, or SARs, alone or in tandem with options, subject to terms and conditions as the Compensation Committee may specify. SARs granted in tandem with options become exercisable only when, to the extent and on the conditions that the related options are exercisable, and they expire at the same time the related options expire. The exercise of an option results in the immediate forfeiture of any related SAR to the extent the option is exercised, and the exercise of a SAR results in the immediate forfeiture of any related option to the extent the SAR is exercised.

Upon exercise of a SAR, the grantee receives an amount in cash, shares of our common stock or our other securities equal to the difference between the fair market value of a share of common stock on the date of exercise and the exercise price of the SAR or, in the case of a SAR granted in tandem with options, of the option to which the SAR relates, multiplied by the number of shares as to which the SAR is exercised. Unless otherwise provided in the grantee's grant agreement, each SAR is subject to the same termination and forfeiture provisions as the stock options described above.

Restricted Stock. Under the Long–Term Incentive Plan, the Compensation Committee may award restricted stock in the amounts that it determines in its discretion. Each grant of restricted stock is evidenced by a grant agreement, which specifies the applicable restrictions on such shares and the duration of the restrictions (which is generally at least six months). A grantee is required to pay us at least the aggregate par value of any shares of restricted stock within ten days of the grant, unless the shares are treasury shares. Unless otherwise provided in the grantee's grant agreement, each unit or share of restricted stock is subject to the same termination and forfeiture provisions as the stock options described above.

Performance Awards. Under the Long–Term Incentive Plan, the Compensation Committee may grant performance awards contingent upon achievement by the grantee, us or any of our divisions of specified performance criteria, such as return on equity, over a specified performance cycle, as determined by the Compensation Committee. Performance awards may include specific dollar–value target awards; performance units, the value of which is determined by the Compensation Committee at the time of issuance; and/or performance shares, the value of which is equal to the fair market value of common stock. The value of a performance award may be fixed or may fluctuate based on specified performance criteria. A performance award may be paid out in cash, shares of our common stock or our other securities.

A grantee must be a director, officer or employee of, or otherwise perform services for, us at the end of the performance cycle in order to be entitled to payment of a performance award issued in respect of such cycle, provided that unless otherwise provided in the grantee's grant agreement, each performance award is subject to the same termination and forfeiture provisions as the stock options described above.

Deferred Stock Units. Under the Long–Term Incentive Plan, the Compensation Committee may grant deferred stock units from time to time in its discretion. A deferred stock unit entitles the grantee to receive the fair market value of one share of common stock at the end of the deferral period, which is no less than one year. The payment of the value of deferred stock units may be made by us in shares of our common stock, cash or both. If a grantee ceases to be a director, officer or employee of, or otherwise perform services for, us upon his or her death prior to the end of the deferral period, the grantee receives payment of his or her deferred stock units which would have matured or been earned at the end of the deferral period as if the deferral period has ended as of the date of his or her death. In the event of a termination due to disability or retirement prior to the end of the deferral period, the grantee receives payment of his or her deferred stock units at the end of the deferral period. If a grantee ceases to be a director, officer or employee of, or otherwise perform services for, us for any other reason, his or her unvested deferred stock units are immediately forfeited. Upon a change in control in NRG Energy, a grantee receives payment of his or her deferred stock units as if the deferral period has ended as of the date of the change in control.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Dividend Equivalent Rights. Under the Long-Term Incentive Plan, the Compensation Committee may grant a dividend equivalent right entitling the grantee to receive amounts equal to all or any portion of the dividends that would be paid on shares of our common stock covered by an award if those shares had been delivered to the grantee pursuant to the award, subject to terms and conditions as the committee may specify.

Vesting, Withholding Taxes and Transferability of All Awards. The terms and conditions of each award made under the Long-Term Incentive Plan, including vesting requirements, is set forth consistent with the plan in a written agreement with the grantee. Except in limited circumstances and unless the Compensation Committee determines otherwise, no award under the Long-Term Incentive Plan may vest and become exercisable within six months of the date of grant.

Unless the Compensation Committee determines otherwise, a participant may elect to deliver shares of common stock, or to have us withhold shares of common stock otherwise issuable upon exercise of an option or a SAR or deliverable upon grant or vesting of restricted stock or the receipt of common stock, in order to satisfy our tax withholding obligations in connection with any exercise, grant or vesting.

Unless the Compensation Committee determines otherwise, no award made under the Long-Term Incentive Plan is transferable other than by will or the laws of descent and distribution, and each option, SAR or performance award may be exercised only by the grantee or his or her executor, administrator, guardian or legal representative, or by a family member of the grantee if he or she has acquired the option, SAR or performance award by gift or qualified domestic relations order.

Amendment and Termination of the Long-Term Incentive Plan. The Board of Directors or the Compensation Committee may amend or terminate the Long-Term Incentive Plan in its discretion, except that no amendment is effective without prior approval of our stockholders if approval is required by applicable law or regulations, including any NASDAQ or stock exchange listing requirements, if the amendment would remove a provision of the Long-Term Incentive Plan which, without giving effect to the amendment, is subject to shareholder approval or if the amendment would directly or indirectly increase the share limit of 4,000,000 shares. If not otherwise terminated, the Long-Term Incentive Plan terminates on the tenth anniversary of the effective date of our plan of reorganization, which was December 5, 2003.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

In 2004, we issued stock options grants for a total of 330,000 shares of common stock under the Long–Term Incentive Plan. These options have a three–year graded vesting schedule and become exercisable through the year 2006 at an average exercise price of $21.46. Total compensation expense under all stock option grants is approximately $11.7 million. Compensation expense for the year ended December 31, 2004 and 2003 was approximately $6.4 million and $0.4 million, respectively. Compensation expense for the years ended December 31, 2005, December 31, 2006 and December 31, 2007 will be approximately $3.4 million, $1.4 million and $0.1 million, respectively. At December 31, 2004, 210,917 employee stock options were exercisable. The following table summarizes stock option transactions:

	Shares	Exercise Price Range Per Share	Weighted–Average Exercise Price
Outstanding at January 1, 2003	—	$ —	$ —
Granted	632,751	24.03	24.03
Exercised	—	—	—
Canceled or expired	—	—	—
Outstanding at December 6, 2003	632,751	$ 24.03	$24.03
Granted	—	—	—
Exercised	—	—	—
Canceled or expired	—	—	—
Outstanding at December 31, 2003	632,751	$ 24.03	$24.03
Granted	330,000	$19.90–$31.48	$21.46
Exercised	—	—	—
Canceled or expired	—	—	—
Outstanding at December 31, 2004	962,751	$19.90–$31.48	$23.15

The following table summarizes information about stock options outstanding at December 31, 2004:

	Options Outstanding			Options Exercisable	
Range of exercise prices	Total Outstanding	Weighted–Average Remaining Life (In Years)	Weighted–Average Exercise Price	Total Exercisable	Weighted–Average Exercise Price
$19.90–$22.24	307,000	4.2	$20.92	—	NA
$24.03–$31.48	655,751	8.9	$24.20	210,917	$24.03

The fair value of the stock option grants were estimated on the date of grant using the Black–Scholes option–pricing model, with the following weighted–average assumptions:

	2004	2003
Dividends per year	—	—
Expected volatility	40.96%	35.70%
Risk–free interest rate	3.84%	4.24%
Expected life (years)	8.3	10

As of December 31, 2004, restricted stock units issued and outstanding under the Long–Term Incentive Plan totaled 880,994. These units fully vest in three years from the date of issuance. Total compensation expense attributable to the restricted stock grants is approximately $19 million. During the year ended

December 31, 2004, we issued 750,100 restricted stock units at fair values between $19.90 and $34.31, cancelled 40,500 restricted stock units at fair values between $19.90 and $25.90 and issued 1,255 shares of common stock, net of payroll taxes withheld, due to accelerated vesting on 2,000 restricted stock units at fair values between $23.20 and $27.43. Compensation expense for the year ended December 31, 2004 was approximately $5.2 million. Compensation expense for the years ended December 31, 2005, December 31, 2006 and December 31, 2007 will be approximately $6.1 million, $6.5 million and $1.2 million, respectively. The weighted–average fair value of our restricted stock units outstanding as of December 31, 2004 is $21.59.

During 2004, deferred stock units issued under the Long–Term Incentive Plan totaled 100,961, and were issued solely to members of our Board of Directors. The fair values of the deferred stock units were between $19.95 and $21.05 per unit. These units are fully vested at the date of issuance. Total compensation expense attributable to the deferred stock grants is approximately $2.1 million, and was recognized entirely in 2004. Elections were made at the time of issuance to immediately convert 6,798 deferred stock units to an equal number of shares of our common stock. As a result of our common stock repurchase in December 2004 and the termination of three members of our Board of Directors, 33,882 deferred stock units were converted into an equal number of shares of our common stock. The weighted–average fair value of our deferred stock units outstanding as of December 31, 2004 is $20.31.

Note 22 — Earnings Per Share

Basic earnings per common share were computed by dividing net income less accumulated preferred stock dividends by the weighted average number of common stock shares outstanding. Shares issued during the year are weighted for the portion of the year that they were outstanding. Shares of common stock granted to our officers and employees are included in the computation only after the shares become fully vested. Diluted earnings per share is computed in a manner consistent with that of basic earnings per share while giving effect to all potentially dilutive common shares that were outstanding during the period. The dilutive effect of the potential exercise of outstanding options to purchase shares of common stock is calculated using the treasury stock method. The nonvested restricted stock units are not considered outstanding for purposes of computing basis earnings per share; however these units are included in the denominator for purposes of computing diluted earnings per share under the treasury method. The deferred stock units are considered outstanding upon grant date on a weighted average basis for computing basic earnings per share. The reconciliation of basic earnings per common share to diluted earnings per share is shown in the following table:

	Reorganized NRG	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003
	(In thousands, except per share data)	
Basic earnings per share		
Numerator:		
Income from continuing operations	$162,145	$11,405
Preferred stock dividends	(549)	—
Net income available to common stockholders from continuing operations	161,596	11,405
Discontinued operations, net of tax	23,472	(380)
Net income available to common stockholders	$185,068	$11,025

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Reorganized NRG	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003
	(In thousands, except per share data)	
Denominator:		
Weighted average number of common shares outstanding	99,616	100,000
Basis earnings per share:		
Income from continuing operations	$ 1.62	$ 0.11
Discontinued operations, net of tax	0.24	—
Net income	$ 1.86	$ 0.11
Diluted earnings per share		
Numerator		
Net income available to common stockholders from continuing operations	$161,596	$ 11,405
Preferred stock dividends	549	—
Income from continuing operations	162,145	11,405
Discontinued operations, net of tax	23,472	(380)
Net income available to common stockholders	$185,617	$ 11,025
Denominator:		
Weighted average number of common shares outstanding	99,616	100,000
Incremental shares attributable to the issuance of nonvested restricted stock units (treasury stock method)	345	60
Incremental shares attributable to the assumed conversion of deferred stock units (if converted method)	67	—
Incremental shares attributable to the assumed conversion of preferred stock (if–converted method)	343	—
Total dilutive shares	100,371	100,060
Diluted earnings per share:		
Income from continuing operations	$ 1.62	$ 0.11
Discontinued operations, net of tax	0.23	—
Net income	$ 1.85	$ 0.11

For the year ended December 31, 2004 and the period December 6, 2003 to December 31, 2003, options to purchase 962,751 and 632,751 shares of common stock at an average price of $23.15 and $24.03, respectively per share, were not included in the computation because the effect would be anti–dilutive.

Note 23 — Segment Reporting

In connection with our emergence from bankruptcy and the new management team, we determined that it was necessary to adjust our segment reporting disclosures to more closely align our disclosures with the realignment of our management team. Accordingly, we have expanded our domestic geographical disclosures and collapsed our international geographical disclosures related to our wholesale power generation segment. In addition, our other segments have been further refined. As a result of these changes, we have retroactively recast our prior period disclosures in a consistent manner.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

We conduct the majority of our business within five reportable operating segments. All of our other operations are presented under the "All Other" category. Our reportable operating segments consist of Wholesale Power Generation — Northeast, Wholesale Power Generation — South Central, Wholesale Power Generation — West Coast, Wholesale Power Generation — Other North America and Wholesale Power Generation — Australia. These reportable segments are distinct components with separate operating results and management structures in place. Included in the All Other category are our Wholesale Power Generation — Other International operations, our Alternative Energy operations, our Non-Generation operations and an Other component which includes primarily our corporate charges (primarily interest expense) that have not been allocated to the reportable segments and the remainder of our operations which are not significant. We have presented this detail within the All Other category as we believe that this information is important to a full understanding of our business.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Reorganized NRG
Year Ended December 31, 2004

	Wholesale Power Generation					All Other				
	Northeast	South Central	West Coast	Other North America	Australia	Other International	Alternative Energy	Non-Generation	Other	Total
	(In thousands)									
Operations										
Operating revenues	$1,251,153	$ 418,145	$ 2,469	$105,644	$ 181,065	$157,220	$65,872	$186,425	$ (6,569)	$2,361,424
Operating expenses	859,769	294,215	10,842	57,686	161,960	121,895	60,725	101,051	37,433	1,705,576
Depreciation and amortization	72,665	62,458	800	21,842	24,027	2,834	5,293	11,318	8,058	209,295
Corporate relocation charges	11	1	—	—	—	—	—	—	16,155	16,167
Reorganization items	180	976	—	142	—	—	—	513	(15,201)	(13,390)
Restructuring and impairment charges	247	2,909	—	26,505	—	—	—	—	15,000	44,661
Operating income/(loss)	318,281	57,586	(9,173)	(531)	(4,922)	32,491	(146)	73,543	(68,014)	399,115
Minority interest in earnings of consolidated subsidiaries	—	—	—	(1,029)	—	(16)	—	—	—	(1,045)
Equity in earnings (losses) of unconsolidated affiliates	—	—	74,375	17,455	17,524	50,921	(450)	—	—	159,825
Write downs and losses on sales of equity method investments	—	—	—	(11,172)	(1,268)	—	(3,830)	—	—	(16,270)
Other income (expense), net	4,324	474	434	1,831	4,845	5,966	1,893	1,811	4,987	26,565
Refinancing expenses	—	—	—	—	—	—	—	—	(71,569)	(71,569)
Interest expense	(791)	(8,710)	(3)	(47,970)	(11,189)	(10,769)	(445)	(8,419)	(181,068)	(269,364)
Income/(loss) from continuing operations before income taxes	321,814	49,350	65,633	(41,416)	4,990	78,593	(2,978)	66,935	(315,664)	227,257
Income tax expense/(benefit)	—	—	175	(9,961)	(4,610)	12,872	(1,224)	5,033	62,827	65,112
Income/(loss) from continuing operations	321,814	49,350	65,458	(31,455)	9,600	65,721	(1,754)	61,902	(378,491)	162,145
Income/(loss) on discontinued operations, net of income taxes	—	—	—	13,183	—	12,358	2,457	—	(4,526)	23,472
Net income/(loss)	$ 321,814	$ 49,350	$ 65,458	$ (18,272)	$ 9,600	$ 78,079	$ 703	$ 61,902	$ (383,017)	$ 185,617
Balance Sheet										
Equity investments in affiliates	1,281	—	255,582	75,889	156,118	245,609	471	—	—	734,950
Total assets	$1,939,222	$1,076,578	$278,277	$781,658	$1,008,085	$905,034	$51,257	$504,926	$1,284,991	$7,830,028

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)
Reorganized NRG
December 6, 2003 through December 31, 2003

	Wholesale Power Generation					All Other				
	Northeast	South Central	West Coast	Other North America	Australia	Other International	Alternative Energy	Non-Generation	Other	Total
	(In thousands)									
Operations										
Operating revenues	$ 69,191	$ 26,609	$ (268)	$ 5,377	$ 11,947	$ 13,082	$ 3,852	$ 10,013	$ (1,313)	$ 138,490
Operating expenses	53,016	19,491	119	2,790	10,385	10,798	3,424	8,053	(17)	108,059
Depreciation and amortization	4,604	2,561	58	1,639	1,475	212	324	497	438	11,808
Reorganization items	241	27	—	—	—	1	—	—	2,192	2,461
Operating income/(loss)	11,330	4,530	(445)	948	87	2,071	104	1,463	(3,926)	16,162
Minority interest in earnings of consolidated subsidiaries	—	—	—	(134)	—	—	—	—	—	(134)
Equity in earnings of unconsolidated affiliates	—	—	9,979	1,836	997	709	—	—	—	13,521
Other income (expense), net	(267)	99	—	163	274	905	151	77	(1,305)	97
Interest expense	(2,976)	(4,133)	—	(3,643)	(707)	(420)	(1)	(619)	(6,403)	(18,902)
Income/(loss) from continuing operations before income taxes	8,087	496	9,534	(830)	651	3,265	254	921	(11,634)	10,744
Income tax expense/(benefit)	—	—	—	357	(298)	1,045	—	45	(1,810)	(661)
Income/(loss) from continuing operations	8,087	496	9,534	(1,187)	949	2,220	254	876	(9,824)	11,405
Income/(loss) on discontinued operations, net of income taxes	—	—	—	(248)	—	(64)	(68)	—	—	(380)
Net income/(loss)	$ 8,087	$ 496	$ 9,534	$ (1,435)	$ 949	$ 2,156	$ 186	$ 876	$ (9,824)	$ 11,025
Balance Sheet										
Equity investments in affiliates	1,281	—	304,267	96,249	136,129	196,488	458	—	3,126	737,998
Total assets	$2,178,681	$1,128,404	$355,184	$2,052,100	$945,096	$1,058,072	$71,886	$334,658	$1,120,906	$9,244,987

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Predecessor Company
January 1, 2003 through December 5, 2003

	Wholesale Power Generation									
						All Other				
	Northeast	South Central	West Coast	Other North America	Australia	Other International	Alternative Energy	Non-Generation	Other	Total
	(In thousands)									
Operations										
Operating revenues	$ 861,452	$ 356,534	$ 23,956	$ 85,388	$ 151,494	$ 137,384	$ 60,871	$ 129,063	$ (7,755)	$ 1,798,387
Operating expenses	800,141	246,908	8,049	45,655	124,812	111,032	52,360	86,487	50,795	1,526,239
Depreciation and amortization	90,132	33,987	10,750	38,046	17,114	3,550	4,602	11,870	8,792	218,843
Reorganization items	1,813	28,769	—	41,717	—	—	—	—	125,526	197,825
Restructuring and impairment charges	232,170	1,574	—	17,994	5	133	1,067	26	(15,394)	237,575
Fresh start reporting adjustments	1,067,783	428,823	106,523	515,166	77,593	(10,676)	50,290	181,459	(6,535,597)	(4,118,636)
Legal settlement	—	—	—	4,000	—	—	(9,369)	—	468,000	462,631
Operating income/(loss)	(1,330,587)	(383,527)	(101,366)	(577,190)	(68,030)	33,345	(38,079)	(150,779)	5,890,123	3,273,910
Equity in earnings of unconsolidated affiliates	—	—	102,681	7,260	30,364	31,536	(940)	—	—	170,901
Write downs and losses on sales of equity method investments	—	—	—	12,125	(146,354)	3,389	(16,284)	—	—	(147,124)
Other income (expense), net	2,308	699	8	2,832	(934)	12,647	2,521	75	(947)	19,209
Interest expense	(69,663)	(73,968)	—	(92,031)	(4,176)	(7,896)	(153)	(9,805)	(72,197)	(329,889)
Income/(loss) from continuing operations before income taxes	(1,397,942)	(456,796)	1,323	(647,004)	(189,130)	73,021	(52,935)	(160,509)	5,816,979	2,987,007
Income tax expense/(benefit)	—	—	35,746	5,440	15,155	16,843	1,597	395	(37,247)	37,929
Income/(loss) from continuing operations	(1,397,942)	(456,796)	(34,423)	(652,444)	(204,285)	56,178	(54,532)	(160,904)	5,854,226	2,949,078
Income/(loss) on discontinued operations, net of income taxes	—	—	—	(279,639)	—	137,819	(25,123)	—	(15,690)	(182,633)
Net income/(loss)	$(1,397,942)	$(456,796)	$ (34,423)	$(932,083)	$(204,285)	$193,997	$(79,655)	$(160,904)	$ 5,838,536	$ 2,766,445

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)
Predecessor Company
Year Ended December 31, 2002

	Wholesale Power Generation					All Other				
	Northeast	South Central	West Coast	Other North America	Australia	Other International	Alternative Energy	Non-Generation	Other	Total
	(In thousands)									
Operations										
Operating revenues	$964,196	$ 388,023	$30,796	$ 81,521	$ 170,761	$ 108,379	$ 69,030	$135,403	$ (9,816)	$ 1,938,293
Operating expenses	713,120	258,965	2,758	63,659	157,794	96,565	68,454	80,957	109,026	1,551,298
Depreciation and amortization	83,757	35,965	11,243	34,338	14,849	1,242	5,442	12,584	7,607	207,027
Restructuring and impairment charges	51,130	139,929	—	1,840,652	(16,265)	71,108	27,893	31	448,582	2,563,060
Operating income/(loss)	116,189	(46,836)	16,795	(1,857,128)	14,383	(60,536)	(32,759)	41,831	(575,031)	(2,383,092)
Equity in earnings of unconsolidated affiliates	—	(3,146)	24,012	23,287	15,680	33,617	(24,454)	—	—	68,996
Write downs and losses on sales of equity method investments	—	(48,375)	—	5,386	(129,190)	(12,751)	(15,542)	—	—	(200,472)
Other income (expense), net	5,822	922	—	1,359	(1,423)	10,680	1,503	(142)	(7,290)	11,431
Interest expense	(67,820)	(74,940)	(160)	(88,192)	(4,212)	(3,030)	(3,666)	(8,946)	(201,216)	(452,182)
Income/(loss) from continuing operations before income taxes	54,191	(172,375)	40,647	(1,915,288)	(104,762)	(32,020)	(74,918)	32,743	(783,537)	(2,955,319)
Income tax expense/(benefit)	—	—	5,843	8,848	(3,033)	14,982	(16,943)	11,654	(188,218)	(166,867)
Income/(loss) from continuing operations	54,191	(172,375)	34,804	(1,924,136)	(101,729)	(47,002)	(57,975)	21,089	(595,319)	(2,788,452)
Income/(loss) on discontinued operations, net of income taxes	—	—	—	(93,755)	—	(550,876)	(31,199)	—	—	(675,830)
Net income/(loss)	$ 54,191	$(172,375)	$34,804	$(2,017,891)	$(101,729)	$(597,878)	$(89,174)	$ 21,089	$(595,319)	$(3,464,282)

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 24 — Income Taxes

The income tax provision (benefit) from continuing operations consists of the following amounts:

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Current				
U.S.	$ (229)	$ (1,513)	$ 2,231	$ 10,409
Foreign	17,118	1,184	15,630	17,160
	16,889	(329)	17,861	27,569
Deferred				
U.S.	56,747	59	3,292	(191,447)
Foreign	(8,524)	(391)	16,776	(2,989)
	48,223	(332)	20,068	(194,436)
Total income tax (benefit)	$ 65,112	$ (661)	$ 37,929	$ (166,867)
Effective tax rate	28.7%	(6.2)%	1.3%	5.6%

The following represents the domestic and foreign income components of income (loss) from continuing operations before income tax expense (benefit):

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
U.S.	$ 139,007	$ 6,828	$ 3,103,117	$ (2,818,537)
Foreign	88,250	3,916	(116,110)	(136,782)
	$ 227,257	$ 10,744	$ 2,987,007	$ (2,955,319)

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

A reconciliation of the U.S. federal statutory rate to our effective rate from continuing operations for the year ended December 31, 2004, the periods December 6, 2003 to December 31, 2003 and January 1, 2003 to December 5, 2003 and for the year ended December 31, 2002 is as follows:

	Reorganized NRG				Predecessor Company			
	Year Ended December 31, 2004		For the Period December 6 – December 31, 2003		For the Period January 1 – December 5, 2003		Year Ended December 31, 2002	
	(Dollars in thousands)							
Income/(Loss) From Continuing Operations Before Income Taxes	$227,257		$10,744		$2,987,007		$(2,955,319)	
Tax at 35%	79,540	35.0%	3,760	35.0%	1,045,452	35.0%	(1,034,362)	35.0%
State taxes, (net of federal benefit)	6,455	2.9%	(1,834)	(17.1)%	254,112	8.5%	(167,405)	5.7%
Foreign operations	(22,294)	(9.8)%	(1,265)	(11.8)%	15,001	0.5%	(18,522)	0.6%
Fresh Start accounting adjustments	—	—			(1,383,334)	(46.3)%	—	
Tax credits	—	—						
Valuation allowance	—	—	(515)	(4.8)%	71,315	2.4%	1,006,540	(34.1)%
Change in tax rate	—	—			36,018	1.2%	—	
Permanent differences, reserves, other	1,411	0.6%	(807)	(7.5)%	(635)	—	46,882	(1.6)%
Income Tax Expense/(Benefit)	$65,112	28.7%	$(661)	(6.2)%	$37,929	1.3%	$(166,867)	5.6%

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The temporary differences, which give rise to our deferred tax assets and liabilities consist of the following:

	Reorganized NRG	
	December 31, 2004	December 31, 2003
	(In thousands)	
Deferred tax liabilities:		
Discount/premium on notes	$ 20,191	$ 34,136
Emissions credits	115,150	147,811
Difference between book and tax basis of property	245,977	—
Other	—	988
Total deferred tax liabilities	381,318	$ 182,935
Deferred tax assets:		
Deferred compensation, accrued vacation and other reserves	54,240	46,684
Development costs	2,741	2,999
Net unrealized gains on mark to market transactions	9,914	20,634
Foreign net operating loss carryforwards	63,674	342,017
Differences between book and tax basis of contracts	161,792	175,224
Difference between book and tax basis of property	—	79,070
Nondepreciable Property	182,578	402,940
Intangibles amortization (other than goodwill)	13,358	13,053
Restructuring costs	60,159	20,468
U.S. net operating loss carry forwards	40,404	—
U.S. capital loss carryforwards	280,054	—
Investments in projects	82,691	159,370
Other	2,925	13,934
Total deferred tax assets (before valuation allowance)	954,530	1,276,393
Valuation allowance	(707,871)	(1,241,101)
Net deferred tax assets	246,659	35,292
Net deferred tax liability	$ 134,659	$ 147,643

The net deferred tax liability consists of:

	Reorganized NRG	
	December 31, 2004	December 31, 2003
	(In thousands)	
Current deferred tax liability (asset)	$ 334	$ (1,850)
Non-current deferred tax liability	134,325	149,493
Net deferred tax liability	$134,659	$147,643

We generated U.S. net operating loss carryforwards of $102.1 million for the year ended December 31, 2004, which will expire through 2024. Cumulative foreign net operating loss carryforwards of $200.6 million have no expiration date.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

We believe that it is more likely than not that no benefit will be realized on a substantial portion of our deferred tax assets. This assessment included consideration of positive and negative evidence, including our current financial position and results of current operations, projected future taxable income, including projected operating and capital gains and our available tax planning strategies. Therefore, a valuation allowance of $707.9 million was recorded against the net deferred tax assets, including net operating loss carryforwards.

Under SOP 90–7, any future benefits from reducing a valuation allowance from preconfirmation deferred tax assets are required to be reported as a direct addition to paid in capital versus a benefit on our income statement. Consequently, our effective tax rate in post–bankruptcy emergence years will not benefit from the realization of our deferred tax assets, which were fully valued as of the date of our emergence from bankruptcy.

As of December 31, 2004, our management intends to indefinitely reinvest the earnings from our foreign operations. Accordingly, U.S. income taxes and foreign withholding taxes were not provided on the earnings from our foreign subsidiaries. As of December 31, 2004, no U.S. income tax benefit was provided on the cumulative losses from our foreign subsidiaries of $110.0 million. Our management is currently reviewing their reinvestment plan pursuant to the American Jobs Creation Act of 2004. This legislation provides for a low tax cost on earnings repatriated in 2005 and reinvested in a company's U.S. operations.

Note 25 — Related Party Transactions

Prior to our emergence from bankruptcy on December 5, 2003, NRG Energy was an indirect, wholly–owned subsidiary of Xcel Energy. Prior to December 5, 2003, we had entered into material transactions and agreements with Xcel Energy which are described below. Upon emergence from bankruptcy, we became an independent public company with no material affiliation or relationship to Xcel Energy. We have included amounts paid to or received from Xcel Energy during the year ended December 31, 2004 and for the period December 6, 2003 to December 31, 2003 only for comparative purposes, as these transactions are not considered related party transactions subsequent to December 5, 2003.

Stock Purchase Agreement

Upon emergence from chapter 11, investment partnerships managed by MatlinPatterson LLC owned approximately 21.5 million (21.5%) of our common shares. We used existing cash to repurchase 13 million shares of common stock from MatlinPatterson pursuant to a stock purchase agreement dated December 13, 2004 at a purchase price of $31.16 per share. In addition to a reduction in total shares of common stock outstanding by 13 million, the share repurchase resulted in (i) the reduction of MatlinPatterson's share ownership of NRG Energy to less than 10% from the prior 21.5%, (ii) termination of MatlinPatterson's registration rights, and (iii) resignation from our Board of Directors of three directors affiliated with MatlinPatterson. Our Board's Governance and Nominating Committee is in the process of identifying appropriate independent directors to fill the three vacancies.

Operating Agreements

We have two agreements with Xcel Energy for the purchase of thermal energy. Under the terms of the agreements, Xcel Energy charges us for certain costs (fuel, labor, plant maintenance, and auxiliary power) incurred by Xcel Energy to produce the thermal energy. We paid Xcel Energy $11.1 million, $1.1 million, $9.6 million and $8.2 million during the year ended December 31, 2004, the period December 6, 2003 to December 31, 2003, the period January 1, 2003 to December 5, 2003, and the year ended December 31, 2002, respectively, under these agreements. One of these agreements expires in 2006 and the other expires in 2010.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

We have a renewable 10-year agreement with Xcel Energy, expiring on December 31, 2006, whereby Xcel Energy agreed to purchase refuse-derived fuel for use in certain of its boilers and we agree to pay Xcel Energy a burn incentive. Under this agreement, we received $1.4 million, $0, $1.4 million and $1.2 million from Xcel Energy and paid $3.7 million, $0.3 million, $3.9 million and $3.3 million to Xcel Energy during the year ended December 31, 2004, the period December 6, 2003 to December 31, 2003, the period January 1, 2003 to December 5, 2003 and the year ended December 31, 2002, respectively.

Administrative Services and Other Costs

We had an administrative services agreement in place with Xcel Energy. Under this agreement we reimbursed Xcel Energy for certain overhead and administrative costs, including benefits administration, engineering support, accounting and other shared services as requested by us. In addition, our employees participated in certain employee benefit plans of Xcel Energy as discussed in Note 26. We reimbursed Xcel Energy in the amounts of $7.3 million and $21.2 million during the period January 1, 2003 to December 5, 2003 and the year ended December 31, 2002, respectively, under this agreement. This agreement was terminated December 5, 2003.

Natural Gas Marketing and Trading Agreement

We had an agreement with e prime, a wholly-owned subsidiary of Xcel Energy, under which e prime provided natural gas marketing and trading from time to time at our request. We paid $19.2 million to e prime in 2002 related to these services. This agreement was terminated by e prime on December 12, 2002 and a termination charge of $0.3 million was paid in the period January 1, 2003 to December 5, 2003.

Note 26 — Benefit Plans and Other Postretirement Benefits

Reorganized NRG

Substantially all employees hired prior to December 5, 2003 were eligible to participate in our defined benefit pension plans. We have initiated a new NRG Energy noncontributory, defined benefit pension plan effective January 1, 2004, with credit for service from December 5, 2003. As of December 31, 2004, our accumulated benefit obligation was approximately $61.1 million. As of December 31, 2004, we had plan assets of $716,000.

In addition, we provide postretirement health and welfare benefits (health care and death benefits) for certain groups of our employees. Generally, these are groups that were acquired in recent years and for whom prior benefits are being continued (at least for a certain period of time or as required by union contracts). Cost sharing provisions vary by acquisition group and terms of any applicable collective bargaining agreements. As of December 31, 2004, our accumulated benefit obligation was approximately $45.5 million. We expect to contribute approximately $12.8 million to our NRG pension plan and our postretirement health and welfare plan in 2005.

NRG Flinders Retirement Plan

Employees of NRG Flinders, a wholly-owned subsidiary of NRG Energy, are members of the multiemployer Electricity Industry Superannuation Schemes, or EISS. Members of the EISS make contributions from their salary and the EISS Actuary makes an assessment of our liability. As a result of adopting Fresh Start we recorded a liability of approximately $13.8 million at December 5, 2003, to record our accumulated benefit obligation plan assets on the balance sheet at fair value. The balance sheet includes a liability related to the Flinders retirement plan of $8.5 million and $13.7 million at December 31, 2004 and 2003, respectively. NRG Flinders contributed $10.2 million, $0, $4.5 million and $5.8 million for the year

ended December 31, 2004, the period December 6 through December 31, 2003, the period January 1 through December 5, 2003 and the year ended December 31, 2002, respectively.

The Superannuation Board is responsible for the investment of EISS assets. The assets may be invested in government securities, shares, property and a variety of other securities and the Board may appoint professional investment managers to invest all or part of the assets on its behalf.

NRG Pension and Postretirement Medical Plans

Components of Net Periodic Benefit Cost

The net annual periodic pension cost related to all of our plans, include the following components:

	Pension Benefits			
	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Service cost benefits earned	$ 11,053	$ 800	$ —	$ —
Interest cost on benefit obligation	2,857	205	—	—
Expected return on plan assets	(44)	—	—	—
Curtailment gain	(750)	—	—	—
Net periodic benefit cost	$ 13,116	$ 1,005	$ —	$ —

	Other Benefits			
	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Service cost benefits earned	$ 1,673	$ 130	$ 1,220	$ 1,206
Interest cost on benefit obligation	2,601	180	1,900	1,831
Amortization of prior service cost	—	—	(22)	(24)
Recognized actuarial (gain)/loss	—	—	178	5
Net periodic benefit cost	$ 4,274	$ 310	$ 3,276	$ 3,018

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Reconciliation of Funded Status

A comparison of the pension benefit obligation and pension assets at December 31, 2004 and 2003 for all of our plans on a combined basis is as follows:

Reorganized NRG	Pension Benefits December 31, 2004	Pension Benefits December 31, 2003	Other Benefits December 31, 2004	Other Benefits December 31, 2003
	(In thousands)			
Benefit obligation at January 1	$ 48,955	$ —	$ 42,170	$ 31,584
Service cost	11,053	800	1,673	1,350
Interest cost	2,857	205	2,601	2,080
Plan initiation	—	47,950	—	—
Plan amendments	—	—	—	2,100
Plan curtailment	(750)	—	—	—
Actuarial (gain)/loss	2,073	—	6,004	5,396
Benefit payments	(254)	—	(993)	(340)
Benefit obligation at December 31	$ 63,934	$ 48,955	$ 51,455	$ 42,170
Fair value of plan assets at January 1	$ —	$ —	$ —	$ —
Actual return on plan assets	(30)	—	—	—
Employer contributions	1,000	—	993	340
Benefit payments	(254)	—	(993)	(340)
Fair value of plan assets at December 31	$ 716	$ —	$ —	$ —
Funded status at December 31 — excess of obligation over assets	$(63,218)	$(48,955)	$(51,455)	$(42,170)
Unrecognized net (gain) loss	2,147	—	5,997	—
Accrued benefit liability recognized on the consolidated balance sheet at December 31	$(61,071)	$(48,955)	$(45,458)	$(42,170)

Amounts recognized in the balance sheets consist of:

	Pension Benefits December 31, 2004	Pension Benefits December 31, 2003	Other Benefits December 31, 2004	Other Benefits December 31, 2003
	(In thousands)			
Accrued benefit cost	$(61,071)	$(48,955)	$(45,458)	$(42,170)
Unfunded accrued benefit obligation	—	—	—	—
Intangible assets	—	—	—	—
Accumulated other comprehensive income	—	—	—	—
Net amount recognized	$(61,071)	$(48,955)	$(45,458)	$(42,170)

	Pension Benefits	
	December 31, 2004	December 31, 2003
Projected benefit obligation	$63,934	$48,955
Accumulated benefit obligation	16,375	1,000
Fair value of plan assets	716	—

The following tables present the significant assumptions used:

	Pension Benefits		Other Benefits	
	2004	2003	2004	2003
Weighted–average assumptions used to determine benefit obligations at December 31				
Discount rate	5.75%	6.00%	5.75%	6.00%
Rate of compensation increase	4.00 – 4.50%	4.00 – 4.50%	—	—
Health care trend rate	—	—	9% grading to 5.5% in 2009	10% grading to 5.5% in 2009

	Pension Benefits		Other Benefits	
	2004	2003	2004	2003
Weighted–average assumptions used to determine net periodic benefit cost for years ended December 31				
Discount rate	6.00%	6.00%	6.00%	6.75%
Expected return on plan assets	8.00%	*	—	—
Rate of compensation increase	4.00 – 4.50%	4.00 – 4.50%	—	—
Health care trend rate	—	—	10% grading to 5.5% in 2009	11% grading to 5.5% in 2009

* We did not determine an expected return on plan assets for the NRG pension plan, as there were no plan assets at December 31, 2003.

Expected future benefit payments are:

	Pension Benefits	Post Retirement Medical Plans	
	Benefit Payments	Benefit Payments	Medicare Prescription Drug Reimbursements
		(In thousands)	
2005	$ 882	$ 1,328	$ —
2006	1,776	1,583	10
2007	2,486	1,861	25
2008	3,399	2,216	45
2009	4,817	2,552	75
2010–2014	42,491	17,438	815

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Assumed health care cost trend rates have a significant effect on the amounts reported for the health care plans. A one–percentage–point change in assumed health care cost trend rates would have the following effect (in thousands):

	1–Percentage–Point Increase	1–Percentage–Point Decrease
Effect on total service and interest cost components	$ 558	$ (506)
Effect on postretirement benefit obligation	5,616	(5,410)

Defined Contribution Plans

Our employees have also been eligible to participate in defined contribution 401(K) plans. Our contributions to these plans were approximately $4.3 million, $3.8 million and $4.6 million for the years ended December 31, 2004, 2003 and 2002, respectively.

Predecessor Company

Prior to December 5, 2003, all eligible employees participated in Xcel Energy's multiemployer noncontributory, defined benefit pension plan, which was formerly sponsored by NSP. We sponsored two defined benefit plans that were merged into Xcel Energy's plan as of June 30, 2002. Benefits were generally based on a combination of an employee's years of service and earnings. Some formulas also took into account Social Security benefits. Plan assets principally consisted of the common stock of public companies, corporate bonds and U.S. government securities.

Prior to December 5, 2003, certain former NRG Energy retirees were covered under the legacy Xcel Energy plan, which was terminated for non–bargaining employees retiring after 1998 and for bargaining employees retiring after 1999.

As a result of our emergence from bankruptcy on December 5, 2003, we are no longer owned by or affiliated with Xcel Energy and our employees are no longer participants of the Xcel Energy plans.

Participation in Xcel Energy, Inc. Pension Plan and Postretirement Medical Plan

We did not make contributions to the Xcel Energy pension plan and postretirement plan in 2002 or 2003. As of December 31, 2003, there are no liabilities recorded related to the Xcel Energy plans. The liabilities associated with these plans were settled as part of the NRG plan of reorganization. The net annual periodic cost (credit) related to our portion of the Xcel Energy pension plan and postretirement plans totaled $0.2 million and $(8.9) million for 2003 and 2002, respectively.

Prior to December 5, 2003, certain employees also participated in Xcel Energy's noncontributory defined benefit supplemental retirement income plan. This plan was for the benefit of certain qualifying executive personnel. Benefits for this unfunded plan were paid out of operating cash flows. The liability related to this plan was not material as of December 31, 2004 and 2003, respectively.

2003 Medicare Legislation

In May 2004, the Financial Accounting Standards Board, FASB, issued FASB Staff Position (FSP) No. 106–2, *"Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and Modernization Act of 2003"* (FSP 106–2). FSP 106–2 provides guidance on accounting for the effects of the new Medicare Prescription Drug, Improvement, and Modernization Act of 2003 by employers whose prescription drug benefits are actuarially equivalent to the drug benefit under Medicare Part D. FSP 106–2 is effective as of the first interim period beginning after June 15, 2004. NRG Energy adopted FSP 106–2 in the third quarter of 2004 on a retroactive basis. Adoption of FSP 106–2 will reduce the

annual non-cash postretirement health expense by approximately $0.2 million and reduce the accumulated postretirement benefit obligation by $2.2 million. The change in accumulated postretirement benefit obligation has been reflected as an actuarial gain and will be amortized in future periods.

Note 27 — Commitments and Contingencies

Operating Lease Commitments

We lease certain of our facilities and equipment under operating leases, some of which include escalation clauses, expiring on various dates through 2023. Rental expense under these operating leases was $11.3 million for the year ended December 31, 2004, $0.7 million for the period December 6, 2003 through December 31, 2003, $11.9 million for the period January 1, 2003 through December 5, 2003 and $13.2 million for the year ended December 31, 2002. Future minimum lease commitments under these leases for the years ending after December 31, 2004 are as follows:

	Total
	(In thousands)
2005	$ 16,176
2006	17,589
2007	14,794
2008	14,485
2009	14,337
Thereafter	62,943
Total	$ 140,324

In August 2004, we entered into a contract to purchase 1,540 aluminum railcars from Johnston America Corporation to be used for the transportation of low sulfur coal from Wyoming to NRG Energy's coal burning generating plants, including the Cajun Facilities. On February 18, 2005, we entered into a ten-year operating lease agreement with GE Railcar Services Corporation, or GE, for the lease of 1,500 railcars and delivery commenced in February 2005. We have assigned certain of our rights and obligations for 1,500 railcars under the purchase agreement with Johnston America to GE. Accordingly, the railcars which we lease from GE under the arrangement described above will be purchased by GE from Johnston America in lieu of our purchase of those railcars.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Coal Purchase and Transportation Commitments

In December 2004, we entered into a long-term coal transport agreement with the Burlington Northern and Santa Fe Railway Company and affiliates of American Commercial Lines LLC to deliver low sulfur coal to our Big Cajun II facility in New Roads, Louisiana beginning April 1, 2005. In December 2004, we also entered into coal purchase contracts extending through 2007. In March 2005, we entered into an agreement to purchase 23.75 million tons of coal over a period of four years and nine months from Buckskin Mining Company, or Buckskin. The coal will be sourced from Buckskin's mine in the Powder River Basin, Wyoming, and will be used primarily in NRG Energy's coal-burning generation plants in the South Central region. Future payments under these agreements for the years ending after December 31, 2004 are estimated as follows:

	Total
	(In thousands)
2005	$118,679
2006	85,682
2007	49,494
2008	37,189
2009	38,439
Thereafter	21,699
Total	$351,182

Capital Commitments

We anticipate funding our ongoing capital requirements through committed debt facilities, operating cash flows, and existing cash. Our capital expenditure program is subject to continuing review and modification. The timing and actual amount of expenditures may differ significantly based upon plant operating history, unexpected plant outages, and changes in the regulatory environment, and the availability of cash.

International

Two of our wholly-owned, indirect subsidiaries are severally responsible for the prorate payments of principal, interest and related costs incurred in connection with the financing of our equity investment in the unincorporated joint venture Gladstone Power Station. At December 31, 2004, we were obligated for the loan of AUD 108.4 million (approximately US $84.8 million) in principal. This loan is scheduled to be fully repaid on March 31, 2009.

NRG FinCo Settlement

In May 2001, our wholly-owned subsidiary, NRG FinCo, entered into a $2.0 billion revolving credit facility. The facility was established to finance the acquisition, development and construction of certain power generating plants located in the United States and to finance the acquisition of turbines for such facilities. The facility provided for borrowings of base rate loans and Eurocurrency loans and was secured by mortgages and security agreements in respect of the assets of the projects financed under the facility, pledges of the equity interests in the subsidiaries or affiliates of the borrower that own such projects, and by guaranties from each such subsidiary or affiliate. The NRG FinCo secured revolver was initially scheduled to mature on May 8, 2006; however, due to defaults hereunder by NRG FinCo and applicable guarantors, the lenders accelerated all outstanding obligations on November 6, 2002. As of our emergence from bankruptcy, $1.1 billion was outstanding under the facility, and there was an aggregate of approximately $58 million of accrued but unpaid interest and commitment fees. Of this, $842.0 million was allowed in unsecured claims under the NRG plan of

reorganization, and was settled at the time of our emergence. The remaining balance will be satisfied when the NRG FinCo lenders exercise their perfected security interests in our Nelson, Audrain and Pike projects. During 2004, we sold our Nelson assets for approximately $19.5 million and certain assets of our Pike project for $17 million. The proceeds from these sales were paid to the lenders. As of December 31, 2004, we hold assets in our Audrain project, principally property, plant and equipment, and some remaining ancillary equipment in our Pike project of approximately $172 million and $5 million, respectively. Any proceeds from the sale of these assets are owed to the NRG FinCo lenders, accordingly there are liabilities reflected in other bankruptcy settlement for the same amount on our consolidated balance sheet. We are in the process of marketing for sale the Audrain project and the remaining Pike equipment on behalf of the NRG FinCo lenders. The NRG FinCo lenders have authority under their perfected security interest to accept or reject all offers. As a result, these entities are not reflected as discontinued operations. In accordance with a Term Sheet Agreement with the NRG FinCo lenders, we are accruing a monthly management fee and accruing for certain costs associated with the caretaking and marketing of these assets. We believe we have no additional risk of loss related to these entities.

Environmental Regulatory Matters

The construction and operation of power projects are subject to stringent environmental and safety protection and land use laws and regulation in the U.S. If such laws and regulations become more stringent, or new laws, interpretations or compliance policies apply and our facilities are not exempted from coverage, we could be required to make extensive modifications to further reduce potential environmental impacts. In general, the effect of future laws or regulations is expected to require the addition of pollution control equipment or the imposition of restrictions on our operations.

Under various federal, state and local environmental laws and regulations, a current or previous owner or operator of any facility may be required to investigate and remediate releases or threatened releases of hazardous or toxic substances or petroleum products located at the facility, and may be held liable to a governmental entity or to third parties for property damage, personal injury and investigation and remediation costs incurred by the party in connection with any releases or threatened releases. These laws impose strict (without fault) and joint and several liability. The cost of investigation, remediation or removal of any hazardous or toxic substances or petroleum products could be substantial. To date, we have not been named as a potentially responsible party with respect to any off–site waste disposal matter.

As part of acquiring existing generating assets, we have inherited certain environmental liabilities associated with regulatory compliance and site contamination. Often potential compliance implementation plans are changed, delayed or abandoned due to one or more of the following conditions: (a) extended negotiations with regulatory agencies, (b) a delay in promulgating rules critical to dictating the design of expensive control systems, (c) changes in governmental/regulatory personnel, (d) changes in governmental priorities or (e) selection of a less expensive compliance option than originally envisioned.

Northeast Region

Significant amounts of ash are landfilled at on and off–site locations. At Dunkirk, Huntley, Somerset and Indian River, ash is disposed at landfills owned and operated by the Company. The Company maintains financial assurance to cover costs associated with closure, post–closure care and monitoring activities. The Company has funded a trust in the amount of approximately $5.9 million to provide such financial assurance in New York and $6.7 million in Delaware. The Company must also maintain financial assurance for closing interim status "RCRA facilities" at the Devon, Middletown, Montville and Norwalk Harbor Generating Stations and has funded a trust in the amount of $1.5 million accordingly.

The Company inherited historical clean–up liabilities when it acquired the Somerset, Devon, Middletown, Montville, Norwalk Harbor, Arthur Kill and Astoria Generating Stations. During installation of a sound wall

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at Somerset Station in 2003, oil contaminated soil was encountered. The Company has delineated the general extent of contamination, determined it to be minimal, and has placed an activity use limitation on that section of the property. Site contamination liabilities arising under the Connecticut Transfer Act at the Devon, Middletown, Montville and Norwalk Harbor Stations have been identified. The Company has proposed a remedial action plan to be implemented over the next two to eight years (depending on the station) to address historical ash contamination at the facilities. The total estimated cost is not expected to exceed $1.5 million. Remedial obligations at the Arthur Kill generating station have been established in discussions between the Company and the NYSDEC and are estimated to cost between $1 million and $2 million. Remedial investigations continue at the Astoria generating station with long-term clean-up liability expected to be within the range of $2.5 million to $4.3 million. While installing groundwater-monitoring wells at Astoria to track our remediation of a historical fuel oil spill, the drilling contractor encountered deposits of coal tar in two borings. The Company reported the coal tar discovery to the NYSDEC in 2003 and delineated the extent of this contamination. The Company may also be required to remediate the coal tar contamination and/or record a deed restriction on the property if significant contamination is to remain in place.

We estimate that we will incur total environmental capital expenditures of $197.6 million during 2005 through 2010 for the facilities in New York, Connecticut, Delaware and Massachusetts. These expenditures will be primarily related to installation of particulate, SO_2 and NO_X controls, as well as installation of BTA under the Phase II 316(b) Rule.

Huntley Power LLC, Dunkirk Power LLC and Oswego Power LLC were issued Notices of Violation for opacity exceedances and entered into a Consent Order with NYSDEC, effective March 31, 2004. The Consent Order required the respondents to pay a civil penalty of $1.0 million which was paid in April 2004. The Order also establishes stipulated penalties (payable quarterly) for future violations of opacity requirements and a compliance schedule. The Company is currently in dispute with NYSDEC over the method of calculation for stipulated penalties. The Company has placed $867,400 in a reserve as of December 31, 2004, and does not believe that the final resolution will involve a material larger amount.

South Central Region

Liabilities associated with closure, post-closure care and monitoring of the ash ponds owned and operated on site at the Big Cajun II Generating Station are addressed through the use of a trust fund maintained by the Company in the amount of approximately $5.0 million. Annual payments are made to the fund in the amount of approximately $116,000.

We estimate approximately $149 million of capital expenditures will be incurred during the period 2005 through 2010 for out South Central facilities, primarily related to installation of particulate, SO_2 and NO_X controls, as well as studies for installation of BTA under the Phase II 316(b) Rule.

West Coast Region

The Asset Purchase Agreements for the Long Beach, El Segundo, Encina, and San Diego gas turbine generating facilities provide that SCE and SDG&E retain liability, and indemnify the Company, for existing soil and groundwater contamination that exceeds remedial thresholds in place at the time of closing. The Company and its business partner conducted Phase I and Phase II Environmental Site Assessments at each of these sites for purposes of identifying such existing contamination and provided the results to the sellers. SCE and SDG&E have agreed to address contamination identified by these studies and are undertaking corrective action at the Encina and San Diego gas turbine generating sites. Spills and releases of various substances have occurred at these sites since the Company established the historical baseline, all of which have been, or will be, completely remediated. An oil leak in 2002 from underground piping at the El Segundo Generating Station contaminated soils adjacent to and underneath the Unit 1 and 2 powerhouse. The Company excavated and disposed of contaminated soils that could be removed in accordance with existing laws. Following the

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Company's formal request, the LARWQCB will allow contaminated soils to remain underneath the building foundation until the building is demolished.

NYISO Claims

In November 2002, NYISO notified us of claims related to New York City mitigation adjustments, general NYISO billing adjustments and other miscellaneous charges related to sales between November 2000 and October 2002. New York City mitigation adjustments totaled $11.4 million. The issue related to NYISO's concern that NRG would not have sufficient revenue to cover subsequent revisions to its energy market settlements. As of December 31, 2004, NYISO held $3.9 million in escrow for such future settlement revisions.

Legal Issues

California Wholesale Electricity Litigation and Related Investigations

We, West Coast Power, LLC, or WCP, WCP's four operating subsidiaries, Dynegy, Inc. and numerous other unrelated parties are the subject of numerous lawsuits arising based on events occurring in the California power market. Through our subsidiary, NRG West Coast Power LLC, we are a 50 percent beneficial owner with Dynegy of WCP, which owns, operates and markets the power of four California plants. Dynegy and its affiliates and subsidiaries are responsible for gas procurement and marketing and trading activities on behalf of WCP. The complaints primarily allege that the defendants engaged in unfair business practices, price fixing, antitrust violations, and other market "gaming" activities. Certain of these lawsuits, which seek unspecified treble damages and injunctive relief, were consolidated and made a part of a Multi-District Litigation proceeding before the U.S. District Court for the Middle District of California. Defendants filed dispositive motions in the fall of 2002 and in the first quarter of 2003, the judge granted motions to dismiss in certain of these cases based on federal preemption and the filed rate doctrine. On September 10, 2004, the U.S. Court of Appeals for the Ninth Circuit affirmed the District Court's dismissal. On November 5, 2004, the plaintiffs filed a petition for writ of certiorari with the U.S. Supreme Court and on February 22, 2005, the Supreme Court ordered the U.S. Solicitor General to submit its views on the petition.

Regarding the remaining cases, in December 2002, the U.S. District Court for the Southern District of California found that federal jurisdiction was absent and remanded the cases back to state court. On December 8, 2004, the U.S. Court of Appeals for the Ninth Circuit affirmed the District Court in most respects. On March 3, 2005, the Ninth Circuit denied a motion for rehearing. We anticipate that the cases will be remanded to state court in 2005 at which time the defendants will again raise file rate and federal preemption challenges. In the Northern California cases, on February 25, 2005, the Ninth Circuit approved the district court's decision to dismiss all of the defendants' cases.

In addition to the Multi-District Litigation discussed above, numerous other cases, including putative class actions, have been filed in state and federal court on behalf of business and residential electricity consumers which name us and/or WCP and/or certain subsidiaries of WCP, in addition to numerous other defendants. The complaints allege the defendants attempted to manipulate gas indexes by reporting false and fraudulent trades, and violated California's antitrust law and unfair business practices law. The complaints seek restitution and disgorgement, civil fines, compensatory and punitive damages, attorneys' fees and declaratory and injunctive relief. Motion practice is proceeding in these cases and dispositive motions have been filed in several.

In certain of the above referenced cases, Dynegy is defending WCP and/or it subsidiaries pursuant to a limited indemnification agreement while in the others, Dynegy's counsel is representing it and WCP and/or it subsidiaries and with each party responsible for half of the costs.

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FERC Proceedings

The FERC conducted an "Investigation of Potential Manipulation of Electric and Natural Gas Prices," which involved hundreds of parties, including WCP. In June 2001, FERC initiated proceedings related to California's demand for $8.9 billion in refunds from power sellers who allegedly inflated wholesale prices during the energy crisis. After two administrative law judge opinions and a March 26, 2003, FERC Order adopting in part and modifying in part the last of the two opinions, Dynegy, we and the WCP entities entered into extensive settlement negotiations with several governmental entities culminating in a comprehensive settlement which FERC approved on October 25, 2004 (the FERC Settlement).

As part of the FERC Settlement, WCP placed into escrow for distribution to California energy consumers a total of $22.5 million, which includes the $3 million settlement with FERC respecting trading techniques, announced on January 20, 2004. In addition, WCP agreed to forego: (1) past due receivables from the California Independent System Operator and the California Power Exchange related to the settlement period; and (2) natural gas cost recovery claims against the settling parties related to the settlement period. In exchange, the various California settling parties agreed to forego: (1) all claims relating to refunds or other monetary damages for sales of electricity during the settlement period; (2) claims alleging that WCP received unjust or unreasonable rates for the sale of electricity during the settlement period; and (3) FERC dismissed numerous investigations respecting market transactions. For a two year period following FERC's acceptance of the settlement agreement, WCP will retain an independent engineering company to perform semi–annual audits of the technical and economic basis, justification and rationale for outages that occurred at its California generating plants during the previous six month period, and to have the results of such audits provided to the FERC Office of Market Oversight and Investigation without any prior review by WCP.

West Coast Power previously established significant reserves on its balance sheet and will not incur any further loss associated with the FERC Settlement. We will pay no cash from corporate funds, nor will the FERC Settlement have any direct impact on our profit and loss statement.

There are a number of additional, related proceedings in which WCP subsidiaries are parties, which are either pending before FERC or on appeal from FERC to various U.S. Courts of Appeal. These cases involve, among other things, allegations of physical withholding, a FERC–established price mitigation plan determining maximum rates for wholesale power transactions in certain spot markets, and the enforceability of, and obligations under, various contracts with, among others, the California Independent System Operator and the State of California.

California Attorney General

The California Attorney General has undertaken an investigation entitled "In the Matter of the Investigation of Possibly Unlawful, Unfair, or Anti–Competitive Behavior Affecting Electricity Prices in California." As has Dynegy, we and subsidiaries of WCP have responded to interrogatories, document requests, and to requests for interviews.

NRG Bankruptcy Cap on California Claims

On November 21, 2003, in conjunction with confirmation of the NRG plan of reorganization, we reached an agreement with the Attorney General and the State of California, generally, whereby for purposes of distributions, if any, to be made to the State of California under the NRG plan of reorganization, the liquidated amount of any and all allowed claims shall not exceed $1.35 billion in the aggregate. The agreement neither affects our right to object to these claims on any and all grounds nor admits any liability whatsoever. We further agreed to waive any objection to the liquidation of these claims in a non–bankruptcy forum having proper jurisdiction.

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We believe that we have valid defenses to the legal proceedings and investigations described above and intend to defend them vigorously. We cannot predict with certainty whether we incur any liability or estimate a range of possible loss, if any, that might be incurred in connection with these matters. However, an adverse result in one or more of these proceedings could have a material adverse effect on our financial condition, results of operations and cash flows.

New York Operating Reserve Markets

Consolidated Edison and others petitioned the U.S. Court of Appeals for the District of Columbia Circuit for review of FERC's refusal to order a re-determination of prices in the New York Independent System Operator, or NYISO, operating reserve markets for a two month period in 2000. On November 7, 2003, the court found that NYISO's method of pricing spinning reserves violated the NYISO tariff. On March 4, 2005, FERC issued an order stating that no refunds would be required for the tariff violation associated with the pricing of spinning reserves. In the order, FERC also stated that the exclusion of the Blenheim-Gilboa facility and western reserves from the non-spinning market was not a market flaw and NYISO was correct not to use its TEP authority to revise the prices in this market. Motions for rehearing of the Order must be filed by April 3, 2005. If the March 4, 2005 order is reversed and refunds are required, NRG entities which may be affected include NRG Power Marketing, Inc., Astoria Gas Turbine Power LLC and Arthur Kill Power LLC. Although non-NRG-related entities would share responsibility for payment of any such refunds, under the petitioners' theory the cumulative exposure to our above-listed entities could exceed $23 million.

Connecticut Congestion Charges

CL&P withheld approximately $30 million from amounts owed to NRG Power Marketing, Inc., or PMI under an October 29, 1999, contract and PMI counterclaimed. CL&P's motion for summary judgment, which PMI opposed, remains pending. We cannot estimate at this time the overall exposure for congestion charges for the full term of the contract, however, such amount has been fully reserved as a reduction to outstanding accounts receivable.

New York Environmental Settlement

In January 2002, the New York Department of Environmental Conservation, or NYSDEC, sued Niagara Mohawk Power Corporation, or NiMo, and us in federal court in New York asserting that projects undertaken at our Huntley and Dunkirk plants by NiMo, the former owner of the facilities, violated federal and state laws. On January 11, 2005, we reached an agreement to settle this matter whereby we will reduce levels of sulfur dioxide by over 86 percent and nitrogen oxide by over 80 percent in aggregate at the Huntley and Dunkirk plants. We are not subject to any penalty as a result of the settlement. Through the end of the decade, we expect that our ongoing compliance with the emissions limits set out in the settlement will be achieved through capital expenditures already planned. This includes our conversion to low sulfur western coal at the Huntley and Dunkirk plants that will be completed by Spring 2006. In a related case, on October 18, 2004, the parties reached a confidential settlement with respect to NiMo's obligation to indemnify us for any related compliance costs associated with resolution of the NYSDEC action.

Station Service Disputes

On October 2, 2000, NiMo commenced an action against us in New York state court seeking damages related to our alleged failure to pay retail tariff amounts for utility services at the Dunkirk Plant between June 1999 and September 2000. The parties agreed to consolidate this action with two other actions against the Huntley and Oswego Plants. On October 8, 2002, by Stipulation and Order, this action was stayed pending submission to FERC of some or all of the disputes in the action. The potential loss inclusive of amounts paid to NiMo and accrued is approximately $23.2 million. In a companion action at FERC, NiMo asserted the

same claims and legal theories and on November 19, 2004, FERC denied NiMo's petition and ruled that the NRG facilities could net their service station obligations over a 30 calendar day period from the day NRG acquired the facilities. In addition, FERC ruled that neither NiMo nor the New York Public Service Commission could impose a retail delivery charge on the NRG facilities, because they are interconnected to transmission and not to distribution. NiMo filed a motion for rehearing.

On December 14, 1999, NRG Energy acquired certain generating facilities from CL&P. A dispute arose over station service power and delivery services provided to the facilities. On December 20, 2002, as a result of a petition filed at FERC by Northeast Utilities Services Company on behalf of itself and CL&P, FERC issued an Order finding that at times when NRG Energy is not able to self–supply its station power needs, there is a sale of station power from a third–party and retail charges apply. In August 2003, the parties agreed to submit the dispute to binding arbitration, however, the parties have yet to agree on a description of the dispute and on the appointment of a neutral arbitrator. The potential loss inclusive of amounts paid to CL&P and accrued could exceed $6 million.

U.S. Environmental Protection Agency

On January 27, 2004, our subsidiaries, Louisiana Generating, LLC and Big Cajun II, received a request under Section 114 of the federal Clean Air Act from USEPA Region 6 seeking information primarily relating to physical changes made at Big Cajun II. Louisiana Generating, LLC and Big Cajun II submitted several responses to the USEPA in response to follow–up requests. On February 15, 2005, Louisiana Generating, LLC received a Notice of Violation alleging violations of the New Source Review provisions of the Clean Air Act at Big Cajun 2 Units 1 and 2 from 1998 through the Notice of Violation date. Given the preliminary stage of this NOV process, the Company cannot predict the outcome of this matter at this time, but it is actively engaged with USEPA to address the issues.

TermoRio Litigation

TermoRio was a green field cogeneration project located in the state of Rio de Janeiro, Brazil. Based on the project's failure to meet certain key milestones, we exercised our rights under the project agreements to sell our debt and equity interests in the project to our partner Petroleo Brasileiro S.A.–Petrobras, or Petrobras. On March 8, 2003, the arbitral tribunal decided most, but not all, of the issues in our favor and awarded us approximately US$80 million. On June 4 2004, NRG Energy commenced a lawsuit in federal court seeking to enforce the arbitration award. On February 16, 2005, a conditional settlement agreement was signed with our former partner Petrobras, whereby Petrobras is obligated to pay us US$70.825 million. Such payment was received by us at a closing held on February 25, 2005. The settlement is being accounted for as a gain contingency. As of December 31, 2004, we had a note receivable from Petrobras of $57.3 million related to the arbitral award. The amounts paid in excess of the $57.3 million will be recognized in earnings in the first quarter of 2005. In addition to the settlement figure, we have the right to continue to seek recovery of US$12.3 million in a related dispute with a third–party.

Itiquira Energetica, S.A.

Our Brazilian project company, Itiquira Energetica S.A., the owner of a 156 MW hydro project in Brazil, is in arbitration with the former EPC contractor for the project, Inepar Industria e Construcoes, or Inepar. The dispute was commenced by Itiquira in September of 2002 and pertains to certain matters arising under the former EPC contract. Itiquira seeks $40 million and asserts that Inepar breached the contract. Inepar seeks $10 million and alleges that Itiquira breached the contract. Final written arguments were submitted on January 28, 2005, to the court of arbitration and a decision is expected during the first quarter of 2005.

CFTC Trading Litigation

On July 1, 2004, the CFTC filed a civil complaint against us in Minnesota federal district court, alleging false reporting of natural gas trades from August 2001 to May 2002, and seeking an injunction against future violations of the Commodity Exchange Act On November 17, 2004, a Bankruptcy Court hearing was held on the CFTC's motion to reinstate its expunged bankruptcy claim, and on our motion to enforce the provisions of the NRG plan of reorganization thereby precluding the CFTC from continuing its federal court action. Although the bankruptcy court has not yet ruled on those motions, on December 6, 2004, a federal magistrate judge issued a report and recommendation that our motion to dismiss be granted. That motion to dismiss was granted by the federal district court in Minnesota on March 16, 2005. The Bankruptcy Court has yet to schedule for a hearing or rule on the CFTC's pending motion to reinstate its expunged claim.

Additional Litigation

In addition to the foregoing, we are parties to other litigation or legal proceedings arising in the ordinary course of business. In management's opinion, the disposition of these ordinary course matters will not materially adversely affect our financial condition, results of operations or cash flows.

The Company believes that it has valid defenses to the legal proceedings and investigations described above and intends to defend them vigorously. However, litigation is inherently subject to many uncertainties. There can be no assurance that additional litigation will not be filed against the Company or its subsidiaries in the future asserting similar or different legal theories and seeking similar or different types of damages and relief. Unless specified above, the Company is unable to predict the outcome these legal proceedings and investigations may have or reasonably estimate the scope or amount of any associated costs and potential liabilities. An unfavorable outcome in one or more of these proceedings could have a material impact on the Company's consolidated financial position, results of operations or cash flows. The Company also has indemnity rights for some of these proceedings to reimburse the Company for certain legal expenses and to offset certain amounts deemed to be owed in the event of an unfavorable litigation outcome.

Pursuant to the requirements of Statement of Financial Accounting Standards No. 5, "Accounting for Contingencies," and related guidance, we record reserves for estimated losses from contingencies when information available indicates that a loss is probable and the amount of the loss is reasonably estimable. Management has assessed each of these matters based on current information and made a judgment concerning its potential outcome, considering the nature of the claim, the amount and nature of damages sought and the probability of success. Management's judgment may, as a result of facts arising prior to resolution of these matters or other factors, prove inaccurate and investors should be aware that such judgment is made subject to the known uncertainty of litigation.

Disputed Claims Reserve

As part of the NRG plan of reorganization, we have funded a disputed claims reserve for the satisfaction of certain general unsecured claims that were disputed claims as of the effective date of the plan. Under the terms of the plan, to the extent such claims are resolved now that we have emerged from bankruptcy, the claimants will be paid from the reserve on the same basis as if they had been paid out in the bankruptcy. That means that their allowed claims will be reduced to the same recovery percentage as other creditors would have received and will be paid in pro rata distributions of cash and common stock. We believe we have funded the disputed claims reserve at a sufficient level to settle the remaining unresolved proofs of claim we received during the bankruptcy proceedings. However, to the extent the aggregate amount of these payouts of disputed claims ultimately exceeds the amount of the funded claims reserve, we are obligated to provide additional cash, notes and common stock to the claimants. We will continue to monitor our obligation as the disputed claims are settled. If excess funds remain in the disputed claims reserve after payment of all obligations, such amounts will be reallocated to the creditor pool. We have contributed common stock and cash to an escrow

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agent to complete the distribution and settlement process. Since we have surrendered control over the common stock and cash provided to the disputed claims reserve, we recognized the issuance of the common stock as of December 6, 2003 and removed the cash amounts from our balance sheet. Similarly, we have removed the obligations relevant to the claims from our balance sheet when the common stock was issued and cash contributed.

Note 28 — Cash Flow Information

Detail of supplemental disclosures of cash flow and non–cash investing and financing information was:

	Reorganized NRG		Predecessor Company	
	Year Ended December 31, 2004	For the Period December 6 – December 31, 2003	For the Period January 1 – December 5, 2003	Year Ended December 31, 2002
	(In thousands)			
Interest paid (net of amount capitalized)	$294,697	$86,874	$182,355	$331,679
Income taxes paid/(refunds)	34,352	1,726	27,064	(17,406)
Non–cash investing and financing activities:				
Capitalized lease obligation incurred	223	—	—	—
Investment in WCP by contributing fixed assets	1,590	—	—	—
Reduction to fixed assets due to liquidated damages	14,543	—	—	—

Note 29 — Guarantees and Other Contingent Liabilities

In November 2002, the FASB issued FASB Interpretation No. 45, *"Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others."* In connection with the adoption of Fresh Start, all outstanding guarantees were considered new; accordingly, we applied the provisions of FIN 45 to all of the guarantees.

We and our subsidiaries enter into various contracts that include indemnification and guarantee provisions as a routine part of our business activities. Examples of these contracts include asset purchase and sale agreements, commodity sale and purchase agreements, joint venture agreements, operations and maintenance agreements, service agreements, settlement agreements, and other types of contractual agreements with vendors and other third parties. These contracts generally indemnify the counter–party for tax, environmental liability, litigation and other matters, as well as breaches of representations, warranties and covenants set forth in these agreements. In many cases, our maximum potential liability cannot be estimated, since some of the underlying agreements contain no limits on potential liability.

The material guarantees, within the scope of FIN 45, are as follows:

- **Standby letters of credit and surety bonds** — At December 31, 2004, we and our consolidated subsidiaries were contingently obligated for approximately $173.2 million under standby letters of credit. Most of these letters of credit are issued in support of our obligations to perform under commodity agreements, financing or other arrangements. These letters of credit expire within one year of issuance, and it is typical for us to renew many of them on similar terms.

  As of December 31, 2004, standby letters of credit in amounts totaling approximately $157.1 million were issued under our $350.0 million corporate funded letter of credit facility, which is reflected in our

financial statements. This amount includes a $33.3 million letter of credit issued to the benefit of Xcel to cover potential obligations from which Xcel was not released when we ceased to be an affiliate of theirs, though our maximum exposure under this arrangement is indeterminate. In addition, $2.4 million was issued to support performance obligations of an unconsolidated affiliate of ours.

Approximately $16.1 million in letters of credit were issued separately and are not supported by collateral. Of the uncollateralized letters of credit, approximately $4.8 million was issued to support the obligations of an unconsolidated affiliate of ours. We were also contingently obligated for $4.5 million under surety bonds to support our prepayment, completion, license, tax or performance bonding requirements. Most of the bonds are supported by collateral, which is reflected in our financial statements. All of the bonds expire within one year; however, we expect to renew many of these bonds on a rolling twelve-month basis.

- **Asset purchases and divestitures** — In the normal course of business, we may be asked to provide certain assurances to the counter-parties of our asset sale and purchase agreements. Such assurances may take the form of a guarantee issued by us on behalf of a directly or indirectly held majority-owned subsidiary. Due to the inter-company nature of such arrangements (NRG Energy is essentially guaranteeing its own performance) and the nature of the guarantee being provided (usually the typical representations and warrantees that are provided in any asset sales agreement), it is not our policy to recognize the value of such an obligation in our consolidated financial statements. Most of these guarantees provide an explicit cap on our maximum liability, as well as an expiration period, exclusive of breach of representations and warranties. At December 31, 2004, our maximum known exposure under asset sales guarantees was $73.5 million. On February 18, 2005 we executed a guarantee to the benefit of our counter-party under the railcar lease described in Items 7 — Contractual Obligations and Commercial Commitments. This guarantee covers NRG PMI payment and performance obligations under the relevant lease documents, and is of indeterminate exposure.

- **Commercial sales arrangements** — In connection with the purchase and sale of fuel, emission credits and power generation products to and from third parties with respect to the operation of some of our generation facilities in the U.S., we may be required to guarantee a portion of the obligations of certain of our subsidiaries. These obligations may include liquidated damages payments or other unscheduled payments. As of December 31, 2004, we estimate the maximum liability for this category of guarantee was $57.6 million. We have subsequently issued additional guarantees of the performance of NRG PMI, with a maximum liability of $0.3 million. These guarantees terminate on May 31, 2005 and December 31, 2005.

- **Other types of guarantees** — We have issued guarantees of obligations our subsidiaries may incur in provision of environmental site remediation, funding reserve accounts, payment of debt obligations, and performance under operating and maintenance agreements. Maximum quantifiable liability under the environmental guarantees is approximately $65.9 million, most of which is a guarantee for plant removal and site remediation obligations at our Flinders facilities. The maximum quantifiable exposure under the operational guarantees is $25.8 million, primarily related to our role as operator at the Gladstone power plant. In addition, we have a maximum liability exposure of $0.6 million under a tax indemnity guarantee to a third party, reserve funding guarantee exposure of $1.0 million and third-party debt guarantee exposure of $0.8 million.

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The following table outlines the scheduled expiration of our guarantees, indemnity and other contingent liability obligations, to the extent the maximum liabilities can be quantified and scheduled.

	Amount of Guarantee Liabilities Expiration per Period as of December 31, 2004 (In thousands)				
Guarantee Type	Total Amounts Committed	Short-term	1-3 Years	4-5 Years	After 5 Years or Indeterminate
Funded standby letters of credit	$157,144	$157,144	$ —	$ —	$ —
Unfunded standby letters of credit	16,103	16,103	—	—	—
Surety bonds	4,467	4,467	—	—	—
Asset sales guarantee obligations	73,515	1,000	250	12,500	59,765
Commodity sales guarantee obligations	57,600	24,100	—	—	33,500
Other guarantees	94,126	—	778	—	93,348
Total guarantees	$402,955	$202,814	$1,028	$12,500	$186,613

The material indemnities, within the scope of FIN 45, are as follows:

- **Asset purchases and divestitures** — The purchase and sale agreements which govern our asset or share investments and divestitures customarily contain indemnifications of the transaction to third parties. The contracts indemnify the parties for liabilities incurred as a result of a breach of a representation or warranty by the indemnifying party, or as a result of a change in tax laws. These obligations generally have a discrete term and are intended to protect the parties against risks that are difficult to predict or quantify at the time of the transaction. In several cases, the contract limits the liability of the indemnitor. For those indemnities in which liability is capped, the exposure ranges from $1.0 million up to $50.0 million. We have no reason to believe that we currently have any material liability relating to such routine indemnification obligations.
- **Other indemnities** — Other indemnifications we have provided cover operational, tax, litigation and breaches of representations, warranties and covenants. We have also indemnified, on a routine basis in the ordinary course of business, consultants or other vendors who have provided services to us. Our maximum potential exposure under these indemnifications can range from a specified dollar amount to an unlimited amount, depending on the nature of the transaction. Total maximum potential exposure under these indemnifications is not estimable due to uncertainty as to whether claims will be made or how they will be resolved. We do not have any reason to believe that we will be required to make any material payments under these indemnity provisions.

Because many of the guarantees and indemnities we issue to third parties do not limit the amount or duration of our obligations to perform under them, there exists a risk that we may have obligations in excess of the amounts described above. For those guarantees and indemnities that do not limit our liability exposure, we may not be able to estimate what our liability would be, until a claim was made for payment or performance, due to the contingent nature of these contracts.

Note 30 — Sales to Significant Customers

Reorganized NRG

For the year ended December 31, 2004, we derived approximately 49.8% of our total revenues from majority-owned operations from four customers. NYISO accounted for 28.5%, ISO New England accounted

for 9.1%, Vattenfall Europe (Germany) accounted for 5.4% and National Electricity Market Management Co. Ltd (Australia) accounted for 6.8%. For the period December 6, 2003 through December 31, 2003, we derived approximately 39.0% of our total revenues from majority–owned operations from two customers: NYISO accounted for 26.5% and ISO New England accounted for 12.5%. Revenues from NYISO and ISO New England are included in our Northeast segment.

Predecessor Company

For the period from January 1, 2003 through December 5, 2003 and for the year ended December 31, 2002, sales to one customer, NYISO, accounted for 33.4% and 26.0%, respectively, of our total revenues from majority–owned operations.

Note 31 — Jointly Owned Plants

Big Cajun II Unit 3

On March 31, 2000, we acquired a 58% interest in the Big Cajun II, Unit 3 generation plant. Entergy Gulf States owns the remaining 42%. Big Cajun II, Unit 3 is operated and maintained by Louisiana Generating pursuant to a joint ownership participation and operating agreement. Under this agreement, Louisiana Generating and Entergy Gulf States are each entitled to their ownership percentage of the hourly net electrical output of Big Cajun II, Unit 3. All fixed costs are shared in proportion to the ownership interests. All variable costs are incurred in proportion to the energy delivered to the owners. Our income statement includes its share of all fixed and variable costs of operating the unit.

Reorganized NRG

Our 58% share of the property, plant and equipment and construction in progress as revalued to fair value upon the adoption of the fresh start provisions of SOP 90–7 at December 31, 2004 and 2003 was $182.8 million and $183.2 million, respectively, and the corresponding accumulated depreciation and amortization was $11.5 million and $0.5 million, respectively.

Keystone and Conemaugh

In June 2001, we completed the acquisition of an approximately 3.7% interest in both the Keystone and Conemaugh coal–fired generating facilities. The Keystone and Conemaugh facilities are located near Pittsburgh, Pennsylvania and are jointly owned by a consortium of energy companies. We purchased our interest from Conectiv, Inc. Keystone and Conemaugh are operated by GPU Generation, Inc., which sold its assets and operating responsibilities to Sithe Energies. Keystone and Conemaugh both consist of two operational coal–fired steam power units with a combined net output of 1,700 MW, four diesel units with a combined net output of 11 MW and an on–site landfill. The units are operated pursuant to a joint ownership participation and operating agreement. Under this agreement each joint owner is entitled to its ownership ratio of the net available output of the facility. All fixed costs are shared in proportion to the ownership interests. All variable costs are incurred in proportion to the energy delivered to the owners. Our income statement includes our share of all fixed and variable costs of operating the facilities.

Reorganized NRG

Our 3.70% and 3.72% share of the Keystone and Conemaugh facilities original cost included in property, plant and equipment and construction in progress at December 31, 2004 was $58.6 million and $70.7 million, respectively. The corresponding accumulated depreciation and amortization at December 31, 2004 for Keystone and Conemaugh was $3.2 million and $3.9 million, respectively.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Our 3.70% and 3.72% share of the Keystone and Conemaugh facilities property, plant and equipment and construction in progress as revalued to fair value upon the adoption of the fresh start provisions of SOP 90-7 at December 31, 2003 was $57.9 million and $69.7 million, respectively. The corresponding accumulated depreciation and amortization at December 31, 2003 for Keystone and Conemaugh was $0.2 million and $0.3 million, respectively.

Note 32 — Unaudited Quarterly Financial Data

Summarized quarterly unaudited financial data is as follows:

	Reorganized NRG					
	Quarter Ended 2004					Period Ended December 6 – December 31,
	March 31	June 30	September 30	December 31	Total Year	2003
	(In thousands)					
Operating Revenues	$600,265	$573,623	$606,663	$580,873	$2,361,424	$138,490
Operating Income	119,748	116,791	78,998	83,578	399,115	16,162
Income From Continuing Operations	31,446	69,400	43,330	17,969	162,145	11,405
Income/(Loss) on Discontinued Operations net of Income Taxes	(1,211)	13,624	10,891	168	23,472	(380)
Net Income	$ 30,235	$ 83,024	$ 54,221	$ 18,137	$ 185,617	$ 11,025
Weighted Average Number of Common Shares Outstanding — Basic	100,018	100,080	100,101	98,456	99,616	100,000
Income From Continuing Operations per Weighted Average Common Share — Basic	$ 0.31	$ 0.69	$ 0.43	$ 0.18	$ 1.62	$ 0.11
Income/(Loss) From Discontinued Operations per Weighted Average Common Share — Basic	(0.01)	0.14	0.11	0.00	0.24	—
Net Income per Weighted Average Common Share — Basic	$ 0.30	$ 0.83	$ 0.54	$ 0.18	$ 1.86	$ 0.11
Weighted Average Number of Common Shares Outstanding — Diluted	100,018	100,478	100,616	98,978	100,371	100,060
Income From Continuing Operations per Weighted Average Common Share — Diluted	$ 0.31	$ 0.69	$ 0.43	$ 0.18	$ 1.62	$ 0.11
Income From Discontinued Operations per Weighted Average Common Share — Diluted	(0.01)	0.14	0.11	—	0.23	—
Net Income per Weighted Average Common Share — Diluted	$ 0.30	$ 0.83	$ 0.54	$ 0.18	$ 1.85	$ 0.11

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

	Predecessor Company				
	Quarter Ended 2003			Period Ended October 1 – December 5, 2003	Total through December 5, 2003
	March 31	June 30	September 30		
	(In thousands)				
Operating Revenues	$ 494,947	$ 441,538	$ 570,701	$ 291,201	$1,798,387
Operating Income/(Loss)	(11,958)	(318,595)	(327,565)	3,932,028	3,273,910
Income/(Loss) From Continuing Operations	(173,136)	(508,518)	(284,544)	3,915,276	2,949,078
Income/(Loss) on Discontinued Operations net of Income Taxes	160,504	(99,883)	(250)	(243,004)	(182,633)
Net Income/(Loss)	(12,632)	(608,401)	(284,794)	3,672,272	2,766,445

Note 33 — Condensed Consolidating Financial Information

On December 17, 2003 and January 28, 2004, we issued $1.2 billion and $475.0 million, respectively, of 8% Second Priority Senior Secured Notes due on December 15, 2013 (the Notes). These notes are

guaranteed by each of our current and future wholly–owned domestic subsidiaries, or Guarantor Subsidiaries. Each of the following Guarantor Subsidiaries fully and unconditionally guarantee the Notes.

Arthur Kill Power LLC
Astoria Gas Turbine Power LLC
Berrians I Gas Turbine Power LLC
Big Cajun II Unit 4 LLC
Capistrano Cogeneration Company
Chickahominy River Energy Corp.
Commonwealth Atlantic Power LLC
Conemaugh Power LLC
Connecticut Jet Power LLC
Devon Power LLC
Dunkirk Power LLC
Eastern Sierra Energy Company
El Segundo Power II LLC
Hanover Energy Company
Huntley Power LLC
Indian River Operations Inc.
Indian River Power LLC
James River Power LLC
Kaufman Cogen LP
Keystone Power LLC
Louisiana Generating LLC
Middletown Power LLC
Montville Power LLC
NEO California Power LLC
NEO Chester–Gen LLC
NEO Corporation
NEO Freehold–Gen LLC
NEO Landfill Gas Holdings Inc.
NEO Power Services Inc.
Norwalk Power LLC
NRG Affiliate Services Inc.
NRG Arthur Kill Operations Inc.
NRG Asia–Pacific, Ltd.
NRG Astoria Gas Turbine Operations, Inc.
NRG Bayou Cove LLC
NRG Cabrillo Power Operations Inc.
NRG Cadillac Operations Inc.
NRG California Peaker Operations LLC
NRG Connecticut Affiliate Services Inc.
NRG Devon Operations Inc.
NRG Dunkirk Operations Inc.
NRG El Segundo Operations Inc.
NRG Huntley Operations Inc.
NRG International LLC
NRG Kaufman LLC
NRG Mesquite LLC
NRG MidAtlantic Affiliate Services Inc.
NRG MidAtlantic Generating LLC
NRG Middletown Operations Inc.
NRG Montville Operations Inc.
NRG New Jersey Energy Sales LLC
NRG New Roads Holdings LLC
NRG North Central Operations Inc.
NRG Northeast Affiliate Services Inc.
NRG Northeast Generating LLC
NRG Norwalk Harbor Operations Inc.
NRG Operating Services, Inc.
NRG Oswego Harbor Power Operations Inc.
NRG Power Marketing Inc.
NRG Rocky Road LLC
NRG Saguaro Operations Inc.
NRG South Central Affiliate Services Inc.
NRG South Central Generating LLC
NRG South Central Operations Inc.
NRG West Coast LLC
NRG Western Affiliate Services Inc.
Oswego Harbor Power LLC
Saguaro Power LLC
Somerset Operations Inc.
Somerset Power LLC
Vienna Operations Inc.
Vienna Power LLC

The non–guarantor subsidiaries, or Non–Guarantor Subsidiaries, include all of our foreign subsidiaries and certain domestic subsidiaries. We conduct much of our business through and derive much of our income from our subsidiaries. Therefore, our ability to make required payments with respect to our indebtedness and other obligations depends on the financial results and condition of our subsidiaries and our ability to receive funds from our subsidiaries. Except for NRG Bayou Cove, LLC, which is subject to certain restrictions under our Peaker financing agreements, there are no restrictions on the ability of any of the Guarantor Subsidiaries to transfer funds to us. In addition, there may be restrictions for certain Non–Guarantor Subsidiaries.

The following condensed consolidating financial information presents the financial information of NRG Energy, the Guarantor Subsidiaries and the Non–Guarantor Subsidiaries in accordance with Rule 3–10 under the Securities and Exchange Commission's Regulation S–X. The financial information may not necessarily be indicative of results of operations or financial position had the Guarantor Subsidiaries or Non–Guarantor Subsidiaries operated as independent entities.

NRG ENERGY, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

In this presentation, NRG Energy consists of parent company operations. Guarantor Subsidiaries and Non–Guarantor Subsidiaries of NRG Energy are reported on an equity basis. For companies acquired, the fair values of the assets and liabilities acquired have been presented on a "push–down" accounting basis.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF OPERATIONS
For the Year Ended December 31, 2004
Reorganized NRG

	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Operating Revenues					
Revenues from majority-owned operations	$1,721,575	$595,708	$50,713	$(6,572)	$2,361,424
Operating Costs and Expenses					
Cost of majority-owned operations	1,060,115	409,551	31,242	(6,572)	1,494,336
Depreciation and amortization	133,123	62,989	13,183	—	209,295
General, administrative and development	117,462	32,156	61,600	22	211,240
Other charges (credits)					
Corporate relocation charges	2	(1)	16,166	—	16,167
Reorganization items	1,838	(25)	(15,203)	—	(13,390)
Restructuring and impairment charges	3,156	26,505	15,000	—	44,661
Total operating costs and expenses	1,315,696	531,175	121,988	(6,550)	1,962,309
Operating Income/(Loss)	405,879	64,533	(71,275)	(22)	399,115
Other Income (Expense)					
Minority interest in earnings of consolidated subsidiaries	—	(1,045)	—	—	(1,045)
Equity in earnings of consolidated subsidiaries	88,671	1	293,364	(382,036)	—
Equity in earnings of unconsolidated affiliates	91,602	68,869	(646)	—	159,825
Write downs and losses on sales of equity method investments	(15,737)	(1,271)	738	—	(16,270)
Other income, net	7,380	34,574	5,028	(20,417)	26,565
Refinancing expenses	—	—	(71,569)	—	(71,569)
Interest expense	51	(107,516)	(182,525)	20,626	(269,364)
Total other income/(expense)	171,967	(6,388)	44,390	(381,827)	(171,858)
Income/(Loss) From Continuing Operations Before Income Taxes	577,846	58,145	(26,885)	(381,849)	227,257
Income Tax Expense/(Benefit)	238,042	44,107	(217,028)	(9)	65,112
Income/(Loss) From Continuing Operations	339,804	14,038	190,143	(381,840)	162,145
Income/(Loss) on Discontinued Operations, net of Income Taxes	3,013	24,985	(4,526)	—	23,472
Net income	$342,817	$39,023	$185,617	$(381,840)	$185,617

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING BALANCE SHEETS
December 31, 2004
Reorganized NRG

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
ASSETS					
Current Assets					
Cash and cash equivalents	$ 155,795	$ 242,523	$ 711,727	$ —	$ 1,110,045
Restricted cash	3,720	109,104	—	—	112,824
Accounts receivable–trade, net	182,340	82,757	7,004	—	272,101
Current portion of notes receivable and other investments — affiliates	—	(2,986)	5,482	(2,496)	—
Current portion of notes receivable and other investments	—	85,147	300	—	85,447
Taxes receivable	1	(5,498)	42,981	—	37,484
Inventory	216,932	29,617	1,461	—	248,010
Derivative instruments valuation	79,759	—	—	—	79,759
Prepayments and other current assets	103,891	25,740	42,893	(2,916)	169,608
Current deferred income tax	—	—	—	—	—
Current assets — discontinued operations	(88)	3,098	—	—	3,010
Total current assets	742,350	569,502	811,848	(5,412)	2,118,288
Property, Plant and Equipment					
In service	2,359,090	1,163,986	41,582	—	3,564,658
Under construction	24,481	(10,044)	2,796	196	17,429
Total property, plant and equipment	2,383,571	1,153,942	44,378	196	3,582,087
Less accumulated depreciation	(140,013)	(53,925)	(13,598)	—	(207,536)
Net property, plant and equipment	2,243,558	1,100,017	30,780	196	3,374,551
Other Assets					
Investment in subsidiaries	776,922	—	3,916,352	(4,693,274)	—
Equity investments in affiliates	327,425	407,054	471	—	734,950
Notes receivable and other investments, less current portion — affiliates	407,165	363,462	—	(642,581)	128,046
Notes receivable and other investments, less current portion	1,533	673,966	977	—	676,476
Decommissioning fund investments	4,954	—	—	—	4,954
Deferred income taxes	—	—	—	—	—
Intangible assets, net	256,392	37,958	—	—	294,350
Debt issuance costs, net	—	247	48,238	—	48,485
Derivative instruments valuation	1,468	34,926	5,393	—	41,787
Funded letter of credit	—	—	350,000	—	350,000
Other assets	31,452	21,596	5,093	—	58,141
Total other assets	1,807,311	1,539,209	4,326,524	(5,335,855)	2,337,189
Total Assets	$4,793,219	$3,208,728	$5,169,152	$(5,341,071)	$7,830,028

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING BALANCE SHEETS — (Continued)
December 31, 2004
Reorganized NRG

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
LIABILITIES AND STOCK HOLDERS' EQUITY					
Current Liabilities					
Current portion of long–term debt	$ 16	$ 98,877	$ 415,855	$ (2,496)	$ 512,252
Accounts payable — trade	69,919	91,119	5,093	—	166,131
Accounts payable — affiliate	333,514	(129,041)	(199,799)	917	5,591
Accrued taxes	—	—	—	—	—
Accrued property, sales and other taxes	1,841	8,188	1,105	—	11,134
Accrued salaries, benefits and related costs	15,723	6,493	12,990	—	35,206
Accrued interest	435	6,000	7,538	(2,916)	11,057
Derivative instruments valuation	16,772	—	—	—	16,772
Current deferred income taxes	260	92	(18)	—	334
Other bankruptcy settlement	—	175,576	—	—	175,576
Other current liabilities	106,863	17,245	28,418	—	152,526
Current liabilities — discontinued operations	—	1,362	—	—	1,362
Total current liabilities	545,343	275,911	271,182	(4,495)	1,087,941
Other Liabilities					
Long–term debt	202	1,768,068	2,128,177	(642,581)	3,253,866
Deferred income taxes	(32,379)	130,972	35,732	—	134,325
Postretirement and other benefit obligations	98,439	8,987	8,957	—	116,383
Derivative instruments valuation	172	132,209	16,064	—	148,445
Other long–term obligations	341,960	30,883	16,876	—	389,719
Non–current liabilities — discontinued operations	—	1,081	—	—	1,081
Total non–current liabilities	408,394	2,072,200	2,205,806	(642,581)	4,043,819
Total liabilities	953,737	2,348,111	2,476,988	(647,076)	5,131,760
Minority interest	—	6,104	—	—	6,104
Commitments and Contingencies					
Stockholders' Equity	3,839,482	854,513	2,692,164	(4,693,995)	2,692,164
Total Liabilities and Stockholders' Equity	$4,793,219	$3,208,728	$5,169,152	$(5,341,071)	$7,830,028

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF CASH FLOWS
For the Year Ended December 31, 2004
Reorganized NRG

	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Cash Flows from Operating Activities					
Net income/(loss)	$ 342,817	$ 39,023	$ 185,617	$(381,840)	$ 185,617
Adjustments to reconcile net income/(loss) to net cash provided by operating activities					
Distributions in excess of (less than) equity earnings of unconsolidated affiliates	(52,620)	(37,953)	(523)	90,034	(1,062)
Depreciation and amortization	133,123	68,314	13,183	—	214,620
Reserve for note and interest receivable	7,165	4,572	—	—	11,737
Amortization of deferred financing costs and debt discount/(premium)	—	20,532	7,127	—	27,659
Write-off of deferred financing costs due to refinancings	—	—	42,137	—	42,137
Write downs and losses on sales of equity method investments	15,737	1,271	(738)	—	16,270
Deferred income taxes and investment tax credits	25,958	(8,138)	118,258	(78,840)	57,238
Unrealized (gains)/losses on derivatives	(70,301)	(9,254)	5,763	—	(73,792)
Minority interest	—	1,046	—	—	1,046
Amortization of power contracts and emission credits	14,210	37,442	—	—	51,652
Amortization of unearned equity compensation	2,173	328	11,091	—	13,592
Restructuring and impairment charges	3,156	26,505	15,000	—	44,661
(Gain)/loss on sale of discontinued operations	(1,922)	(25,119)	4,622	—	(22,419)
Cash provided by (used in) changes in certain working capital items, net of effects from acquisitions and dispositions					
Accounts receivable	(61,929)	4,103	6,355	—	(51,471)
Xcel Energy settlement receivable	—	—	640,000	—	640,000
Inventory	(52,079)	(3,307)	(227)	—	(55,613)
Prepayments and other current assets	(22,938)	34,180	35,570	1,960	48,772
Accounts payable	8,273	19,430	(31,809)	11,011	6,905
Accrued expenses	27,037	1,569	(31,640)	(18,129)	(21,163)
Creditor pool obligation payments	—	—	(540,000)	—	(540,000)
Other current liabilities	36,082	(43,286)	14,446	—	7,242
Other assets and liabilities	16,650	(9,184)	32,899	—	40,365
Net Cash Provided (Used) by Operating Activities	370,592	122,074	527,131	(375,804)	643,993
Cash Flows from Investing Activities					
Proceeds from sale of discontinued operations	1,941	250,735	—	—	252,676
Proceeds from sale of investments	21,000	26,693	3,000	—	50,693
Decrease/(increase) in restricted cash	717	(27,160)	—	—	(26,443)
Decrease/(increase) in notes receivable	(22,976)	14,937	25,775	7,373	25,109
Capital expenditures	(77,026)	(27,691)	(9,447)	(196)	(114,360)
Investments in projects	4,313	(15,840)	8,537	—	(2,990)
Distributions/(investments) in subsidiaries	—	—	82,163	(82,163)	—
Net Cash Provided (Used) by Investing Activities	(72,031)	221,674	110,028	(74,986)	184,685
Cash Flows from Financing Activities					
Net borrowings under line of credit agreement					
Proceeds from issuance of preferred shares	—	—	406,359	—	406,359
Payment for treasury stock	—	—	(405,312)	—	(405,312)
Capital contributions from parent	9,850	32,987	—	(42,837)	—
Dividends and return of investment to NRG Energy, Inc.	(407,000)	(10,000)	—	417,000	—
Proceeds from issuance of long-term debt	—	(6,336)	1,303,500	35,507	1,332,671
Deferred debt issuance costs	—	(247)	(25,259)	—	(25,506)
Funded letter of credit	—	—	(100,000)	—	(100,000)
Principal payments on long-term debt	(41,125)	(291,941)	(1,200,000)	41,120	(1,491,946)
Net Cash Provided (Used) by Financing Activities	(438,275)	(275,537)	(20,712)	450,790	(283,734)
Effect of Exchange Rate Changes on Cash and Cash Equivalents	—	3,007	—	—	3,007
Change in Cash from Discontinued Operations	—	10,871	—	—	10,871
Net Increase (Decrease) in Cash and Cash Equivalents	(139,714)	82,089	616,447	—	558,822
Cash and Cash Equivalents at Beginning of Period	295,509	160,434	95,280	—	551,223
Cash and Cash Equivalents at End of Period	$ 155,795	$ 242,523	$ 711,727	$ —	$ 1,110,045

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF OPERATIONS
For the Period December 6, 2003 Through December 31, 2003
Reorganized NRG

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Operating Revenues					
Revenues from majority–owned operations	$94,455	$40,741	$ 3,353	$ (59)	$138,490
Operating Costs and Expenses					
Cost of majority–owned operations	64,519	28,734	2,347	(59)	95,541
Depreciation and amortization	7,118	3,931	759	—	11,808
General, administrative and development	7,165	2,803	2,550	—	12,518
Other charges (credits)					
Reorganization items	269	—	2,192	—	2,461
Total operating costs and expenses	79,071	35,468	7,848	(59)	122,328
Operating Income/(Loss)	15,384	5,273	(4,495)	—	16,162
Other Income/(Expense)					
Minority interest in earnings of consolidated subsidiaries	—	(134)	—	—	(134)
Equity in earnings of consolidated subsidiaries	3,266	143	16,482	(19,891)	—
Equity in earnings of unconsolidated affiliates	11,007	1,463	1,051	—	13,521
Other income, net	43	(23)	114	(37)	97
Interest expense	(6,417)	(4,719)	(7,803)	37	(18,902)
Total other income/(expense)	7,899	(3,270)	9,844	(19,891)	(5,418)
Income/(Loss) From Continuing Operations Before Income Taxes	23,283	2,003	5,349	(19,891)	10,744
Income Tax Expense/(Benefit)	3,653	1,362	(5,676)	—	(661)
Income/(Loss) From Continuing Operations	19,630	641	11,025	(19,891)	11,405
Income/(Loss) on Discontinued Operations, net of Income Taxes	(4)	(376)	—	—	(380)
Net Income	$19,626	$ 265	$11,025	$(19,891)	$ 11,025

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING BALANCE SHEETS
December 31, 2003
Reorganized NRG

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
ASSETS					
Current Assets					
Cash and cash equivalents	$ 295,509	$ 160,434	$ 95,280	$ —	$ 551,223
Restricted cash	4,298	111,769	—	—	116,067
Accounts receivable–trade, net	120,411	68,151	13,359	—	201,921
Xcel Energy settlement receivable	—	—	640,000	—	640,000
Current portion of notes receivable and other investments — affiliates	—	—	31,170	(30,970)	200
Current portion of notes receivable and other investments	—	64,854	287	—	65,141
Inventory	164,853	28,839	1,234	—	194,926
Derivative instruments valuation	772	—	—	—	772
Prepayments and other current assets	86,656	58,175	78,263	(956)	222,138
Current deferred income tax	—	2,998	—	(1,148)	1,850
Current assets — discontinued operations	15	119,586	—	—	119,601
Total current assets	672,514	614,806	859,593	(33,074)	2,113,839
Property, Plant and Equipment					
In service	2,288,280	1,562,048	35,137	—	3,885,465
Under construction	20,600	118,433	138	—	139,171
Total property, plant and equipment	2,308,880	1,680,481	35,275	—	4,024,636
Less accumulated depreciation	(7,118)	(3,923)	(759)	—	(11,800)
Net property, plant and equipment	2,301,762	1,676,558	34,516	—	4,012,836
Other Assets					
Investment in subsidiaries	626,979	—	4,090,996	(4,717,975)	—
Equity investments in affiliates	403,606	322,279	12,113	—	737,998
Notes receivable and other investments, less current portion — affiliates	389,257	120,733	—	(379,838)	130,152
Notes receivable and other investments, less current portion	5,678	684,489	1,277	—	691,444
Decommissioning fund investments	4,809	—	—	—	4,809
Intangible assets, net	411,540	20,821	—	—	432,361
Debt issuance costs, net	—	—	74,337	—	74,337
Derivative instruments valuation	—	59,907	—	—	59,907
Non current deferred income tax	58,586	—	—	(58,586)	—
Funded letter of credit	—	—	250,000	—	250,000
Other assets	31,220	26,407	56,504	—	114,131
Non–current assets — discontinued operations	—	623,173	—	—	623,173
Total other assets	1,931,675	1,857,809	4,485,227	(5,156,399)	3,118,312
Total Assets	$4,905,951	$4,149,173	$5,379,336	$(5,189,473)	$9,244,987

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING BALANCE SHEETS — (Continued)
December 31, 2003
Reorganized NRG

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
LIABILITIES AND STOCKHOLDERS' EQUITY					
Current Liabilities					
Current portion of long–term debt	$ 30,121	$ 790,078	$ 12,000	$ (30,970)	$ 801,229
Short–term debt	—	19,019	—	—	19,019
Accounts payable — trade	39,369	104,888	14,389	—	158,646
Accounts payable — affiliate	333,722	(221,168)	(102,094)	(7,368)	3,092
Accrued taxes	—	—	(74)	16,169	16,095
Accrued property, sales and other taxes	7,211	13,156	1,934	—	22,301
Accrued salaries, benefits and related costs	9,294	8,949	1,087	—	19,330
Accrued interest	2,557	2,880	4,501	(956)	8,982
Derivative instruments valuation	429	—	—	—	429
Creditor pool obligation	—	—	540,000	—	540,000
Other bankruptcy settlement	—	220,000	—	—	220,000
Current deferred income taxes	509	—	—	(509)	—
Other current liabilities	70,251	13,639	18,971	—	102,861
Current liabilities — discontinued operations	31	114,166	—	—	114,197
Total current liabilities	493,494	1,065,607	490,714	(23,634)	2,026,181
Other Liabilities					
Long–term debt	10,999	1,333,931	2,446,690	(463,838)	3,327,782
Deferred income taxes	—	152,392	(22,514)	19,615	149,493
Postretirement and other benefit obligations	80,720	13,425	11,801	—	105,946
Derivative instruments valuation	—	153,503	—	—	153,503
Other long–term obligations	399,353	66,196	15,389	—	480,938
Non–current liabilities — discontinued operations	—	558,884	—	—	558,884
Total non–current liabilities	491,072	2,278,331	2,451,366	(444,223)	4,776,546
Total liabilities	984,566	3,343,938	2,942,080	(467,857)	6,802,727
Minority interest	—	5,004	—	—	5,004
Commitments and Contingencies					
Stockholders' Equity	3,921,385	800,231	2,437,256	(4,721,616)	2,437,256
Total Liabilities and Stockholders' Equity	$4,905,951	$4,149,173	$5,379,336	$(5,189,473)	$9,244,987

(1) All significant intercompany transactions have been eliminated in consolidation.

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NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF CASH FLOWS
For the Period December 6, 2003 Through December 31, 2003
Reorganized NRG

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Cash Flows from Operating Activities					
Net income/(loss)	$ 19,626	$ 265	$ 11,025	$ (19,891)	$ 11,025
Adjustments to reconcile net income/(loss) to net cash provided by operating activities					
Distributions in excess of (less than) equity earnings of unconsolidated affiliates	1,764	(1,894)	(17,532)	19,891	2,229
Depreciation and amortization	8,255	4,027	759	—	13,041
Amortization of deferred financing costs	—	64	453	—	517
Amortization of debt discount/(premium)	182	1,504	39	—	1,725
Deferred income taxes and investment tax credits	(487)	(212)	(4,117)	1,554	(3,262)
Current tax expense — non cash contribution from members	4,125	(2,901)	—	(1,224)	—
Unrealized (gains)/losses on derivatives	(126)	4,960	(1,060)	—	3,774
Minority interest	134	70	—	—	204
Amortization of power contracts and emission credits	(16,401)	2,970	—	—	(13,431)
Cash provided by (used in) changes in certain working capital items, net of effects from acquisitions and dispositions					
Accounts receivable, net	12,769	5,040	221	—	18,030
Inventory	3,073	8,041	(60)	—	11,054
Prepayments and other current assets	1,783	1,755	(13,079)	37	(9,504)
Accounts payable	(31,810)	8,672	(17,789)	—	(40,927)
Accounts payable–affiliates	(1,697)	(165)	2,694	—	832
Accrued income taxes	—	—	(877)	(330)	(1,207)
Accrued property and sales taxes	(5,258)	622	46	—	(4,590)
Accrued salaries, benefits, and related costs	2,135	3,511	(2,496)	—	3,150
Accrued interest	(42,350)	(26,140)	4,501	(37)	(64,026)
Other current liabilities	(10,814)	5,635	(505,688)	—	(510,867)
Other assets and liabilities	(162)	(6,911)	431	—	(6,642)
Net Cash Provided (Used) by Operating Activities	(55,259)	8,913	(542,529)	—	(588,875)
Cash Flows from Investing Activities					
Investments in subsidiaries	—	—	(1,530,536)	1,530,536	—
Decrease/(increase) in restricted cash	343,725	31,547	—	—	375,272
Decrease/(increase) in notes receivable	1,501	(11,118)	(1,170)	11,969	1,182
Capital expenditures	(2,977)	(7,583)	—	—	(10,560)
Investments in projects	(2,522)	—	—	—	(2,522)
Net Cash Provided (Used) by Investing Activities	339,727	12,846	(1,531,706)	1,542,505	363,372
Cash Flows from Financing Activities					
Capital contributions from parent	1,530,536	—	—	(1,530,536)	—
Proceeds from issuance of long–term debt	—	—	2,450,000	—	2,450,000
Deferred debt issuance costs	—	(5)	(74,790)	—	(74,795)
Funded letter of credit	—	—	(250,000)	—	(250,000)
Principal payments on long–term debt	(1,713,871)	(6,092)	—	(11,969)	(1,731,932)
Net Cash Provided (Used) by Financing Activities	(183,335)	(6,097)	2,125,210	(1,542,505)	393,273
Effect of Exchange Rate Changes on Cash and Cash Equivalents	—	(13,562)	—	—	(13,562)
Change in Cash from Discontinued Operations	—	1,033	—	—	1,033
Net Increase in Cash and Cash Equivalents	101,133	3,133	50,975	—	155,241
Cash and Cash Equivalents at Beginning of Period	194,376	157,301	44,305	—	395,982
Cash and Cash Equivalents at End of Period	$ 295,509	$160,434	$ 95,280	$ —	$ 551,223

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF OPERATIONS
For the Period January 1, 2003 Through December 5, 2003
Predecessor Company

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Operating Revenues					
Revenues from majority–owned operations	$1,230,291	$ 522,467	$ 47,054	$ (1,425)	$ 1,798,387
Operating Costs and Expenses					
Cost of majority–owned operations	991,237	332,858	33,239	(1,425)	1,355,909
Depreciation and amortization	130,491	74,845	13,507	—	218,843
General, administrative and development	65,751	28,815	75,764	—	170,330
Other charges (credits)					
Reorganization items	30,582	16,644	150,599	—	197,825
Restructuring and impairment charges	247,560	(121,604)	111,619	—	237,575
Fresh start reporting adjustments	—	—	(6,570,912)	2,452,276	(4,118,636)
Fresh start reporting adjustments — subsidiaries	—	—	2,452,276	(2,452,276)	—
Legal settlement	(9,369)	4,000	468,000	—	462,631
Total operating costs and expenses	1,456,252	335,558	(3,265,908)	(1,425)	(1,475,523)
Operating Income/(Loss)	(225,961)	186,909	3,312,962	—	3,273,910
Other Income (Expense)					
Equity in earnings of consolidated subsidiaries	104,905	—	(18,356)	(86,549)	—
Equity in earnings of unconsolidated affiliates	107,254	64,850	(1,203)	—	170,901
Write downs and losses on sales of equity method investments	(16,285)	(125,945)	(4,894)	—	(147,124)
Other income, net	5,087	30,470	(15,429)	(919)	19,209
Interest expense	(135,837)	(83,135)	(111,836)	919	(329,889)
Total other income/(expense)	65,124	(113,760)	(151,718)	(86,549)	(286,903)
Income/(Loss) From Continuing Operations Before Income Taxes	(160,837)	73,149	3,161,244	(86,549)	2,987,007
Income Tax Expense/(Benefit)	(107,292)	(10,791)	156,012	—	37,929
Income/(Loss) From Continuing Operations	(53,545)	83,940	3,005,232	(86,549)	2,949,078
Income/(Loss) on Discontinued Operations, net of Income Taxes	(25,920)	82,074	(238,787)	—	(182,633)
Net Income/(Loss)	$ (79,465)	$ 166,014	$ 2,766,445	$ (86,549)	$ 2,766,445

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF CASH FLOW
For the Period January 1, 2003 Through December 5, 2003
Predecessor Company

	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Cash Flows from Operating Activities					
Net income/(loss)	$ (79,465)	$ 166,014	$ 2,766,445	$ (86,549)	$ 2,766,445
Adjustments to reconcile net income/(loss) to net cash provided by operating activities					
Distributions in excess of (less than) equity earnings of unconsolidated affiliates	(95,360)	(53,400)	20,739	86,549	(41,472)
Depreciation and amortization	131,399	111,794	13,507	—	256,700
Amortization of deferred financing costs	6,676	7,016	3,948	—	17,640
Write downs and losses on sales of equity method investments	16,284	130,654	—	—	146,938
Deferred income taxes and investment tax credits	(123,237)	(36,015)	181,544	(24,185)	(1,893)
Current tax expense — non cash contribution from members	(17,149)	(54,148)	—	71,297	—
Unrealized (gains)/losses on derivatives	(12,246)	(75,310)	29,540	23,400	(34,616)
Minority interest	—	2,177	—	—	2,177
Restructuring and impairment charges	273,138	93,516	41,723	—	408,377
Fresh start reporting adjustments	—	—	(3,895,541)	—	(3,895,541)
Gain on sale of discontinued operations	3,180	(198,666)	9,155	—	(186,331)
Cash provided by (used in) changes in certain working capital items, net of effects from acquisitions and dispositions	59,168	(5,552)	(25,355)	—	28,261
Accounts receivable, net					
Inventory	25,713	(14,512)	2,927	—	14,128
Prepayments and other current assets	(30,388)	8,599	(15,942)	919	(36,812)
Accounts payable	116,452	(57,004)	634,215	—	693,663
Accounts payable–affiliates	189,204	(52,324)	(20,346)	(161,551)	(45,017)
Accrued income taxes	—	—	68,356	(47,112)	21,244
Accrued property and sales taxes	(2,015)	(625)	(519)	—	(3,159)
Accrued salaries, benefits, and related costs	(41,037)	92,331	(10,604)	—	40,690
Accrued interest	(14,865)	54,773	119,592	(919)	158,581
Other current liabilities	29,631	46,438	(98,866)	—	(22,797)
Other assets and liabilities	15,940	(68,051)	3,414	—	(48,697)
Net Cash Provided (Used) by Operating Activities	451,023	97,705	(172,068)	(138,151)	238,509
Cash Flows from Investing Activities					
Investment in subsidiaries	—	—	129,351	(129,351)	—
Proceeds from sale of discontinued operations	—	18,612	—	—	18,612
Proceeds from sale of investments	—	107,174	—	—	107,174
Proceeds from sale of turbines	—	—	70,717	—	70,717
(Increase) in trust funds	(13,971)	—	—	—	(13,971)
Decrease/(increase) in restricted cash	(197,692)	(54,803)	—	—	(252,495)
Decrease/(increase) in notes receivable	98,064	42,493	285	(142,495)	(1,653)
Capital expenditures	(55,833)	(6,450)	(51,219)	—	(113,502)
Investments in projects	(3,672)	(5,259)	8,370	—	(561)
Net Cash Provided (Used) by Investing Activities	(173,104)	101,767	157,504	(271,846)	(185,679)
Cash Flows from Financing Activities					
Capital contributions from parent	(135,251)	(132,251)	—	267,502	—
Proceeds from issuance of long-term debt	—	39,988	—	—	39,988
Deferred debt issuance costs	(7,640)	(447)	(10,453)	—	(18,540)
Principal payments on long-term debt	(4,055)	(189,832)	—	142,495	(51,392)
Net Cash Provided (Used) by Financing Activities	(146,946)	(282,542)	(10,453)	409,997	(29,944)
Effect of Exchange Rate Changes on Cash and Cash Equivalents	—	(22,276)	—	—	(22,276)
Change in Cash from Discontinued Operations	—	34,512	—	—	34,512
Net Increase in Cash and Cash Equivalents	130,973	(70,834)	(25,017)	—	35,122
Cash and Cash Equivalents at Beginning of	63,403	228,135	69,322	—	360,860

Period					
Cash and Cash Equivalents at End of Period	$ 191,376	$ 157,301	$ 44,305	$ —	$ 395,982

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF OPERATIONS
For the Year Ended December 31, 2002
Predecessor Company

	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Operating Revenues					
Revenues from majority-owned operations	$1,376,586	$ 510,434	$ 55,492	$ (4,219)	$ 1,938,293
Operating Costs and Expenses					
Cost of majority-owned operations	918,941	345,133	72,750	(4,378)	1,332,446
Depreciation and amortization	126,258	69,512	11,257	—	207,027
General, administrative and development	49,759	53,252	115,682	159	218,852
Other charges (credits)					
Restructuring and impairment charges	108,236	2,091,845	362,979	—	2,563,060
Total operating costs and expenses	1,203,194	2,559,742	562,668	(4,219)	4,321,385
Operating Income/(Loss)	173,392	(2,049,308)	(507,176)	—	(2,383,092)
Other Income (Expense)					
Equity in earnings of consolidated subsidiaries	(690,627)	(454)	(2,944,968)	3,636,049	—
Equity in earnings of unconsolidated affiliates	17,786	50,398	812	—	68,996
Write downs and losses on sales of equity method investments	(16,255)	(182,035)	(2,182)	—	(200,472)
Other income, net	9,648	9,221	(4,127)	(3,311)	11,431
Interest expense	(142,775)	(115,741)	(196,977)	3,311	(452,182)
Total other expense	(822,223)	(238,611)	(3,147,442)	3,636,049	(572,227)
Income/(Loss) From Continuing Operations Before Income Taxes	(648,831)	(2,287,919)	(3,654,618)	3,636,049	(2,955,319)
Income Tax Expense/(Benefit)	(1,905)	25,374	(190,336)	—	(166,867)
Income/(Loss) From Continuing Operations	(646,926)	(2,313,293)	(3,464,282)	3,636,049	(2,788,452)
Income/(Loss) on Discontinued Operations, net of Income Taxes	(25,328)	(650,502)	—	—	(675,830)
Net Income/(Loss)	$ (672,254)	$(2,963,795)	$(3,464,282)	$3,636,049	$(3,464,282)

(1) All significant intercompany transactions have been eliminated in consolidation.

NRG ENERGY, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENTS OF CASH FLOWS
For the Year Ended December 31, 2002
Predecessor Company

	Guarantor Subsidiaries	Non–Guarantor Subsidiaries	NRG Energy, Inc. (Note Issuer)	Eliminations(1)	Consolidated Balance
			(In thousands)		
Cash Flows from Operating Activities					
Net income/(loss)	$(672,254)	$(2,963,795)	$(3,464,282)	$ 3,636,049	$(3,464,282)
Adjustments to reconcile net income/(loss) to net cash provided by operating activities					
Distributions in excess of (less than) equity earnings of unconsolidated affiliates	689,451	(19,810)	2,944,156	(3,636,049)	(22,252)
Depreciation and amortization	131,876	143,491	11,256	—	286,623
Amortization of deferred financing costs	3,450	13,046	11,871	—	28,367
Write downs and losses on sales of equity method investments	11,975	182,035	2,182	—	196,192
Deferred income taxes and investment tax credits	(44,442)	(9,847)	(130,273)	(45,572)	(230,134)
Current tax expense — non cash contribution from members	3,874	(27,477)	—	23,603	—
Unrealized (gains)/losses on derivatives	(18,439)	47,422	(31,726)	—	(2,743)
Minority interest	—	(19,325)	—	—	(19,325)
Amortization of out of market power contracts	(89,415)	—	—	—	(89,415)
Restructuring and impairment charges	109,207	2,760,390	274,912	—	3,144,509
Gain on sale of discontinued operations	—	(2,814)	—	—	(2,814)
Cash provided by (used in) changes in certain working capital items, net of effects from acquisitions and dispositions					
Accounts receivable, net	(72,106)	29,883	26,736	—	(15,487)
Accounts receivable–affiliates	1,100	1,171	—	—	2,271
Inventory	49,795	(7,185)	(14)	—	42,596
Prepayments and other current assets	(44,999)	13,412	(26,781)	—	(58,368)
Accounts payable	(38,789)	180,682	137,007	—	278,900
Accounts payable–affiliates	358,032	417,072	(728,193)	138	47,049
Accrued income taxes	—	—	22,168	21,969	44,137
Accrued property and sales taxes	(7,678)	34,634	525	—	27,481
Accrued salaries, benefits, and related costs	(8,253)	2,708	(19,367)	—	(24,912)
Accrued interest	33,985	40,488	128,761	—	203,234
Other current liabilities	7,516	(8,560)	48,736	—	47,692
Other assets and liabilities	(4,428)	10,818	4,333	—	10,723
Net Cash Provided (Used) by Operating Activities	399,458	818,439	(787,993)	138	430,042
Cash Flows from Investing Activities					
Proceeds from sale of discontinued operations	—	160,791	—	—	160,791
Proceeds from sale of investments	—	68,517	—	—	68,517
Decrease/(increase) in restricted cash	(138,798)	(109,004)	50,000	—	(197,802)
Decrease/(increase) in notes receivable	(28,247)	(230,733)	(29,728)	79,464	(209,244)
Capital expenditures	(92,003)	(1,349,163)	1,433	—	(1,439,733)
Investments in projects	(36,047)	(25,896)	(2,053)	—	(63,996)
Investment in subsidiaries	(27,967)	—	(145,732)	173,699	—
Distributions from subsidiaries	—	—	216,751	(216,751)	—
Net Cash Provided (Used) by Investing Activities	(323,062)	(1,485,488)	90,671	36,412	(1,681,467)
Cash Flows from Financing Activities					
Proceeds from issuance of stock	—	—	4,065	—	4,065
Capital contributions from parent	81,427	92,487	500,000	(173,914)	500,000
Distributions to parent	—	(216,751)	—	216,751	—
Net borrowings under line of credit agreement	(40,000)	—	830,000	—	790,000
Proceeds from issuance of long–term debt	37,869	963,000	165,288	(79,387)	1,086,770
Principal payments on long–term debt	(99,331)	(92,174)	(740,000)	—	(931,505)
Net Cash Provided (Used) by Financing Activities	(20,035)	746,562	759,353	(36,550)	1,449,330
Effect of Exchange Rate Changes on Cash and Cash Equivalents	(1,092)	20,426	5,616	—	24,950
Change in Cash from Discontinued Operations	—	51,267	—	—	51,267

Net Increase in Cash and Cash Equivalents	55,269	151,206	67,647	—	274,122
Cash and Cash Equivalents at Beginning of Period	8,134	76,929	1,675	—	86,738
Cash and Cash Equivalents at End of Period	$ 63,403	$ 228,135	$ 69,322	$ —	$ 360,860

(1) All significant intercompany transactions have been eliminated in consolidation.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM ON FINANCIAL STATEMENT SCHEDULE

To the Board of Directors and Stockholders of NRG Energy, Inc.:

Our audit of the consolidated financial statements referred to in our report dated March 10, 2004, except as to Notes 6, 23, and 33, which are as of December 6, 2004, appearing in this Annual Report on Form 10–K also included an audit of the financial statement schedule listed in Item 15(a)(2) of this Annual Report on Form 10–K. In our opinion, this financial statement schedule for the period from December 6, 2003 to December 31, 2003 presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements.

/s/ PricewaterhouseCoopers LLP
PricewaterhouseCoopers LLP

Minneapolis, Minnesota
March 10, 2004, except as to
Notes 6, 23, and 33,
which are as of December 6, 2004.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM ON FINANCIAL STATEMENT SCHEDULE

To the Board of Directors and Stockholders of NRG Energy, Inc.:

Our audits of the consolidated financial statements referred to in our report dated March 10, 2004, except as to Notes 6, 23, and 33, which are as of December 6, 2004, appearing in this Annual Report on Form 10-K also included an audit of the financial statement schedule listed in Item 15(a)(2) of this Annual Report on Form 10-K. In our opinion, this financial statement schedule for the period from January 1, 2003 to December 5, 2003 and for the year ended December 31, 2002, presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements.

/s/ PricewaterhouseCoopers LLP
PricewaterhouseCoopers LLP

Minneapolis, Minnesota
March 10, 2004, except as to
Notes 6, 23, and 33,
which are as of December 6, 2004.

NRG ENERGY, INC.
SCHEDULE II. VALUATION AND QUALIFYING ACCOUNTS
For the Years Ended December 31, 2004, 2003, and 2002

Column A	Column B	Column C		Column D	Column E
		Additions			
Description	Balance at Beginning of Period	Charged to Costs and Expenses	Charged to Other Accounts	Deductions	Balance at End of Period
			(In thousands)		
Allowance for doubtful accounts, deducted from accounts receivable in the balance sheet:					
Reorganized NRG					
Year ended December 31, 2004	$ —	$ 856	$ 458	$ (303)	$ 1,011
December 6 – December 31, 2003	$ —	$ ——	$ —	$ —	$ —
Predecessor Company					
January 1 – December 5, 2003	$ 18,163	$ 15,576	$ —	$ (33,739)	$ —*
Year ended December 31, 2002	$ 13,634	$ 4,529	$ —	$ —	$ 18,163
Income tax valuation allowance, deducted from deferred tax assets in the balance sheet:					
Reorganized NRG					
Year ended December 31, 2004	$1,241,101	$ —	$(276,969)	$(256,261)	$ 707,871
December 6 – December 31, 2003	$1,241,616	$ (515)	$ —	$ —	$1,241,101
Predecessor Company					
January 1 – December 5, 2003	$1,170,301	$ 71,315	$ —	$ —	$1,241,616*
Year ended December 31, 2002	$ 71,446	$1,006,540	$ 92,315	$ —	$1,170,301

* December 6, 2003 — Fresh Start Balance

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

NRG Energy, Inc.
(Registrant)

/s/ David W. Crane
David W. Crane,
Chief Executive Officer
(Principal Executive Officer)

/s/ Robert C. Flexon
Robert C. Flexon,
Chief Financial Officer
(Principal Financial Officer)

/s/ James J. Ingoldsby
James J. Ingoldsby,
Controller
(Principal Accounting Officer)

Date: March 29, 2005

POWER OF ATTORNEY:

Each person whose signature appears below constitutes and appoints David W. Crane, Timothy W. J. O'Brien and Tanuja M. Dehne, each or any of them, such person's true and lawful attorney–in–fact and agent with full power of substitution and resubstitution for such person and in such person's name, place and stead, in any and all capacities, to sign any and all amendments to this report on Form 10–K, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys–in–fact and agents, and each of them, full power and authority to do and perform each and every act and thing necessary or desirable to be done in and about the premises, as fully to all intents and purposes as such person, hereby ratifying and confirming all that said attorneys–in–fact and agents, or any of them or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

In accordance with the Exchange Act, this report has been signed by the following persons on behalf of the registrant in the capacities indicated on March 29, 2005.

Signature	Title	Date
/s/ David W. Crane David W. Crane	President and Chief Executive Officer	March 29, 2005
/s/ Howard Cosgrove Howard Cosgrove	Chairman of the Board	March 29, 2005
/s/ John F. Chlebowski John F. Chlebowski	Director	March 29, 2005
/s/ Lawrence Coben Lawrence Coben	Director	March 29, 2005
/s/ Stephen Cropper Stephen Cropper	Director	March 29, 2005
/s/ Herbert Tate Herbert Tate	Director	March 29, 2005
/s/ Thomas Weidemeyer Thomas Weidemeyer	Director	March 29, 2005
/s/ Walter Young Walter Young	Director	March 29, 2005

Exhibit 31.1

CERTIFICATION

I, David W. Crane, certify that:

1. I have reviewed this annual report on Form 10-K of NRG Energy, 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 officers 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(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 officers 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.

/s/ David W. Crane

David W. Crane
Chief Executive Officer
(Principal Executive Officer)

Date: March 29, 2005

Exhibit 31.2

CERTIFICATION

I, Robert C. Flexon, certify that:

1. I have reviewed this annual report on Form 10-K of NRG Energy, 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 officers 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (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 officers 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.

/s/ Robert C. Flexon

Robert C. Flexon
Chief Financial Officer
(Principal Financial Officer)

Date: March 29, 2005

EXHIBIT 31.3

CERTIFICATION

I, James J. Ingoldsby, certify that:

1. I have reviewed this annual report on Form 10-K of NRG Energy, 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 officers 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(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 officers 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.

/s/ James J. Ingoldsby

James J. Ingoldsby
Controller
(Principal Accounting Officer)

Date: March 29, 2005

EXHIBIT 32

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES–OXLEY ACT OF 2002

In connection with the Annual Report of NRG Energy, Inc. (the Company) on Form 10–K for the year ended December 31, 2004, as filed with the Securities and Exchange Commission on the date hereof (Form 10–K), each of the undersigned officers of the Company certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes–Oxley Act of 2002, that, to such officer's knowledge:

(1) The Form 10–K fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Form 10–K fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates and for the periods expressed in the Form 10–K.

Date: March 29, 2005

/s/ David W. Crane
David W. Crane,
Chief Executive Officer
(Principal Executive Officer)

/s/ Robert C. Flexon
Robert C. Flexon
Chief Financial Officer
(Principal Financial Officer)

/s/ James J. Ingoldsby
James J. Ingoldsby
Controller
(Principal Accounting Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to NRG Energy, Inc. and will be retained by NRG Energy, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

EXHIBIT INDEX

2.1	Third Amended Joint Plan of Reorganization of NRG Energy, Inc., NRG Power Marketing, Inc., NRG Capital LLC, NRG Finance Company I LLC, and NRGenerating Holdings (No. 23) B.V.(7)
2.2	First Amended Joint Plan of Reorganization of NRG Northeast Generating LLC (and certain of its subsidiaries), NRG South Central Generating (and certain of its subsidiaries) and Berrians I Gas Turbine Power LLC.(7)
3.1	Amended and Restated Certificate of Incorporation.(2)
3.2	Amended and Restated By–Laws.(8)
3.3	Certificate of Designation of 4.0% Convertible Perpetual Preferred Stock, as filed with the Secretary of State of the State of Delaware on December 20, 2004.(10)
4.1	Indenture dated as of December 23, 2003 by and among NRG Energy, Inc., certain subsidiaries of NRG Energy, Inc. and Law Debenture Trust Company of New York, as Trustee, re: NRG Energy, Inc.'s 8% Second Priority Senior Secured Notes due 2013.(2)
4.2	Purchase Agreement dated as of December 17, 2003 by and among NRG Energy, Inc., as Issuer, certain subsidiaries of NRG Energy, Inc., as guarantors, and Lehman Brothers, Inc., Credit Suisse First Boston LLC, Citigroup Global Markets Inc. and Deutsche Bank Securities, Inc., as Initial Purchasers, re: $1,250,000,000 8% Second Priority Senior Secured Notes due 2013.(2)
4.3	Registration Rights Agreement dated as of December 23, 2003 by and among NRG Energy, Inc., as Issuer, certain subsidiaries of NRG Energy, Inc., as Guarantors, and Lehman Brothers Inc., Credit Suisse First Boston LLC, Citigroup Global Markets Inc. and Deutsche Bank Securities, Inc., as Initial Purchasers.(2)
4.4	Purchase Agreement dated as of January 21, 20032004 by and among NRG Energy, as Issuer, certain subsidiaries of NRG Energy, Inc., as Guarantors, and Credit Suisse First Boston LLC and Lehman Brothers, Inc., as Initial Purchasers, re: $475,000,000 8% Second Priority Senior Secured Notes due 2013.(2)
4.5	Registration Rights Agreement dated as of January 28, 2004 by and among NRG Energy, Inc., as Issuer, certain subsidiaries of NRG Energy, Inc., as Guarantors, and Credit Suisse First Boston LLC and Lehman Brothers, Inc., as Initial Purchasers.(2)
4.6	Amended and Restated Common Agreement among XL Capital Assurance Inc., Goldman Sachs Mitsui Marine Derivative Products, L.P., Law Debenture Trust Company of New York, as Trustee, The Bank of New York, as Collateral Agent, NRG Peaker Finance Company LLC and each Project Company Party thereto dated as of January 6, 2004, together with Annex A to the Common Agreement.(2)
4.7	Amended and Restated Security Deposit Agreement among NRG Peaker Finance Company, LLC and each Project Company party thereto, and the Bank of New York, as Collateral Agent and Depositary Agent, dated as of January 6, 2004.(2)
4.8	NRG Parent Agreement by NRG Energy, Inc. in favor of the Bank of New York, as Collateral Agent, dated as of January 6, 2004.(2)
4.9	Indenture dated June 18, 2002, between NRG Peaker Finance Company LLC, as Issuer, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, NRG Rockford LLC, NRG Rockford II LLC and Sterlington Power LLC, as Guarantors, XL Capital Assurance Inc., as Insurer, and Law Debenture Trust Company, as Successor Trustee to the Bank of New York.(4)
4.10	Registration Rights Agreement, dated December 21, 2004, by and among NRG Energy, Inc., Citigroup Global Markets Inc. and Deutsche Bank Securities Inc.(9)
4.11	Registration Rights Agreement, dated December 5, 2003, among NRG Energy, Inc. and the holders of NRG Energy, Inc. common stock named therein.(3)
10.1*	Employment Agreement dated November 10, 2003 between NRG Energy, Inc. and David Crane.(2)
10.2	Note Agreement, dated August 20, 1993, between NRG Energy, Inc., Energy Center, Inc. and each of the purchasers named therein.(5)
10.3	Master Shelf and Revolving Credit Agreement, dated August 20, 1993, between NRG Energy, Inc., Energy Center, Inc., The Prudential Insurance Registrants of America and each Prudential Affiliate, which becomes party thereto.(5)

10.4	Asset Sales Agreement, dated December 23, 1998, between NRG Energy, Inc., and Niagara Mohawk Power Corporation.(6)
10.5	Generating Plant and Gas Turbine Asset Purchase and Sale Agreement for the Arthur Kill generating plants and Astoria gas turbines, dated January 27, 1999, between NRG Energy and Consolidated Edison Company of New York, Inc.(6)
10.6	Amendment to the Asset Sales Agreement, dated June 11, 1999, between NRG Energy, Inc., and Niagara Mohawk Power Corporation.(6)
10.7*	Key Executive Retention, Restructuring Bonus and Severance Agreement between NRG Energy, Inc. and Scott J. Davido dated July 1, 2003.(2)
10.8*	Severance Agreement between NRG Energy, Inc. and Ershel Redd Jr. dated January 30, 2003.(4)
10.9*	Severance Agreement between NRG Energy, Inc. and William Pieper dated March 1, 2003.(2)
10.10*	Severance Agreement between NRG Energy, Inc. and George Schaefer dated December 18, 2002.(4)
10.11*	Severance Agreement between NRG Energy, Inc. and John P. Brewster dated July 23, 2003.(2)
10.12	Stock Purchase Agreement dated December 13, 2004, by and among NRG Energy, Inc. and MatlinPatterson Global Advisers LLC, MatlinPatterson Global Opportunities Partners, L.P. and MatlinPatterson Global Opportunities Partners (Bermuda) L.P.(11)
10.13*	NEO 2004 AIP Payout and 2005 Base Salary Table.(8)
10.14*	Form of NRG Energy Inc. Long–Term Incentive Plan Deferred Stock Unit Agreement for Officers and Key Management.(1)
10.15*	Form of NRG Energy Inc. Long–Term Incentive Plan Deferred Stock Unit Agreement for Directors.(1)
10.16*	NRG Energy, Inc. Long–Term Incentive Plan.(15)
10.17*	Form of NRG Energy, Inc. Long–Term Incentive Plan Non–Qualified Stock Option Agreement.(12)
10.18*	Form of NRG Energy, Inc. Long–Term Incentive Plan Restricted Stock Unit Agreement.(12)
10.19*	Annual Incentive Plan for Designated Corporate Officers.(13)
10.20*	Letter Agreement dated March 5, 2004 between NRG Energy and Scott J. Davido.(14)
10.21*	Letter Agreement dated March 5, 2004 between NRG Energy and Ershel C. Redd Jr.(14)
10.22*	Letter Agreement dated March 5, 2004 between NRG Energy and John P. Brewster.(14)
10.23*	Letter Agreement dated March 5, 2004 between NRG Energy and Timothy W. O'Brien.(14)
10.24*	Letter Agreement dated February 19, 2004 between NRG Energy and Robert C. Flexon.(14)
10.25	Credit Agreement dated as of December 23, 2003, as amended and restated as of December 24, 2004, among NRG Energy, Inc., NRG Power Marketing, Inc., the Lenders party hereto, Credit Suisse First Boston, as Administrative Agent, Credit Suisse First Boston and Goldman Sachs Credit Partners L.P., as Joint Lead Book Runners, Joint Lead Arrangers and Co–Documentation Agents, and Goldman Sachs Credit Partners L.P., as Syndication Agent.(1)
10.26	Guarantee and Collateral Agreement dated as of December 23, 2003, as amended and restated as of December 24, 2004, made by NRG Energy, Inc., NRG Power Marketing, Inc. and certain of the subsidiaries of NRG Energy, Inc. in favor of Deutsche Bank Trust Company Americas, as Priority Collateral Trustee, Parity Collateral Trustee and Account Collateral Trustee, Credit Suisse First Boston, as Administrative Agent, and Law Debenture Trust Company of New York, as Trustee.(1)
10.27	Collateral Trust Agreement dated as of December 23, 2003, as amended and restated as of December 24, 2004, among NRG Energy, Inc., NRG Power Marketing, Inc., the Guarantors from time to time party hereto, Credit Suisse First Boston, as Administrative Agent, Law Debenture Trust Company of New York, as Trustee, and Deutsche Bank Trust Company Americas, as Priority Collateral Trustee, Parity Collateral Trustee and Account Collateral Trustee.(1)
10.28	Railroad Car Full Service Master Leasing Agreement, dated as of February 18, 2005, between General Electric Railcar Services Corporation and NRG Power Marketing Inc.(1)
10.29	Commitment Letter, dated February 18, 2005, between General Electric Railcar Services Corporation and NRG Power Marketing Inc.(1)
10.30	Summary of Director Compensation.(1)
21	Subsidiaries of NRG Energy. Inc.(1)
23.1	Consent of KPMG LLP.(1)

23.2	Consent of PricewaterhouseCoopers LLP.(1)
23.3	Consent of PricewaterhouseCoopers LLP. (with respect to West Coast Power LLC)(1)
31.1	Rule 13a−14(a)/15d−14(a) certification of David W. Crane.(1)
31.2	Rule 13a−14(a)/15d−14(a) certification of Robert C. Flexon.(1)
31.3	Rule 13a−14(a)/15d−14(a) certification of James J. Ingoldsby.(1)
32	Section 1350 Certification.(1)
99.1	Financial Statements of West Coast Power LLC.(1)

* Exhibit relates to compensation arrangements.

(1) Filed herewith.

(2) Incorporated herein by reference to NRG Energy, Inc.'s annual report on Form 10−K filed on March 16, 2004.

(3) Incorporated herein by reference to NRG Energy Inc.'s Amendment No. 2 to its annual report on Form 10−K filed on November 3, 2004.

(4) Incorporated herein by reference to NRG Energy, Inc.'s annual report on Form 10−K filed on March 31, 2003.

(5) Incorporated herein by reference to NRG Energy's Registration Statement on Form S−1, as amended, Registration No. 333−33397.

(6) Incorporated herein by reference to NRG Energy, Inc.'s quarterly report on Form 10−Q for the quarter ended June 30, 1999.

(7) Incorporated herein by reference to NRG Energy, Inc.'s current report on Form 8−K filed on November 19, 2003.

(8) Incorporated herein by reference to NRG Energy, Inc.'s current report on Form 8−K filed on March 3, 2005.

(9) Incorporated herein by reference to NRG Energy, Inc.'s current report on Form 8−K filed on December 27, 2004.

(10) Incorporated herein by reference to NRG Energy, Inc.'s current report on Form 8−K filed on December 27, 2004.

(11) Incorporated herein by reference to NRG Energy, Inc.'s current report on Form 8−K/ A filed on December 14, 2004.

(12) Incorporated herein by reference to NRG Energy, Inc.'s quarterly report on Form 10−Q for the quarter ended September 30, 2004.

(13) Incorporated herein by reference to NRG Energy, Inc.'s 2004 proxy statement on Schedule 14A filed on July 12, 2004.

(14) Incorporated herein by reference to NRG Energy, Inc.'s quarterly report on Form 10−Q for the quarter ended March 31, 2004.

(15) Incorporated herein by reference to NRG Energy Inc.'s Registration Statement on Form S−8, Registration No. 333−114007.Exhibit 23.2

EXHIBIT 10.14

NRG ENERGY, INC. LONG–TERM INCENTIVE PLAN
DEFERRED STOCK UNIT AGREEMENT
FOR OFFICERS & KEY MANAGEMENT

«NAME»
«ADDRESS»
«ADDRESS»

You are receiving this Deferred Stock Unit Agreement (this "Agreement") because you have previously elected to defer your receipt of stock compensation for your service as a director of NRG Energy, Inc. (the "Company"). This award is made under the Company's Long–Term Incentive Compensation Plan and constitutes the Grant Agreement pursuant to Sections 8 and 10 of the Plan. If there is any inconsistency between the terms of this Agreement and the terms of the Plan, the Plan's terms shall completely supersede and replace the conflicting terms of this Agreement. Capitalized terms used but not defined in this Agreement shall have the meaning assigned to them in the Plan. You are sometimes referred to as the "Participant" in this Agreement.

1. **Grant of DSU.**

You are hereby granted DSUs as follows:

Date of Grant:	[Date of Grant]
Vesting Commencement Date:	Your DSU is vested in full on the Date of Grant
Total Number of DSUs:	[Insert]

2. **Distribution of DSUs.**

Subject to Section 7 of this Agreement, your DSUs will be converted to Common Stock as set forth in Section 3 hereof and distributed to you in accordance with the deferral form (the "Election Form") you have already completed and provided to the Company.

3. **Conversion of DSU and Issuance of Shares**

Upon the time of distribution of the Award, one share of Common Stock shall be issued for each DSU that is required to be distributed, subject to the terms and conditions of this Agreement and the Plan.

4. **Transfer of DSUs**

Unless otherwise permitted by the Committee or Section 14 of the Plan, the DSUs may not be sold, transferred, pledged, assigned or otherwise alienated or hypothecated, other than pursuant to a will or the laws of descent and distribution. Any attempted disposition in violation of this Section 4 and Section 14 of the Plan shall be void.

5. **Status of Participant**

The Participant shall not be, or have rights as, a stockholder of the Company with respect to any of the shares of Common Stock subject to the Award unless such shares have been

delivered to him or her pursuant to Section 3 hereof. The Company shall not be required to issue or transfer any certificates for shares of Common Stock pursuant to this Agreement until all applicable requirements of law have been complied with and such shares have been duly listed on any securities exchange on which the Common Stock may then be listed.

6. **No Effect on Capital Structure**

The Award shall not affect the right of the Company or any Subsidiary to reclassify, recapitalize or otherwise change its capital or debt structure or to merge, consolidate, convey any or all of its assets, dissolve, liquidate, windup, or otherwise reorganize.

7. Termination of Service

If your service as a director of the Company is terminated for any reason other than for Cause, the DSU shall be converted to Common Stock and distributed to you as set forth in your Election Form. If your service as a director of the Company is terminated for Cause, you will forfeit any DSUs not previously converted to Common Stock and delivered to you pursuant to Section 2 hereof, and you will not be entitled to any Common Stock underlying the DSU.

8. Committee Authority

Any question concerning the interpretation of this Agreement, any adjustments required to be made under the Plan, and any controversy that may arise under the Plan or the Grant Agreement shall be determined by the Committee in its sole discretion. Any decisions by the Committee regarding the Plan or this Agreement shall be final and binding.

9. Plan Controls

The terms of this Agreement are governed by the terms of the Plan, as it exists on the date of the grant and as the Plan is amended from time to time. In the event of any conflict between the provisions of this Agreement and the provisions of the Plan, the terms of the Plan shall control.

10. Limitation on Rights; No Right to Future Grants; Extraordinary Item.

By entering into this Agreement and accepting the Award, the Participant acknowledges that: (a) the Plan is discretionary and may be modified, suspended or terminated by the Company at any time as provided in the Plan, provided that, except as provided in Section 17 of the Plan, no amendment to this Agreement shall adversely affect in a material manner the Participant's rights under this Agreement without his or her written consent; (b) the grant of the Award is a one–time benefit and does not create any contractual or other right to receive future grants of awards or benefits in lieu of awards; (c) all determinations with respect to any such future grants, including, but not limited to, the times when awards will be granted, the number of shares subject to each award, the award price, if any, and the time or times when each award will be settled, will be at the sole discretion of the Committee; (d) participation in the Plan is voluntary; (e) neither the Plan, the Award nor the issuance of the shares underlying the Award confers upon the Participant any right to continue in the service of (or any other relationship with) the Company or any Subsidiary; and (f) this Agreement creates

an unfunded, unsecured contractual obligation on the part of the Company to make any payments of Common Stock due under the DSUs referenced in this Agreement.

11. General Provisions

(a) Notice

Whenever any notice is required or permitted hereunder, such notice must be in writing and delivered in person or by mail (to the address set forth below if notice is being delivered to the Company) or electronically. Any notice delivered in person or by mail shall be deemed to be delivered on the date on which it is personally delivered, or, whether actually received or not, on the third business day after it is deposited in the United States mail, certified or registered, postage prepaid, addressed to the person who is to receive it at the address set forth in this Agreement. Notices delivered to the Participant in person or by mail shall be addressed to the address for the Participant in the records of the Company. Notices delivered to the Company in person or by mail shall be addressed as follows:

Company: NRG Energy, Inc.
Attn: Vice President, Human Resources
211 Carnegie Center
Princeton, NJ 08540

The Company or the Participant may change, by written notice to the other, the address previously specified for receiving notices.

(b) No Waiver

No waiver of any provision of this Agreement will be valid unless in writing and signed by the person against whom such waiver is sought to be enforced, nor will failure to enforce any right under this Agreement constitute a continuing waiver of the same or a waiver of any other right hereunder.

(c) Undertaking

The Participant hereby agrees to take whatever additional action and execute whatever additional documents the Company may deem necessary or advisable in order to carry out or effect one or more of the obligations or restrictions imposed on either the Participant or the Award pursuant to the express provisions of this Agreement.

(d) Entire Contract

This Agreement and the Plan constitute the entire contract between the parties hereto with regard to the subject matter hereof. This Agreement is made pursuant to the provisions of the Plan and will in all respects be construed in conformity with the express terms and provisions of the Plan.

(e) ***Successors and Assigns***

The provisions of this Agreement shall inure to the benefit of, and be binding on, the Company and its successors and assigns and Participant and Participant's legal representatives, heirs, legatees, distributees, assigns and transferees by operation of law.

(f) ***Securities Law Compliance***

The Company currently has an effective registration statement on file with the Securities and Exchange Commission with respect to the shares of Common Stock subject to the Award. The Company intends to maintain this registration but has no obligation to the Participant to do so. If the registration ceases to be effective, the Participant will not be able to transfer or sell shares of Common Stock issued pursuant to the Award unless exemptions from registration under applicable securities laws are available. Such exemptions from registration are very limited and might be unavailable. Participant agrees that any resale of the shares of Common Stock issued pursuant to the Award shall comply in all respects with the requirements of all applicable securities laws, rules and regulations (including, without limitation, the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the respective rules and regulations promulgated thereunder) and any other law, rule or regulation applicable thereto, as such laws, rules, and regulations may be amended from time to time. The Company shall not be obligated to either issue shares of Common Stock or permit the resale of any such shares if such issuance or resale would violate any such requirements.

(g) ***Tax Effect of Deferral***

The Company makes no representations or warranties as to your personal income tax situation, and how the DSUs will be treated for federal income tax purposes. You are responsible for consulting your own tax advisor with respect to the tax effects of this Agreement and your prior deferral election.

(h) ***Governing Law***

Except as may otherwise be provided in the Plan, the provisions of this Agreement shall be governed by the laws of the state of Delaware, without giving effect to principles of conflicts of law.

EXHIBIT 10.15

NRG ENERGY, INC. LONG–TERM INCENTIVE PLAN
DEFERRED STOCK UNIT AGREEMENT
FOR DIRECTORS

«Merge_Name»
«Address»
«City», «State» «Zip»

You are receiving this Deferred Stock Unit Agreement (this "Agreement") because you have previously elected to defer your receipt of stock compensation for your service as a director of NRG Energy, Inc. (the "Company"). This award is made under the Company's Long–Term Incentive Compensation Plan and constitutes the Grant Agreement pursuant to Sections 8 and 10 of the Plan. If there is any inconsistency between the terms of this Agreement and the terms of the Plan, the Plan's terms shall completely supersede and replace the conflicting terms of this Agreement. Capitalized terms used but not defined in this Agreement shall have the meaning assigned to them in the Plan. You are sometimes referred to as the "Participant" in this Agreement.

1. Grant of DSU.

You are hereby granted DSUs as follows:

Date of Grant:	«Date_of_Grant»
Vesting Commencement Date:	Your DSU is vested in full on the Date of Grant
Total Number of DSUs:	«Shares»

2. Distribution of DSUs.

Subject to Section 7 of this Agreement, your DSUs will be converted to Common Stock as set forth in Section 3 hereof and distributed to you in accordance with the deferral form (the "Election Form") you have already completed and provided to the Company.

3. Conversion of DSU and Issuance of Shares

Upon the time of distribution of the Award, one share of Common Stock shall be issued for each DSU that is required to be distributed, subject to the terms and conditions of this Agreement and the Plan.

4. Transfer of DSUs

Unless otherwise permitted by the Committee or Section 14 of the Plan, the DSUs may not be sold, transferred, pledged, assigned or otherwise alienated or hypothecated, other than pursuant to a will or the laws of descent and distribution. Any attempted disposition in violation of this Section 4 and Section 14 of the Plan shall be void.

5. Status of Participant

The Participant shall not be, or have rights as, a stockholder of the Company with respect to any of the shares of Common Stock subject to the Award unless such shares have been

delivered to him or her pursuant to Section 3 hereof. The Company shall not be required to issue or transfer any certificates for shares of Common Stock pursuant to this Agreement until all applicable requirements of law have been complied with and such shares have been duly listed on any securities exchange on which the Common Stock may then be listed.

6. No Effect on Capital Structure

The Award shall not affect the right of the Company or any Subsidiary to reclassify, recapitalize or otherwise change its capital or debt structure or to merge, consolidate, convey any or all of its assets, dissolve, liquidate, windup, or otherwise reorganize.

7. Termination of Service

If your service as a director of the Company is terminated for any reason other than for Cause, the DSU shall be converted to Common Stock and distributed to you as set forth in your Election Form. If your service as a director of the Company is terminated for Cause, you will forfeit any DSUs not previously converted to Common Stock and delivered to you pursuant to Section 2 hereof, and you will not be entitled to any Common Stock underlying the DSU.

8. Committee Authority

Any question concerning the interpretation of this Agreement, any adjustments required to be made under the Plan, and any controversy that may arise under the Plan or the Grant Agreement shall be determined by the Committee in its sole discretion. Any decisions by the Committee regarding the Plan or this Agreement shall be final and binding.

9. Plan Controls

The terms of this Agreement are governed by the terms of the Plan, as it exists on the date of the grant and as the Plan is amended from time to time. In the event of any conflict between the provisions of this Agreement and the provisions of the Plan, the terms of the Plan shall control.

10. Limitation on Rights; No Right to Future Grants; Extraordinary Item.

By entering into this Agreement and accepting the Award, the Participant acknowledges that: (a) the Plan is discretionary and may be modified, suspended or terminated by the Company at any time as provided in the Plan, provided that, except as provided in Section 17 of the Plan, no amendment to this Agreement shall adversely affect in a material manner the Participant's rights under this Agreement without his or her written consent; (b) the grant of the Award is a one–time benefit and does not create any contractual or other right to receive future grants of awards or benefits in lieu of awards; (c) all determinations with respect to any such future grants, including, but not limited to, the times when awards will be granted, the number of shares subject to each award, the award price, if any, and the time or times when each award will be settled, will be at the sole discretion of the Committee; (d) participation in the Plan is voluntary; (e) neither the Plan, the Award nor the issuance of the shares underlying the Award confers upon the Participant any right to continue in the service of (or any other relationship with) the Company or any Subsidiary; and (f) this Agreement creates

an unfunded, unsecured contractual obligation on the part of the Company to make any payments of Common Stock due under the DSUs referenced in this Agreement.

11. General Provisions

(a) Notice

Whenever any notice is required or permitted hereunder, such notice must be in writing and delivered in person or by mail (to the address set forth below if notice is being delivered to the Company) or electronically. Any notice delivered in person or by mail shall be deemed to be delivered on the date on which it is personally delivered, or, whether actually received or not, on the third business day after it is deposited in the United States mail, certified or registered, postage prepaid, addressed to the person who is to receive it at the address set forth in this Agreement. Notices delivered to the Participant in person or by mail shall be addressed to the address for the Participant in the records of the Company. Notices delivered to the Company in person or by mail shall be addressed as follows:

Company: NRG Energy, Inc.
Attn: Vice President, Human Resources
901 Marquette Avenue, Suite 2300
Minneapolis, MN 55402

The Company or the Participant may change, by written notice to the other, the address previously specified for receiving notices.

(b) No Waiver

No waiver of any provision of this Agreement will be valid unless in writing and signed by the person against whom such waiver is sought to be enforced, nor will failure to enforce any right under this Agreement constitute a continuing waiver of the same or a waiver of any other right hereunder.

(c) Undertaking

The Participant hereby agrees to take whatever additional action and execute whatever additional documents the Company may deem necessary or advisable in order to carry out or effect one or more of the obligations or restrictions imposed on either the Participant or the Award pursuant to the express provisions of this Agreement.

(d) Entire Contract

This Agreement and the Plan constitute the entire contract between the parties hereto with regard to the subject matter hereof. This Agreement is made pursuant to the provisions of the Plan and will in all respects be construed in conformity with the express terms and provisions of the Plan.

(e) Successors and Assigns

The provisions of this Agreement shall inure to the benefit of, and be binding on, the Company and its successors and assigns and Participant and Participant's legal representatives, heirs, legatees, distributees, assigns and transferees by operation of law.

(f) Securities Law Compliance

The Company currently has an effective registration statement on file with the Securities and Exchange Commission with respect to the shares of Common Stock subject to the Award. The Company intends to maintain this registration but has no obligation to the Participant to do so. If the registration ceases to be effective, the Participant will not be able to transfer or sell shares of Common Stock issued pursuant to the Award unless exemptions from registration under applicable securities laws are available. Such exemptions from registration are very limited and might be unavailable. Participant agrees that any resale of the shares of Common Stock issued pursuant to the Award shall comply in all respects with the requirements of all applicable securities laws, rules and regulations (including, without limitation, the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the respective rules and regulations promulgated thereunder) and any other law, rule or regulation applicable thereto, as such laws, rules, and regulations may be amended from time to time. The Company shall not be obligated to either issue shares of Common Stock or permit the resale of any such shares if such issuance or resale would violate any such requirements.

(g) Tax Effect of Deferral

The Company makes no representations or warranties as to your personal income tax situation, and how the DSUs will be treated for federal income tax purposes. You are responsible for consulting your own tax advisor with respect to the tax effects of this Agreement and your prior deferral election.

(h) Governing Law

Except as may otherwise be provided in the Plan, the provisions of this Agreement shall be governed by the laws of the state of Delaware, without giving effect to principles of conflicts of law.

EXHIBIT 10.25

EXECUTION COPY

CREDIT AGREEMENT

dated as of December 23, 2003

as amended and restated as of

December 24, 2004

among

NRG ENERGY, INC.,

NRG POWER MARKETING INC.,

THE LENDERS PARTY HERETO

and

CREDIT SUISSE FIRST BOSTON,
as Administrative Agent

CREDIT SUISSE FIRST BOSTON

and

GOLDMAN SACHS CREDIT PARTNERS L.P.,
as Joint Lead Book Runners, Joint Lead Arrangers and Co-Documentation Agents

GOLDMAN SACHS CREDIT PARTNERS L.P.,
as Syndication Agent

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CREDIT AGREEMENT dated as of December 23, 2003, as amended and restated as of December 24, 2004 (this "Agreement"), among NRG ENERGY, INC., a Delaware corporation (the "Company"), NRG POWER MARKETING INC., a Delaware corporation ("NRG Power Marketing"), the LENDERS from time to time party hereto, CREDIT SUISSE FIRST BOSTON and GOLDMAN SACHS CREDIT PARTNERS L.P., as joint lead book runners and joint lead arrangers (in such capacities, collectively, the "Arrangers") and as co-documentation agents (in such capacities, collectively, the "Co-Documentation Agents"), CREDIT SUISSE FIRST BOSTON, as administrative agent (in such capacity and together with its successors, the "Administrative Agent") and as collateral agent (in such capacity and together with its successors, the "Collateral Agent"), and GOLDMAN SACHS CREDIT PARTNERS L.P., as syndication agent (in such capacity, the "Syndication Agent").

A. On the Closing Date, the Borrowers, the Administrative Agent and certain of the Lenders entered into the Original Credit Agreement pursuant to which certain of the Lenders agreed to extend credit to the Borrowers on a revolving credit basis and/or to make term loans and/or credit-linked deposits to the Term Loan Borrower.

B. On the Restatement Date, (a) this Agreement will be amended and restated in the form hereof and (b) all loans outstanding under the Original Credit Agreement will be assigned in their entirety to the Lenders under this Agreement, as amended and restated, and the Commitments (as defined in the Original Credit Agreement) of such assigning Lenders will be assigned to the Lenders under this Agreement, as amended and restated, and thereafter continue as and be deemed to be the Commitments hereunder.

C. The Borrowers have requested the Lenders to continue to extend credit hereunder in the form of (a) Term Loans to be re-evidenced on the Restatement Date in an aggregate principal amount of $450,000,000, (b) Credit-Linked Deposits to be re-evidenced on the Restatement Date in an aggregate principal amount of $350,000,000 and (c) Revolving Loans, Revolving Letters of Credit and Swingline Loans to be re-evidenced, made or issued at any time and from time to time on or after the Restatement Date and prior to the Revolving Credit Maturity Date in an aggregate principal and face amount at any time outstanding not to exceed $150,000,000 (subject to the limitations set forth herein).

D. The proceeds of the Term Loans, Credit-Linked Deposits and Revolving Loans re-evidenced or made, as the case may be, on the Restatement Date will be used to (a) repay or return, as applicable, all amounts due or outstanding under the Original Credit Agreement on the Restatement Date to those assigning Lenders who thereafter are not Lenders on the Restatement Date and (b) pay fees and expenses incurred in connection therewith.

E. The Lenders are willing to continue to extend such credit and the Issuing Bank is willing to continue to issue Letters of Credit on the terms and subject to the conditions set forth herein. As a result of the foregoing, the Lenders on the Restatement Date shall be the owners and holders, by assignment or otherwise, of the loans outstanding under the Original Credit Agreement immediately prior to the Restatement Date. Accordingly, in consideration of the mutual agreements contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto agree that this Agreement shall,

upon satisfaction (or waiver in accordance with Section 9.08) of the conditions set forth in Section 4.02, be amended and restated to read in its entirety as follows:

ARTICLE I.

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms shall have the meanings specified below:

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"Account" shall have the meaning assigned to such term in the UCC.

"Acquired Debt" shall mean, with respect to any specified Person, (a) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a subsidiary of such specified Person; and (b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Additional Non-Recourse Indebtedness" shall mean secured Indebtedness for borrowed money of a Subsidiary that is not a Loan Party as of the Restatement Date (so long as such Subsidiary does not become (and remain for a period of 365 days or more) a Subsidiary Guarantor after the Restatement Date), or a Subsidiary that becomes a Subsidiary after the Restatement Date, that is incurred to finance the development, construction or acquisition by such Subsidiary of a power generation facility (or a power transmission, distribution, fuel supply or fuel transportation facility), which facility in each case either does not exist as of the Restatement Date (and in respect of which no development or construction thereof has taken place as of the Restatement Date) or is owned by a Person other than the Company or an Affiliate of the Company as of the Restatement Date, and fixed or capital assets related thereto; provided that (a) such Indebtedness is without recourse to the Company or any other Subsidiary or to any property or assets of the Company or any other Subsidiary (other than, in each such case, another Subsidiary (x) which is the direct parent or a direct or indirect Subsidiary of the Subsidiary that incurred or issued such Indebtedness (other than any such Indebtedness constituting a Guarantee) or (y) that is a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee) or is the direct parent or a direct or indirect Subsidiary of a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee)), (b) neither the Company nor any other Subsidiary (other than another Subsidiary (x) which is the direct parent or a direct or indirect Subsidiary of the Subsidiary that incurred or issued such Indebtedness (other than any such Indebtedness constituting a Guarantee) or (y) that is a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee) or is the direct parent or a direct or indirect Subsidiary of a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee)) provides credit support of any kind (including any

undertaking, agreement or instrument that would constitute Indebtedness) or is directly or indirectly liable as a guarantor or otherwise in respect of such Indebtedness or in respect of the business or operations of the applicable Subsidiary that is the obligor on such Indebtedness or any of its subsidiaries (other than (i) any such credit support or liability consisting of reimbursement obligations in respect of Letters of Credit issued under, and subject to the terms of, Section 2.23 to support obligations of such applicable subsidiary and (ii) any investments in such applicable subsidiary made in accordance with Section 6.05), (c) neither the Company nor any other Subsidiary or Affiliate of any thereof constitutes the lender of such Indebtedness, (d) no default with respect to such Indebtedness (including any rights that the holders of such Indebtedness may have to take enforcement action against a Subsidiary that is not a Loan Party) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company or any other Loan Party (other than Indebtedness incurred pursuant to Section 6.01(b)(i), (ii), (iii), (xi) and any Permitted Refinancing Indebtedness incurred to refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to Section 6.01(b)(ii), (iii) or (xi)) to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its stated maturity, (e) the Liens securing such Indebtedness shall exist only on (i) the property and assets of any Subsidiary that is not a Loan Party and (ii) the Equity Interests in any Subsidiary that is not a Loan Party (and shall not apply to any other property or assets of the Company or any other Subsidiary that is a Loan Party) and (f) the lenders of such Indebtedness have been notified in writing that they will not have any recourse to the stock or assets of the Company or any other Loan Party, except, in the case of each of clauses (a), (b) and (f) for (x) agreements of the Company or any other Subsidiary to provide corporate or management services or operation and maintenance services to such Subsidiary, (y) Guarantees of the Company or any other Subsidiary with respect to debt service reserves established with respect to such Subsidiary to the extent that such Guarantee shall result in the immediate payment of funds, pursuant to dividends or otherwise, in the amount of such Guarantee to the Company or such other Subsidiary and (z) contingent obligations of the Company or any other Subsidiary to make capital contributions to such Subsidiary, in the case of each of clauses (x), (y) and (z), which are otherwise permitted hereunder.

"Additional Notes" shall mean additional Senior Notes (other than the first $1,250,000,000 aggregate principal amount of Senior Notes issued under the Senior Note Documents on December 23, 2003) issued under the Senior Note Documents in accordance with the terms thereof and Section 6.01 hereof, as part of the same series as such Senior Notes issued on December 23, 2003.

"Adjusted Excess Cash Flow" shall mean, for any fiscal year of the Company, Excess Cash Flow for such fiscal year minus $25,000,000.

"Adjusted LIBO Rate" shall mean, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum equal to the product of (a) the LIBO Rate in effect for such Interest Period and (b) Statutory Reserves.

"Administrative Agent" shall have the meaning assigned to such term in the preamble.

"Administrative Agent Fees" shall have the meaning assigned to such term in Section 2.05(b).

"Administrative Questionnaire" shall mean an Administrative Questionnaire in the form of Exhibit A, or such other form as may be supplied from time to time by the Administrative Agent.

"Affiliate" of any specified Person shall mean any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition and the definition of the term "subsidiary", "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Affiliate Subordination Agreement" shall mean an Affiliate Subordination Agreement in the form of Exhibit B pursuant to which intercompany obligations and advances owed by any Loan Party to a Person that is not a Loan Party are required to be subordinated to the Secured Obligations hereunder pursuant to Section 6.01(b)(vi).

"Affiliate Transaction" shall have the meaning assigned to such term in Section 6.06.

"Agents" shall have the meaning assigned to such term in Article VIII.

"Aggregate Revolving Credit Exposure" shall mean the aggregate amount of the Lenders' Revolving Credit Exposures.

"Agreement" shall have the meaning assigned to such term in the preamble.

"Alternate Base Rate" shall mean, for any day, a rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective as of the opening of business on the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"Applicable Margin" shall mean, for any day, for each Type of Loan, the rate per annum set forth under the relevant column heading below:

	ABR Loans	Eurodollar Loans
Revolving Loans and Swingline Loans	1.50%	2.50%
Term Loans	0.875%	1.875%

"Arrangers" shall have the meaning assigned to such term in the preamble.

"Asset Acquisition" shall mean (a) an Investment by the Company or any Restricted Subsidiary in any Person if, as a result of such Investment, such Person becomes a Restricted Subsidiary, or is merged with or into the Company or any Restricted Subsidiary, or (b) the acquisition by the Company or any Restricted Subsidiary of all or substantially all of the assets of any other Person or any division or line of business of any other Person.

"Asset Sale" shall mean the direct or indirect (a) sale, lease (other than an operating lease entered into in the ordinary course of business), sale and leaseback, lease and leaseback, assignment, conveyance, transfer or other disposition (by way of merger, consolidation, casualty, condemnation, operation of law or otherwise (other than pursuant to a Recovery Event)) by the Company or any of the Subsidiaries to any Person other than the Company or any Subsidiary Guarantor of (1) any Equity Interests of any of the Subsidiaries (other than directors' qualifying shares or investments by foreign nationals required by applicable law) or (2) any other assets of the Company or any of the Subsidiaries, including Equity Interests of any Person that is not the Company or a Subsidiary or (b) issuance of Equity Interests in any of the Restricted Subsidiaries to any Person other than the Company or any Subsidiary Guarantor; provided that (i) any asset sale or series of related asset sales described in clause (a) or (b) above having a value not in excess of $30,000,000 shall be deemed not to be an "Asset Sale" for purposes of this Agreement; and (ii) each of the following transactions shall be deemed not to be an "Asset Sale" for purposes of this Agreement: (A) the sale, transfer or other disposition by the Company or any Subsidiary of (x) damaged, worn–out, obsolete assets and scrap, in each case in the ordinary course of business and (y) cash or Cash Equivalents, (B) the sale by the Company or any Subsidiary of power, capacity, fuel and other products or services, in each case in the ordinary course of business, (C) the sale, lease, conveyance or other disposition for value by the Company or any Subsidiary of fuel or emission credits in the ordinary course of business, (D) the sale, transfer or other disposition of any assets (other than any such assets which are Collateral) in connection with a foreclosure, transfer or deed in lieu of foreclosure or other remedial action, (E) the sale, transfer or other disposition by any Subsidiary that is not a Loan Party of any of its assets (other than any such assets constituting Collateral) to any other Subsidiary that is not a Loan Party; provided that if such transferor Subsidiary is a Domestic Subsidiary then such sale, transfer or other disposition may only be to another Domestic Subsidiary, (F) a Restricted Payment that does not violate Section 6.05 or a Permitted Investment, (G) the licensing of intellectual property and (H) the sale or discount, in each case without recourse, of accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof.

"Asset Sale Proceeds Account" shall mean a segregated account under the exclusive dominion and control of the Collateral Trustee, for the benefit of the Secured Parties, which is free from any other Liens.

"Assignment and Acceptance" shall mean an assignment and acceptance entered into by a Lender and an assignee (with the consent of any Person whose consent is required by Section 9.04), substantially in the form of Exhibit C or such other form as shall be approved by the Administrative Agent.

"Attributable Debt" in respect of a sale and leaseback transaction shall mean, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any

period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; provided, however, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."

"Bankruptcy Code" shall mean Title 11 of United States Code, 11 U.S.C. §§ 101, et seq., as amended from time to time.

"Bankruptcy Court" shall mean the United States Bankruptcy Court for the Southern District of New York.

"Bankruptcy Law" shall mean the Bankruptcy Code or any similar federal or state law for the relief of debtors.

"Benchmark LIBO Rate" shall have the meaning assigned to such term in Section 2.24(b).

"Beneficial Owner" shall have the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Benefit Plan" shall mean any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Tax Code or Section 307 of ERISA, and in respect of which the Company or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Board" shall mean the Board of Governors of the Federal Reserve System of the United States of America.

"Board of Directors" shall mean (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board; (b) with respect to a partnership, the Board of Directors of the general partner of the partnership; (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

"Borrowers" shall mean the Revolving Loan Borrowers and the Term Loan Borrower.

"Borrowing" shall mean (a) Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, or (b) a Swingline Loan.

"Borrowing Request" shall mean a request by a Borrower in accordance with the terms of Section 2.03 and substantially in the form of Exhibit D, or with such changes as may be approved by the Administrative Agent acting reasonably.

"Breakage Event" shall have the meaning assigned to such term in Section 2.16.

"Business Day" shall mean any day other than a Saturday, Sunday or day on which commercial banks in New York City are authorized or required by law to close; provided, however, that when used in connection with a Eurodollar Loan (including with respect to all notices and determinations in connection therewith and any payments of principal, interest or other amounts thereon), the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

"Capital Lease Obligation" shall mean, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

"Capital Stock" shall mean (a) in the case of a corporation, corporate stock; (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"Cash Equivalents" shall mean (a) United States dollars, Euros or, in the case of any Foreign Subsidiary, any local currencies held by it from time to time; (b) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (provided that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition; (c) certificates of deposit and eurodollar time deposits with maturities of six months or less from the date of acquisition, bankers' acceptances with maturities not exceeding 12 months and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of $500,000,000 and a Thomson Bank Watch Rating of "B" or better; (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (c) above; (e) commercial paper having one of the two highest ratings obtainable from Moody's or S&P and in each case maturing within 12 months after the date of acquisition; and (f) money market funds that invest primarily in securities described in clauses (a) through (e) of this definition.

"Change of Control" shall mean the occurrence of any of the following: (a) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d) of the Exchange Act, but excluding any employee benefit plan of the Company or any of its Restricted Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of such plan); (b) the adoption of a plan

relating to the liquidation or dissolution of the Company; (c) the consummation of any transaction (including any merger or consolidation) the result of which is that any "person" (as defined above) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares; (d) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance); (e) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; (f) the Company shall at any time fail to own directly or indirectly, beneficially and of record, 100% of each class of issued and outstanding Capital Stock in NRG Power Marketing free and clear of all Liens (other than Liens created by the Guarantee and Collateral Agreement); or (g) any change of control (or similar event, however denominated) shall occur under and as defined in the Senior Note Documents.

"Change in Law" shall mean (a) the adoption of any law, rule or regulation after the Restatement Date, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Restatement Date or (c) compliance by any Lender or the Issuing Bank (or, for purposes of Section 2.14, by any lending office of such Lender or by such Lender's or Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Restatement Date.

"Charges" shall have the meaning assigned to such term in Section 9.09.

"Class", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Term Loans or Swingline Loans and, when used in reference to any Commitment, refers to whether such Commitment is a Revolving Credit Commitment, Term Loan Commitment, Swingline Commitment or Credit-Linked Deposit.

"Closing Date" shall mean December 23, 2003.

"Co-Documentation Agents" shall have the meaning assigned to such term in the preamble.

"Collateral" shall mean all property and assets of the Loan Parties, now owned or hereafter acquired, other than the Excluded Assets.

"Collateral Agent" shall have the meaning assigned to such term in the preamble.

"Collateral Trust Agreement" shall mean the Collateral Trust Agreement, as amended and restated on the Restatement Date, in the form of Exhibit E, executed and delivered by the

Company and each Subsidiary Guarantor, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Collateral Trust Joinder" shall have the meaning assigned to such term in the Collateral Trust Agreement.

"Collateral Trustee" shall mean Deutsche Bank Trust Company Americas, acting as collateral trustee under the Collateral Trust Agreement, or its successors appointed in accordance with the terms thereof.

"Commitment" shall mean, with respect to any Lender, such Lender's Revolving Credit Commitment, Term Loan Commitment, Swingline Commitment and Credit–Linked Deposit.

"Commitment Fee" shall have the meaning assigned to such term in Section 2.05(a).

"Commitment Fee Rate" shall mean a rate per annum equal to (a) 1.00%, if the average daily unused amount of the average Revolving Credit Commitment during the preceding fiscal quarter (or other applicable period) shall equal 66–2/3% or more of such average Revolving Credit Commitments, (b) 0.75%, if the average daily unused amount of the average Revolving Credit Commitment during the preceding fiscal quarter (or other applicable period) shall be greater than 33–1/3% but less than 66–2/3% of such average Revolving Credit Commitment and (c) 0.50%, if the average daily unused amount of the average Revolving Credit Commitment during the preceding fiscal quarter (or other applicable period) shall be 33–1/3% or less of such average Revolving Credit Commitment.

"Commodity Contract" shall have the meaning assigned to such term in the UCC.

"Company" shall have the meaning assigned to such term in the preamble.

"Confidential Information Memorandum" shall mean the Confidential Information Memorandum of the Company dated November 2004.

"Consolidated EBITDA" shall mean, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication (a) an amount equal to any extraordinary loss (including any loss on the extinguishment or conversion of Indebtedness) plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale (without giving effect of the threshold provided in the definition thereof), to the extent such losses were deducted in computing such Consolidated Net Income; plus (b) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; plus (c) the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; plus (d) all non–recurring costs and expenses of such Person and its Restricted Subsidiaries incurred in connection with the Reorganization Events, including but not limited to non–recurring costs and expenses incurred in the related financing transactions and as a result of operating changes implemented within 18 months of the completion of the Reorganization Events; plus (e) the amount of any restructuring charges (including retention, severance, facility closure costs and benefit charges) related to the

Reorganization Events; plus (f) any professional and underwriting fees related to any equity offering, Permitted Investment, acquisition, recapitalization or Indebtedness permitted to be incurred under this Agreement and, in each case, deducted in such period in computing Consolidated Net Income; plus (g) any non-cash compensation charges, including any such charges arising from stock options, restricted stock grants or other equity-incentive programs to the extent that such charges were deducted in computing such Consolidated Net Income; plus (h) depreciation, depletion, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash charges and expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, depletion, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; minus (i) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business; in each case, on a consolidated basis and determined in accordance with GAAP; provided, however, that Consolidated EBITDA of the Company will exclude the Consolidated EBITDA attributable to Excluded Subsidiaries to the extent that the declaration or payment of dividends or similar distributions by the Excluded Subsidiary of that Consolidated EBITDA is not, as a result of an Excluded Subsidiary Debt Default, then permitted by operation of the terms of the relevant Excluded Subsidiary Debt Agreement; provided that the Consolidated EBITDA of the Excluded Subsidiary will only be so excluded for that portion of the period during which the condition described in the preceding proviso has occurred and is continuing; provided further that for purposes of calculating Consolidated EBITDA for any period for purposes of the covenant set forth in Section 6.11 (A) the Consolidated EBITDA of any Person or line of business acquired by the Company or any Restricted Subsidiary pursuant to an Asset Acquisition made in accordance with the terms of this Agreement during such period for which the aggregate consideration paid by the Company or any Restricted Subsidiary shall be equal to or greater than $25,000,000 shall be included on a pro forma basis for such period (assuming the consummation of such acquisition and the incurrence or assumption of any Indebtedness in connection therewith occurred as of the first day of such period) and (B) the Consolidated EBITDA of any Person or line of business sold or otherwise disposed of by the Company or any Restricted Subsidiary during such period for which the aggregate consideration received by the Company or any Restricted Subsidiary shall be equal to or greater than $25,000,000 shall be excluded for such period (assuming the consummation of such sale or other disposition and the repayment of any Indebtedness in connection therewith occurred as of the first day of such period).

"Consolidated Interest Coverage Ratio" shall mean, on any date, the ratio of (a) Consolidated EBITDA of the Company for the period of four consecutive fiscal quarters most recently ended on or prior to such date, taken as one accounting period, to (b) Consolidated Interest Expense for the period of four consecutive fiscal quarters most recently ended on or prior to such date, taken as one accounting period.

"Consolidated Interest Expense" shall mean, for any period, (a) the sum of, without duplication, (i) the interest expense (including imputed interest expense in respect of Capital Lease Obligations and Synthetic Lease Obligations) of the Company and the Restricted Subsidiaries for such period (including all commissions, discounts and other fees and charges

owed by the Company and the Restricted Subsidiaries with respect to letters of credit and bankers' acceptance financing), net of interest income, in each case determined on a consolidated basis in accordance with GAAP, plus (ii) any interest accrued during such period in respect of Indebtedness of the Company or any Restricted Subsidiary that is required to be capitalized rather than included in consolidated interest expense for such period in accordance with GAAP, minus (b) to the extent included in such consolidated interest expense for such period, amounts attributable to the amortization of financing costs and non-cash amounts attributable to the amortization of debt discounts. For purposes of the foregoing, interest expense shall be determined after giving effect to any net payments made or received by the Company or any Restricted Subsidiary with respect to interest rate Hedging Agreements.

"Consolidated Leverage Ratio" shall mean, on any date, the ratio of (a) Total Debt on such date to (b) Consolidated EBITDA of the Company for the period of four consecutive fiscal quarters most recently ended on or prior to such date, taken as one accounting period.

"Consolidated Net Income" shall mean, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided that (a) the Net Income of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions (including pursuant to other intercompany payments) paid in cash to the specified Person or a Restricted Subsidiary of the Person; (b) for purposes of Sections 6.05, 6.10 and 6.11 hereof only, the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders; (c) the cumulative effect of a change in accounting principles will be excluded; and (d) notwithstanding clause (a) above, the Net Income of any Unrestricted Subsidiary will be excluded, whether or not distributed to the specified Person or one of its Subsidiaries.

"Continuing Directors" shall mean, as of any date of determination, any member of the Board of Directors of the Company who (a) was a member of such Board of Directors on the Closing Date; or (b) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.

"Control Agreement" shall mean each Control Agreement to be executed and delivered by each Loan Party and the other parties thereto, as required by the Guarantee and Collateral Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Core Collateral" shall mean all Equity Interests in, and property and assets of, NRG Mid-Atlantic, NRG Northeast and NRG South Central and their respective subsidiaries (other than NRG Sterlington Power LLC, Bayou Cove Peaking Power LLC and Big Cajun I Peaking

Power LLC for so long as such entities shall constitute Excluded Project Subsidiaries), whether now owned or hereafter acquired.

"Credit Event" shall have the meaning assigned to such term in Section 4.01.

"Credit Facilities" shall mean one or more debt facilities (including this Agreement) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, credit-linked deposits (or similar deposits), receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

"Credit-Linked Deposit" shall mean, with respect to each Funded L/C Lender, the cash deposit, if any, made by such Funded L/C Lender pursuant to Section 2.23(d), as the same may be (a) reduced from time to time pursuant to Section 2.02(f), 2.09(b) or 2.09(d) and (b) reduced or increased from time to time pursuant to assignments by or to such Funded L/C Lender pursuant to Section 9.04. The amount of each Funded L/C Lender's Credit-Linked Deposit on the Restatement Date is set forth on the Lender Addendum delivered by such Lender.

"Credit-Linked Deposit Account" shall mean, collectively, one or more operating and/or investment accounts of, and established by, the Administrative Agent under its sole and exclusive control and maintained at the office of the Administrative Agent located at Eleven Madison Avenue, New York, New York 10010 (or such other office as the Administrative Agent shall from time to time designate to the Company), in any such case that shall be used for the purposes set forth in Article II.

"Default" shall mean any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would constitute an Event of Default.

"Deposit Account" shall have the meaning assigned to such term in the UCC.

"Designated Country" shall mean Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom, the United States and any other country that shall at any time after the Closing Date become a member state of the European Union.

"Designated Non-Recourse Indebtedness" shall mean the Non-Recourse Indebtedness of NRG Peaker Finance Co. LLC existing on the Closing Date.

"Disqualified Stock" shall mean any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the Term Loan Maturity Date. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock

have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 6.05 hereof. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that the Company and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

"dollars" or "$" shall mean lawful money of the United States of America.

"Domestic Subsidiaries" shall mean all Subsidiaries incorporated, formed or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"Easement" shall have the meaning assigned to such term in Section 3.07.

"Engagement Letter" shall mean the Engagement Letter dated as of November 29, 2004, among the Company, Credit Suisse First Boston and Goldman Sachs Credit Partners L.P.

"Environmental Laws" shall mean all former, current and future Federal, state, local and foreign laws (including common law), treaties, regulations, rules, ordinances and codes, and legally binding decrees, judgments, directives and orders (including consent orders), in each case, relating to protection of the environment, natural resources, occupational health and safety or the presence, Release of, or exposure to, Hazardous Materials, or the generation, manufacture, processing, distribution, use, treatment, storage, transport, recycling or handling of, or the arrangement for such activities with respect to, Hazardous Materials.

"Environmental Liability" shall mean all liabilities, obligations, damages, losses, claims, actions, suits, judgments, orders, fines, penalties, fees, expenses and costs (including administrative oversight costs, natural resource damages and remediation costs), whether contingent or otherwise, arising out of or relating to (a) compliance or non-compliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release of any Hazardous Materials at any location or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed, imposed or covered by an indemnity with respect to any of the foregoing.

"Equally and Ratably" shall have the meaning assigned to such term in the Collateral Trust Agreement.

"Equity Interests" shall mean Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding, except for purposes of the definitions of "Additional Non-Recourse Indebtedness", "Existing Non-Recourse Indebtedness", "Net Cash Proceeds" and "Specified Joint Venture Sales", any debt security that is convertible into, or exchangeable for, Capital Stock).

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" shall mean any trade or business (whether or not incorporated) that, together with the Company, is treated as a single employer under Section 414(b) or (c) of the Tax Code, or solely for purposes of Section 302 of ERISA and Section 412 of the Tax Code, is treated as a single employer under Section 414 of the Tax Code.

"ERISA Event" shall mean (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Benefit Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Benefit Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Tax Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Tax Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Benefit Plan; (d) the incurrence by the Company or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Benefit Plan or the withdrawal or partial withdrawal of the Company or any of its ERISA Affiliates from any Benefit Plan or Multiemployer Plan; (e) the receipt by the Company or any of its ERISA Affiliates from the PBGC or a plan administrator of any notice relating to the intention to terminate any Benefit Plan or Plans or to appoint a trustee to administer any Benefit Plan; (f) the adoption of any amendment to a Benefit Plan that would require the provision of security pursuant to Section 401(a)(29) of the Tax Code or Section 307 of ERISA; (g) the receipt by the Company or any of its ERISA Affiliates of any notice, or the receipt by any Multiemployer Plan from the Company or any of its ERISA Affiliates of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; or (h) the occurrence of a material non-exempt "prohibited transaction" with respect to which the Company or any of the Subsidiaries is a "disqualified person" (within the meaning of Section 4975 of the Tax Code) or with respect to which the Company or any such Subsidiary could otherwise be liable.

"Eurodollar", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"Event of Default" shall have the meaning assigned to such term in Article VII.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Excess Cash Flow" shall mean, for any fiscal year of the Company, the excess of (a) the sum, without duplication, of the cash flow from operations determined on an unconsolidated basis in accordance with GAAP of the Company and the Subsidiaries and, to the extent of the Company's or any Subsidiary's interest therein, any Person (other than a Subsidiary) in which the Company or any Subsidiary has an interest; provided that there shall be excluded the cash flow from operations of any Subsidiary or other Person in which the Company or any Subsidiary has an interest to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary or such other Person of that cash flow from operations is not at the time permitted by operation of the terms of its governing documents or any agreement, instrument, judgment, decree, statute, rule or governmental regulation applicable to such Subsidiary, over (b) the sum, without duplication, of (i) the cash outflow from investments determined on an

unconsolidated basis in accordance with GAAP of the Company and the Subsidiaries and, to the extent of the Company's or any Subsidiary's interest therein, any Person (other than a Subsidiary) in which the Company or any Subsidiary has an interest, (ii) permanent repayments of Indebtedness (other than mandatory prepayments of Loans under Section 2.13) made by the Company and the Subsidiaries during such fiscal year, but only to the extent that such prepayments by their terms cannot be reborrowed or redrawn and do not occur in connection with a refinancing of all or any portion of such Indebtedness and (iii) to the extent reflected in cash flow from operations of the Company and the Subsidiaries for such period, any Xcel Cash.

"Excess Credit-Linked Deposits" shall mean, at any time, the excess, if any, of the Total Credit-Linked Deposit over the aggregate Funded L/C Exposure at such time.

"Excluded Assets" shall mean (i) any lease, license, contract, property right or agreement to which any Loan Party is a party or any of such Loan Party's rights or interests thereunder if and only for so long as the grant of a security interest therein under the Security Documents shall constitute or result in a breach, termination or default or invalidity under any such lease, license, contract, property right or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC of any relevant jurisdiction or any other applicable law or principles of equity); provided that such lease, license, contract, property right or agreement shall be an Excluded Asset only to the extent and for so long as the consequences specified above shall result and shall cease to be an Excluded Asset and shall become subject to the security interest granted under the Security Documents, immediately and automatically, at such time as such consequences shall no longer result; (ii) any interests in real property owned or leased by any Loan Party only for so long as such interest represents an Excluded Perfection Asset; (iii) any Equity Interests in any Excluded Project Subsidiary the pledge of which pursuant to the Security Documents would constitute a default under the applicable Non-Recourse Indebtedness in respect of which it is an obligor and any voting Equity Interests in excess of 66% (or, in the case of NRG International Holdings GmbH, NRG International Holdings (No.2) GmbH and NRGenerating International BV, 65%) of the total outstanding voting Equity Interests in any Excluded Foreign Subsidiary; (iv) any Deposit Account, Securities Account or Commodities Account (and all cash, cash equivalents and Commodity Contracts held therein) if and only for so long as such Deposit Account, Securities Account or Commodities Account is subject to a Lien permitted under clause (r) of the definition of "Permitted Liens"; (v) the Equity Interests in, and all properties and assets of, NRG Energy Insurance Ltd. (Cayman Islands); (vi) the Equity Interests in, and all properties and assets of, NRGenerating III (Gibraltar), NRGenerating IV Gibraltar, NRG Pacific Corporate Services Pty Ltd., Coniti Holding BV (only for so long as such entity shall own no assets other than the Equity Interests in Tosli (Gibraltar) BV) and Tosli (Gibraltar) BV (only for so long as such entity shall own no assets); (vii) the Equity Interests in, and all properties and assets of, NRG Latin America Inc., Sterling Luxembourg (No. 4) S.a.r.l, NRGenerating Luxembourg (No. 6) S.a.r.l. and NRGenerating Holdings (No. 21) BV (only for so long as such entity shall own no assets other than the stock of its subsidiaries owned on the Closing Date); (viii) any Equity Interest of a Person (other than a Subsidiary) held by any Loan Party if and for so long as the pledge thereof under the Security Documents shall constitute or result in a breach, termination or default under any joint venture, stockholder or partnership agreement between such Loan Party and one or more other holders of Equity Interests of such Person; provided that (A) such Loan Party shall have used reasonable efforts to obtain the consent or waiver of such other holders of Equity

Interests of such Person to such a pledge and such consent or waiver shall not have been obtained and (B) such Equity Interest shall be an Excluded Asset only to the extent and for so long as the consequences specified above shall result and shall cease to be an Excluded Asset and shall become subject to the security interest granted under the Security Documents, immediately and automatically, at such time as such consequences shall no longer result; (ix) all properties and assets of the Company's resource recovery facility located at North Newport, MN and all properties and assets of the Company's resource recovery facility located at Elk River, MN if and for so long as the grant of a security interest therein under the Security Documents shall constitute or result in a breach, termination or default under any service agreement with the applicable municipalities in which such facilities reside; provided that (A) the Company shall have used reasonable efforts to obtain the consent or waiver of such municipalities to the grant of such security interests and such consent or waiver shall not have been obtained and (B) such properties and assets shall be an Excluded Asset only to the extent and for so long as the consequences specified above shall result and shall cease to be an Excluded Asset and shall become subject to the security interest granted under the Security Documents, immediately and automatically, at such time as such consequences shall no longer result; (x) any Account of NRG Power Marketing solely to the extent that (x) such Account relates to the sale by NRG Power Marketing of power or capacity that was purchased by NRG Power Marketing from a Subsidiary that is an Excluded Project Subsidiary and (y) the grant of a security interest in such Account under the Security Documents shall constitute or result in a breach, termination or default under any agreement or instrument governing the applicable Existing Non-Recourse Indebtedness of such Subsidiary (as such agreement or instrument was in effect on the Closing Date); (xi) the Equity Interests in either of the NEO Companies to the extent that a grant of a security interest in such Equity Interests under the Security Documents shall constitute or result in a breach, termination or default under any agreement or instrument governing the applicable Existing Non-Recourse Indebtedness of their subsidiaries (as such agreement or instrument was in effect on the Closing Date); and (xii) the Deposit Account established by the Company pursuant to the NRG Plan in respect of the Consolidated Edison dispute and all cash held therein not to exceed (x) $11,700,000 as of the Closing Date plus (y) any amounts required by the NRG Plan to be deposited therein in respect of invoices owing to Consolidated Edison; provided that such Deposit Account (and all cash therein) shall automatically cease to be an Excluded Asset from and after the date that such dispute is resolved.

"Excluded Foreign Subsidiaries" shall mean, at any time, any Foreign Subsidiary that is (or is treated as) for United States federal income tax purposes either (a) a corporation or (b) a pass-through entity owned directly or indirectly by another Foreign Subsidiary that is (or is treated as) a corporation; provided that (i) none of NRG Mid-Atlantic, NRG Northeast or NRG South Central or any of their respective subsidiaries may at any time be an Excluded Foreign Subsidiary and (ii) notwithstanding the foregoing, the following entities will be deemed to be "Excluded Foreign Subsidiaries": Sterling Luxembourg (No. 4) S.a.r.l., Tosli Acquisition BV, NRGenerating Luxembourg (No. 6) S.a.r.l., NRGenerating Holdings (No. 4) GmbH (only for so long as such entity shall remain a direct subsidiary of NRG International LLC and shall have no assets other than those owned on the Closing Date), NRGenerating Holdings (No. 3) Gibraltar, NRGenerating Holdings (No. 23) BV, NRG Pacific Corporate Services Pty Ltd., NRGenerating III (Gibraltar), NRGenerating IV (Gibraltar), Coniti Holding BV (only for so long as such entity shall own no assets other than the Equity Interests in Tosli (Gibraltar) BV) and Tosli (Gibraltar)

BV (only for so long as such entity shall own no assets). The Excluded Foreign Subsidiaries on the Restatement Date are set forth on Schedule 1.01(a).

"Excluded Perfection Assets" shall mean any property or assets (other than any Core Collateral except (a) the lease of Dunkirk Power LLC relating to 347 Seneca Street, Buffalo, NY, (b) the lease of Astoria Gas Turbine Power LLC relating to the Consolidated Edison site located at 31–02 20th Avenue, Astoria, NY, (c) the lease of Astoria Gas Turbine Power LLC relating to the A–11 dock located at 31–02 20th Avenue, Astoria, NY, (d) the lease of NRG New Roads Holding LLC relating to the turbine storage facilities located at GTS Duratek, 1790 Dock Street, Memphis, TN, (e) the lease of NRG New Roads Holding LLC relating to the turbine storage facilities located at Liebherr American Inc., 4100 Chestnut, Newport News, VA and (f) the lease of NRG New Roads Holding LLC relating to the warehouse facilities for turbine storage located at Tidewater Warehouses, Bay 3, 814 Childs Avenue, Hampton, VA) in which a security interest cannot be perfected by the filing of a financing statement under the UCC of the relevant jurisdiction or, in the case of Equity Interests, either the filing of a financing statement under the UCC of the relevant jurisdiction or the possession of certificates representing such Equity Interests; provided that such property or assets shall not have a Fair Market Value at any time exceeding $2,000,000 (or, if such property or asset is a Deposit Account or Securities Account, $250,000) individually or $20,000,000 in the aggregate and, to the extent that the Fair Market Value of any such property or asset shall exceed $2,000,000 (or, if such property or asset is a Deposit Account or Securities Account, $250,000) individually, such property or asset shall cease to be an Excluded Perfection Asset and, to the extent that the Fair Market Value of such property or assets shall exceed $20,000,000 in the aggregate at any time, such property or assets shall cease to be Excluded Perfection Assets to the extent of such excess Fair Market Value.

"Excluded Proceeds" shall mean any net proceeds of an Asset Sale involving the sale of Specified Assets Held for Sale.

"Excluded Project Subsidiaries" shall mean, at any time, (a) any Subsidiary existing as of the Restatement Date that is an obligor with respect to Existing Non–Recourse Indebtedness outstanding at such time and (b) any Subsidiary that is set forth on Schedule 1.01(b) as of the Restatement Date (so long as such Subsidiary does not become (and remain for a period of 365 days or more) a Subsidiary Guarantor after the Restatement Date) or any Subsidiary that becomes a Subsidiary after the Restatement Date that is an obligor with respect to Additional Non–Recourse Indebtedness outstanding at such time, in each case if and for so long as the grant of a security interest in the property or assets of such Subsidiary or the pledge of the Equity Interests of such Subsidiary, in each case in favor of the Collateral Trustee for the benefit of the Secured Parties, shall constitute or result in a breach, termination or default under the agreement or instrument governing the applicable Non–Recourse Indebtedness; provided that such Subsidiary shall be an Excluded Project Subsidiary only to the extent that and for so long as the requirements and consequences above shall exist; provided further that none of NRG Mid–Atlantic, NRG Northeast or NRG South Central or any of their respective subsidiaries (other than NRG Sterlington Power LLC, Bayou Cove Peaking Power LLC and Big Cajun I Peaking Power LLC for so long as such entities shall constitute Excluded Project Subsidiaries) may at any time be an Excluded Project Subsidiary. The Excluded Project Subsidiaries on the Restatement Date are set forth on Schedule 1.01(b).

"Excluded Subsidiary" shall mean an Excluded Foreign Subsidiary, an Excluded Project Subsidiary and (except for purposes of Sections 5.06 and 5.09 hereof) an Immaterial Subsidiary.

"Excluded Subsidiary Debt Agreement" shall mean the agreement or documents governing the relevant Indebtedness referred to in the definition of "Excluded Subsidiary Debt Default."

"Excluded Subsidiary Debt Default" shall mean, with respect to any Excluded Subsidiary, the failure of such Excluded Subsidiary to pay any principal or interest or other amounts due in respect of any Indebtedness, when and as the same shall become due and payable, or the occurrence of any other event or condition that results in any Indebtedness of such Excluded Subsidiary becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, lapse of time or both) the holder or holders of such Indebtedness or any trustee or agent on its or their behalf to cause such Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity.

"Excluded Taxes" shall mean, with respect to the Administrative Agent, any Lender, the Issuing Bank and any other recipient of any payment to be made by or on account of any obligation of a Borrower hereunder, and, for purposes of Section 2.20 only, by or on account of any obligation of the Administrative Agent pursuant to Section 2.24(b), (a) income or franchise taxes imposed on (or measured in whole or in part by) each such Person's net income by the United States of America (or any political subdivision thereof), or as a result of a present or former connection between such recipient and the jurisdiction imposing such tax (or any political subdivision thereof), other than any such connection arising solely from such recipient having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document and (b) in the case of a Foreign Lender (other than an assignee pursuant to a request by a Borrower under Section 2.21(a)), any United States withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office) or is attributable to such Foreign Lender's failure to comply with Section 2.20(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from such Borrower with respect to such withholding tax pursuant to Section 2.20(a) or (b).

"Exempt Subsidiaries" shall mean, collectively, NRG Ilion LP LLC, NRG Ilion Limited Partnership, Meriden Gas Turbine LLC, LSP Kendall Energy LLC, LSP–Pike Energy LLC, LSP–Nelson Energy LLC, NRG Nelson Turbines LLC, NRG Jackson Valley Energy I, Inc., NRG McClain LLC, NRG Audrain Holding LLC, NRG Audrain Generating LLC, LSP Energy Limited Partnership, NRG Batesville LLC, LSP Batesville Funding Corporation, LSP Batesville Holding LLC, LSP Energy, Inc., NRG Peaker Finance Company LLC, Bayou Cove Peaking Power, LLC, Big Cajun I Peaking Power LLC, NRG Rockford LLC, NRG Rockford II LLC and NRG Sterlington Power LLC.

"Existing Indebtedness" shall mean Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Senior Note Documents) in existence on the Closing Date and set forth on Schedule 6.01, until such amounts are repaid.

"Existing Letter of Credit" shall mean each letter of credit issued or deemed to have been issued under the Original Credit Agreement that is outstanding on the Restatement Date. The Existing Letters of Credit are listed on Schedule 1.01(c).

"Existing Non-Recourse Indebtedness" shall mean secured Indebtedness for borrowed money outstanding as of the Closing Date of a Subsidiary (or of Cadillac Renewable Energy LLC) existing as of the Closing Date and any Permitted Refinancing Indebtedness in respect of such Indebtedness that was incurred to finance the development, construction or acquisition of or by, or repairs, improvements or additions to, fixed or capital assets of such Subsidiary (including power generation facilities); provided that, except as set forth on Schedule 1.01(d), (a) such Indebtedness is without recourse to the Company or any other Subsidiary or to any property or assets of the Company or any other Subsidiary (other than, in each such case, another Subsidiary (x) which is the direct parent or a direct or indirect Subsidiary of the Subsidiary that incurred or issued such Indebtedness (other than any such Indebtedness constituting a Guarantee) or (y) that is a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee) or is the direct parent or a direct or indirect Subsidiary of a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee)), (b) neither the Company nor any other Subsidiary (other than another Subsidiary (x) which is the direct parent or a direct or indirect Subsidiary of the Subsidiary that incurred or issued such Indebtedness (other than any such Indebtedness constituting a Guarantee) or (y) that is a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee) or is the direct parent or a direct or indirect Subsidiary of a Subsidiary that itself has Non-Recourse Indebtedness (other than any such Indebtedness constituting a Guarantee)) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) or is directly or indirectly liable as a guarantor or otherwise in respect of such Indebtedness or in respect of the business or operations of the applicable Subsidiary that is the obligor on such Indebtedness or any of its subsidiaries (other than (i) any such credit support or liability consisting of reimbursement obligations in respect of Letters of Credit issued under, and subject to the terms of, Section 2.23 to support obligations of such applicable subsidiary and (ii) any investments in such applicable subsidiary made in accordance with Section 6.05), (c) neither the Company nor any other Subsidiary or Affiliate of any thereof constitutes the lender of such Indebtedness, (d) no default with respect to such Indebtedness (including any rights that the holders of such Indebtedness may have to take enforcement action against a Subsidiary that is not a Loan Party) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company or any other Loan Party (other than Indebtedness incurred pursuant to Section 6.01(b)(i), (ii), (iii) or (xi)) to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its stated maturity and (e) the Liens securing such Indebtedness shall exist only on (i) the property and assets of any Subsidiary that is not a Loan Party and (ii) the Equity Interests in any Subsidiary that is not a Loan Party (and shall not apply to any other property or assets of the Company or any other Subsidiary that is a Loan Party), except, in the case of each of clauses (a) and (b) for (x) agreements of the Company or any other Subsidiary to provide corporate or management services or operation and maintenance services to such Subsidiary, (y) Guarantees of the Company or any other Subsidiary with respect to debt service reserves established with respect to such Subsidiary to the extent that such Guarantee shall result in the immediate payment of funds, pursuant to dividends or otherwise, in the amount of such Guarantee to the Company or such other Subsidiary and (z) contingent obligations of the

Company or any other Subsidiary to make capital contributions to such Subsidiary, in the case of each of clauses (x), (y) and (z), which are otherwise permitted hereunder.

"Facility" shall mean a power or energy generation facility.

"Facility Instruments" shall have the meaning set forth in (a) the Affirmation Agreement, dated as of August 9, 1993, by and among Northern States Power Company, the Company and Ramsey and Washington Counties and (b) the Agreement and Consent for Transfer to the Company, dated as of August 20, 2001, between Northern States Power Company, the Company, Anoka County, Hennepin County, Sherburne County and Tri–County Solid Waste Management Commission, as in effect on the Closing Date.

"Fair Market Value" shall mean the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Company (unless otherwise provided in this Agreement).

"Federal Funds Effective Rate" shall mean, for any day, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"Fees" shall mean the Commitment Fees, the Administrative Agent's Fees, any Prepayment Fee, the L/C Participation Fees and the Issuing Bank Fees.

"FERC" shall mean the Federal Energy Regulatory Commission or its successor.

"Financial Institution" shall mean a bank, an investment bank or an Affiliate of a bank or an investment bank.

"Financial Officer" of any person shall mean any of the chief financial officer (or if no individual shall have such designation, the person charged by the Board of Directors of such person with such powers and duties as are customarily bestowed upon the individual with such designation) or the audit or finance committee of the Board of Directors of such person.

"Fixed Charge Coverage Ratio" shall mean with respect to any specified Person for any period, the ratio of the Consolidated EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Calculation Date"), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of

preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four–quarter reference period. In addition, for purposes of calculating the Fixed Charge Coverage Ratio (a) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four–quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect (in accordance with Regulation S–X under the Securities Act, but including all Pro Forma Cost Savings) as if they had occurred on the first day of the four–quarter reference period and Consolidated EBITDA for such reference period will be calculated on the same pro forma basis; (b) the Consolidated EBITDA attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded; (c) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date; (d) any Person that is a Restricted Subsidiary on the Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four–quarter period; (e) any Person that is not a Restricted Subsidiary on the Calculation Date will be deemed not to have been a Restricted Subsidiary at any time during such four–quarter period; and (f) if any Indebtedness that is being incurred on the Calculation Date bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months).

"Fixed Charges" shall mean, with respect to any specified Person for any period, the sum, without duplication, of (a) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including amortization of debt issuance costs and original issue discount, non–cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates; plus (b) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; plus (c) any interest accruing on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus (d) the product of (i) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or to the Company or a Restricted Subsidiary, times (ii) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such

Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

"Foreign Lender" shall mean any Lender that is organized under the laws of a jurisdiction other than that in which the Borrowers are incorporated or organized. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Foreign Subsidiary" shall mean any Subsidiary that is not a Domestic Subsidiary.

"FPA" shall mean the Federal Power Act and the rules and regulations promulgated thereunder, as amended from time to time.

"Funded Issuing Bank Fees" shall have the meaning assigned to such term in Section 2.05(d).

"Funded L/C Commitment" shall mean the commitment of the Issuing Bank to issue Funded Letters of Credit pursuant to Section 2.23.

"Funded L/C Disbursements" shall mean a payment or disbursement made by the Issuing Bank pursuant to a Funded Letter of Credit.

"Funded L/C Exposure" shall mean, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Funded Letters of Credit at such time and (b) the aggregate amount of all Funded L/C Disbursements that have not yet been reimbursed at such time (or deemed to have not yet been reimbursed at such time pursuant to Section 2.23(e)). The Funded L/C Exposure of any Funded L/C Lender at any time shall equal its Pro Rata Percentage of the aggregate Funded L/C Exposure at such time.

"Funded L/C Fee Payment Date" shall have the meaning assigned to such term in Section 2.05(d).

"Funded L/C Lender" shall mean a Lender with a Credit-Linked Deposit.

"Funded L/C Participation Fee" shall have the meaning assigned to such term in Section 2.05(d).

"Funded Letter of Credit Availability Period" shall mean the period from and including the Restatement Date to but excluding the earlier of the Funded Letter of Credit Maturity Date and the date on which all of the Credit-Linked Deposits are returned to the Funded L/C Lenders, utilized to reimburse the Issuing Bank for Funded L/C Disbursements or converted into Term Loans.

"Funded Letter of Credit Maturity Date" shall mean the Term Loan Maturity Date.

"Funded Letter of Credit" shall mean, at any time, any Letter of Credit that has been designated by the Term Loan Borrower (or deemed designated) as a Funded Letter of Credit in accordance with the provisions of Section 2.23.

"GAAP" shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"Governmental Authority" shall mean the government of the United States of America or any other nation, any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Granting Lender" shall have the meaning assigned to such term in Section 9.04(i).

"Guarantee" shall mean a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep–well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"Guarantee and Collateral Agreement" shall mean the Guarantee and Collateral Agreement, as amended and restated on the Restatement Date, in the form of Exhibit F, executed and delivered by the Company and each Subsidiary Guarantor, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Hazardous Materials" shall mean (a) any petroleum products or byproducts and all other hydrocarbons, coal ash, coal combustion by–products or waste, boiler slag, scrubber residue, flue desulfurization material, radon gas, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, chlorofluorocarbons and all other ozone–depleting substances and (b) any chemical, material, substance or waste that is prohibited, limited or regulated by or pursuant to any Environmental Law.

"Hedging Agreement" shall mean any agreement of the type described in clauses (a), (b) or (c) of the definition of "Hedging Obligations".

"Hedging Obligations" shall mean, with respect to any specified Person, the obligations of such Person under (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements; (b) other agreements or arrangements designed to manage interest rates or interest rate risk; and (c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

"Immaterial Subsidiary" shall mean, at any time, any Restricted Subsidiary that is designated by the Company as an "Immaterial Subsidiary" if and for so long as such Restricted Subsidiary, together with all other Immaterial Subsidiaries, has (a) total assets at such time not exceeding 5% of the Company's consolidated assets as of the most recent fiscal quarter for

which balance sheet information is available and (b) total revenues and operating income for the most recent 12-month period for which income statement information is available not exceeding 5% of the Company's consolidated revenues and operating income, respectively; provided that (i) such Restricted Subsidiary shall be an Immaterial Subsidiary only to the extent that and for so long as all of the above requirements are satisfied and (ii) none of NRG Mid-Atlantic or its subsidiaries, NRG Northeast or its subsidiaries or NRG South Central or its subsidiaries may at any time be an Immaterial Subsidiary hereunder. The Immaterial Subsidiaries on the Restatement Date are set forth on Schedule 1.01(e).

"incur" shall have the meaning assigned to such term in Section 6.01.

"Indebtedness" shall mean, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent (a) in respect of borrowed money; (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof); (c) in respect of banker's acceptances; (d) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions; (e) representing the balance deferred and unpaid of the purchase price of any property (including trade payables) or services due more than six months after such property is acquired or such services are completed; or (f) representing the net amount owing under any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

"Indemnified Taxes" shall mean Taxes other than Excluded Taxes and Other Taxes.

"Indemnitee" shall have the meaning assigned to such term in Section 9.05(b).

"Information" shall have the meaning assigned to such term in Section 9.16.

"Intellectual Property Collateral" shall have the meaning assigned to such term in the Guarantee and Collateral Agreement.

"Intellectual Property Security Agreement" shall mean all Intellectual Property Security Agreements, as amended and restated on the Restatement Date, executed and delivered by the Loan Parties, each substantially in the applicable form required by the Guarantee and Collateral Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Interest Payment Date" shall mean (a) with respect to any ABR Loan (other than a Swingline Loan), the last Business Day of each March, June, September and December (beginning with March 31, 2005), (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day that would have been an Interest Payment Date had successive Interest Periods of three months'

duration been applicable to such Borrowing, and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid.

"Interest Period" shall mean (a) with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is 1, 2, 3 or 6 months thereafter (or 9 or 12 months thereafter if, at the time of the relevant Borrowing, an interest period of such duration is available to all Lenders participating therein), as the applicable Borrower may elect and (b) with respect to the Credit–Linked Deposits, each period commencing on the date the Credit–Linked Deposits are initially funded or on the last day of the preceding Interest Period applicable thereto, as the case may be, and ending (x) in the case of the first Interest Period in respect of the Credit–Linked Deposits, on March 31, 2005 and (y) in the case of each Interest Period in respect of the Credit–Linked Deposits thereafter, on the numerically corresponding date in the calendar month that is 3 months thereafter; provided, however, that (i) a single Interest Period shall at all times apply to all Credit–Linked Deposits, (ii) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (iii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Investments" shall mean, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Subsidiary sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of Section 6.05 hereof. The acquisition by the Company, or by any Subsidiary, of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of Section 6.05(b) hereof. Except as otherwise provided in this Agreement, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

"Issuing Bank" shall mean, as the context may require, (a) Credit Suisse First Boston in its capacity as the issuer of Letters of Credit hereunder and (b) any other Lender that may become an Issuing Bank pursuant to Section 2.23(i) or 2.23(k), with respect to Letters of Credit issued by such Lender and (c) in respect of each Existing Letter of Credit, the issuer thereof. The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank or other financial institutions, in which case the term "Issuing Bank" shall include any such Affiliate or other financial institution with respect to Letters of Credit issued by such Affiliate or other financial institution.

"Issuing Bank Fees" shall mean Revolving Issuing Bank Fees and Funded Issuing Bank Fees.

"L/C Commitment" shall mean a Revolving L/C Commitment or a Funded L/C Commitment.

"L/C Disbursement" shall mean a Revolving L/C Disbursement or a Funded L/C Disbursement.

"L/C Exposure" shall mean, at any time, the Revolving L/C Exposure and the Funded L/C Exposure at such time.

"L/C Exposure Cap" shall mean $125,000,000.

"Lender Addendum" shall mean, with respect to any initial Lender, a Lender Addendum in the form of Exhibit G, or such other form as may be supplied by the Administrative Agent, to be executed and delivered by such Lender on the Restatement Date.

"Lenders" shall mean (a) the Persons that deliver a Lender Addendum (other than any such Person that has ceased to be a party hereto pursuant to an Assignment and Acceptance) and (b) any Person that has become a party hereto pursuant to an Assignment and Acceptance. Unless the context otherwise requires, the term "Lenders" shall include the Swingline Lender.

"Letter of Credit" shall mean a Revolving Letter of Credit or a Funded Letter of Credit or an Existing Letter of Credit.

"LIBO Rate" shall mean, with respect to any Eurodollar Borrowing or Credit-Linked Deposit for any Interest Period, the rate per annum determined by the Administrative Agent at approximately 11:00 a.m., London time, on the date that is two Business Days prior to the commencement of such Interest Period by reference to the British Bankers' Association Interest Settlement Rates for deposits in dollars (as set forth by the Bloomberg Information Service or any successor thereto or any other service selected by the Administrative Agent which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates) for a period equal to such Interest Period; provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions of this definition, the "LIBO Rate" shall be the interest rate per annum determined by the Administrative Agent to be the average of the rates per annum at which deposits in dollars are offered for such relevant Interest Period to major banks in the London interbank market in

London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date that is two Business Days prior to the beginning of such Interest Period.

"Lien" shall mean, with respect to any asset (a) any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset; (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; and (c) in the case of Equity Interests or debt securities, any purchase option, call or similar right of a third party with respect to such Equity Interests or debt securities.

"Loan Documents" shall mean this Agreement, any promissory note delivered pursuant to Section 2.04(e), the Security Documents and the Affiliate Subordination Agreement.

"Loan Parties" shall mean the Company and each Subsidiary Guarantor.

"Loans" shall mean the Revolving Loans, the Term Loans and the Swingline Loans.

"Majority Lenders" shall mean, at any time, Lenders having Loans (excluding Swingline Loans), Revolving L/C Exposure, Funded L/C Exposure, Swingline Exposure, unused Revolving Credit Commitments and Term Loan Commitments and Excess Credit-Linked Deposits representing at least a majority of the sum of all Loans outstanding (excluding Swingline Loans), Revolving L/C Exposure, Funded L/C Exposure, Swingline Exposure, unused Revolving Credit Commitments and Term Loan Commitments and Excess Credit-Linked Deposits at such time.

"Majority Revolving Credit Lenders" shall mean, at any time, Revolving Credit Lenders having Revolving Loans (excluding Swingline Loans), Revolving L/C Exposure, Swingline Exposure and unused Revolving Credit Commitments representing at least a majority of the sum of all Revolving Loans outstanding (excluding Swingline Loans), Revolving L/C Exposure, Swingline Exposure and unused Revolving Credit Commitments at such time.

"Majority Term Lenders" shall mean, at any time, Term Lenders and Funded L/C Lenders having Term Loans, Funded L/C Exposure, unused Term Loan Commitments and Excess Credit-Linked Deposits representing at least a majority of the sum of all Term Loans outstanding, Funded L/C Exposure, unused Term Loan Commitments and Excess Credit-Linked Deposits at such time.

"Margin Stock" shall have the meaning assigned to such term in Regulation U.

"Material Adverse Effect" shall mean a material adverse change in or material adverse effect on (a) the condition (financial or otherwise), results of operations, assets, liabilities or prospects of the Company and the Subsidiaries, taken as a whole, or (b) the validity or enforceability of any of the Loan Documents or the rights and remedies of the Arrangers, the Administrative Agent, the Collateral Agent, the Collateral Trustee or the Secured Parties thereunder.

"Material Contract" shall have the meaning assigned to such term in the Guarantee and Collateral Agreement.

"Material Indebtedness" shall mean Indebtedness for money borrowed (other than the Loans and Letters of Credit) of any one or more of the Company or any of the Subsidiaries in an aggregate principal amount exceeding $50,000,000.

"Maximum Rate" shall have the meaning assigned to such term in Section 9.09.

"Moody's" shall mean Moody's Investors Service, Inc. or any successor entity.

"Mortgaged Properties" shall mean, initially, each parcel of real property and the improvements located thereon and appurtenants thereto owned or leased by a Loan Party and specified on Schedule 1.01(f), and shall include each other parcel of real property and improvements located thereon with respect to which a Mortgage is granted pursuant to Section 5.09 or 5.10.

"Mortgages" shall mean (a) the amended and restated mortgages, deeds of trust, leasehold mortgages, assignments of leases and rents, modifications and other security documents granting a Lien on any Mortgaged Property to secure the Secured Obligations, each in the form of Exhibit H with such changes as are reasonably satisfactory to the Company (which shall be evidenced by the signature thereof by the applicable Loan Party), the Collateral Agent and the Collateral Trustee and/or (b) reaffirmations of, and/or modifications to, the Mortgages (as defined under the Original Credit Agreement), in each case, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Multiemployer Plan" shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Asset Sale Proceeds" shall have the meaning assigned to such term in the definition of "Net Cash Proceeds".

"Net Cash Proceeds" shall mean, with respect to any Asset Sale or Recovery Event, the proceeds thereof in the form of cash and Cash Equivalents (including any such proceeds subsequently received (as and when received) in respect of noncash consideration initially received), net of (i) expenses related to such Asset Sale or Recovery Event (including legal, accounting and investment banking fees, broker's fees and sales commissions, relocation fees, and taxes paid or payable by the Company and the Subsidiaries in connection therewith and the Company's good faith estimate of any other taxes to be paid or payable in connection with such Asset Sale or Recovery Event, after taking into account any available tax credits or deductions and any tax sharing arrangements, and any out-of-pocket costs of remediation, repair or closure required to be incurred by the Company and the Subsidiaries by the applicable Governmental Authority in connection with such Recovery Event), (ii) amounts remitted in an escrow or provided as a reserve, in accordance with GAAP, against any liabilities under any indemnification obligations or purchase price adjustment associated with such asset or Asset Sale (provided that, to the extent and at the time any such amounts are released from such reserve or escrow to the benefit of the Company or any Subsidiary, such amounts shall constitute Net Cash

Proceeds) and (iii) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness (other than any such Indebtedness hereunder or assumed by the purchaser of such asset) which is secured by the asset transferred, taken or sold in such Asset Sale or Recovery Event and which is required to be repaid with such proceeds (such proceeds with respect to any Asset Sale (other than Excluded Proceeds), "Net Asset Sale Proceeds"); provided, however, that, during each fiscal year of the Company the initial $25,000,000 of Net Asset Sale Proceeds that is received during such fiscal year shall not be subject to the mandatory prepayment provisions of Section 2.13(b) even if the terms of the following proviso are not complied with in respect of such $25,000,000 of Net Asset Sale Proceeds, but shall be subject to and included in the amounts and limitations set forth in the last sentence of this definition; provided further, however, that, subject to the last sentence of this definition, if (v) the Company shall deliver a certificate of a Financial Officer to the Administrative Agent at the time of receipt thereof setting forth the Company's intent to reinvest such proceeds in an acquisition of a Person or line of business in accordance with the terms of this Agreement or productive assets of a kind then used or usable in the business of the Company and the Subsidiaries within 365 days of receipt of such proceeds, (w) pending such use of such proceeds such proceeds are held in an Asset Sale Proceeds Account or are temporarily used to prepay Revolving Credit Borrowings hereunder pending such permitted reinvestment, (x) no Default or Event of Default shall have occurred and shall be continuing at the time of such certificate or at the proposed time of the application of such proceeds (both before and after giving effect to such application), (y) if such proceeds (1) result from the sale of the Equity Interests in any Person that is incorporated, formed or organized under the laws of the United Sates of America, any State thereof or the District of Columbia (a "U.S. Person") or any other assets located in the United States, such proceeds shall only be used to make an acquisition of a Person that will, following the consummation of such acquisition, be a Domestic Subsidiary or an acquisition of other assets that are located in the United States or (2) result from the sale of the Equity Interests in any Person other than a U.S. Person, such proceeds shall only be used to make an acquisition of a Person that is incorporated, formed or organized under the laws of a Designated Country or an acquisition of other assets that are located in a Designated Country and (z) if such proceeds result from the sale of any Equity Interests in any Subsidiary Guarantor or any other assets that constitute Collateral, such proceeds shall only be used to make an acquisition of a Person that will, following the consummation of such acquisition, be a Subsidiary Guarantor or an acquisition of other assets that will constitute Collateral, then such proceeds shall not be subject to the mandatory prepayment provisions of Section 2.13(b) (but shall be subject to and included in the amounts and limitations set forth in the last sentence of this definition) except to the extent not so used at the end of such 365-day period, at which time such proceeds shall be subject to the mandatory prepayment provisions of Section 2.13(b); provided further, however, that, subject to the last sentence of this definition, if (A) such proceeds shall result from an Asset Sale or Recovery Event to the extent involving assets, rights or other property of a Subsidiary that is not a Loan Party, (B) the terms of any Indebtedness of such Subsidiary require that such proceeds be applied to repay such Indebtedness, (C) the Company shall deliver a certificate of a Financial Officer to the Administrative Agent at the time of receipt thereof setting forth the Company's intent to use such proceeds to repay such Indebtedness of such Subsidiary solely to the extent required thereby and, if such Indebtedness to be repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto, within 365 days of receipt of such proceeds and (D) no Default or Event of Default shall have occurred and shall be continuing at

the time of such certificate or at the proposed time of the application of such proceeds, then such proceeds shall not be subject to the mandatory prepayment provisions of Section 2.13(b) (but shall be subject to and included in the amounts and limitations set forth in the last sentence of this definition) except to the extent not so used at the end of such 365–day period, at which time such proceeds shall be subject to the mandatory prepayment provisions of Section 2.13(b). Notwithstanding the foregoing, (a) all Net Asset Sale Proceeds received in any fiscal year in excess of $100,000,000 (excluding any Excluded Proceeds) and (b) all Net Asset Sale Proceeds received at any time after the aggregate amount of Net Asset Sale Proceeds that are deemed to not constitute Net Cash Proceeds as a result of the reinvestment rights and repayment rights set forth in the immediately preceding sentence shall exceed $500,000,000 (excluding any amounts that are used to repay Term Loans pursuant to Section 2.13(b) as a result of the failure to reinvest such amounts within 365 days of receipt thereof as provided above) shall in each case immediately constitute Net Cash Proceeds for purposes of Section 2.13(b) and all other purposes hereunder and the provisions set forth in the immediately preceding sentence shall not apply thereto.

"Net Income" shall mean, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends or accretion, excluding, however, (a) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with (i) any Asset Sale (without giving effect to the threshold provided for in the definition thereof); or (ii) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and (b) any extraordinary gain (but not loss), together with any related provision for taxes on such extraordinary gain (but not loss).

"Non–Consenting Lender" shall have the meaning assigned to such term in Section 9.08(c).

"Non–Recourse Indebtedness" shall mean (a) Existing Non–Recourse Indebtedness of any Subsidiary existing as of the Restatement Date and (b) Additional Non–Recourse Indebtedness of any Subsidiary that is not a Loan Party as of the Restatement Date (so long as such Subsidiary does not become (and remain for a period of 365 days or more) a Subsidiary Guarantor after the Restatement Date) or any Subsidiary that becomes a Subsidiary after the Restatement Date.

"NRG Mid–Atlantic" shall mean NRG Mid–Atlantic Generating LLC, a Delaware limited liability company that is a wholly owned Subsidiary.

"NRG Northeast" shall mean NRG Northeast Generating LLC, a Delaware limited liability company that is a wholly owned Subsidiary.

"NRG Plan" shall mean the plan of reorganization filed by the Company and certain of its Affiliates, including NRG Power Marketing, under Chapter 11 of the Bankruptcy Code, as the same was modified and confirmed by the Bankruptcy Court in an order dated November 24, 2003, a copy of which is attached hereto as Exhibit I, which, among other things, provides for the Refinancing Transactions.

"NRG Power Marketing" shall have the meaning assigned to such term in the preamble.

"NRG South Central" shall mean NRG South Central Generating LLC, a Delaware limited liability company that is a wholly owned Subsidiary.

"Obligations" shall have the meaning assigned to such term in the Collateral Trust Agreement.

"Omnibus Assignment" shall mean Omnibus Assignment, in the form of Exhibit J, executed and delivered by the administrative agent under the Original Credit Agreement, on behalf of the lenders under the Original Credit Agreement, to the Administrative Agent, on behalf of the Lenders.

"Original Credit Agreement" shall mean this Agreement, including all amendments hereto and waivers hereof effective prior to the Restatement Date, as in effect immediately prior to the Restatement Date.

"Other Taxes" shall mean any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made under any Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, any Loan Document.

"Parity Debt Representative" shall have the meaning assigned to such term in the Collateral Trust Agreement.

"Parity Lien Debt" shall mean (a) the Senior Notes; and (b) any other Indebtedness (including Additional Notes) that is permitted to be incurred under Section 6.01 (i) the net proceeds of which are used to refund, refinance, replace, defease or discharge Indebtedness of an Excluded Subsidiary outstanding as of the Closing Date or other Parity Lien Debt if such Indebtedness constitutes Permitted Refinancing Indebtedness; or (ii) on the date of incurrence of such Indebtedness, after giving pro forma effect to the incurrence thereof and the application of the proceeds therefrom, the Secured Leverage Ratio would not be greater than 2.75:1.0, provided, in the case of each issue or series of Indebtedness referred to in this clause (b), that (x) on or before the date on which such Indebtedness was incurred by the Company such Indebtedness is designated by the Company, in an officers' certificate delivered to each Parity Debt Representative, the Administrative Agent and the Collateral Trustee on or before such date, as Parity Lien Debt for the purposes of this Agreement and the Collateral Trust Agreement, (y) such Indebtedness is governed by an indenture or other agreement that includes a Sharing Confirmation and (z) all requirements set forth in the Collateral Trust Agreement as to the confirmation, grant or perfection of the Liens granted to the Collateral Trustee, for the benefit of the Secured Parties, to secure such Indebtedness or Obligations in respect thereof are satisfied (and the satisfaction of such requirements and the other provisions of this clause (z) shall be conclusively established, for purposes of entitling the holders of such Indebtedness to share Equally and Ratably with the other holders of Parity Lien Debt in the benefits and proceeds of the Collateral Trustee's Liens on the Collateral, if the Company delivers to the Collateral Trustee an officers' certificate stating that such requirements and other provisions have been satisfied and that such Indebtedness is Parity Lien Debt, together with an opinion of counsel stating that

such officers' certificate has been duly authorized by the Board of Directors of the Company and has been duly executed and delivered, and the holders of such Indebtedness and Obligations in respect thereof will be entitled to rely conclusively thereon).

"Parity Lien Obligations" shall mean Parity Lien Debt and all other Obligations in respect thereof.

"PBGC" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Peakers Entities" shall mean LSP Energy Limited Partnership, NRG Batesville LLC, LSP Batesville Funding Corporation, LSP Batesville Holding LLC, LSP Energy, Inc., NRG Peaker Finance Company LLC, Bayou Cove Peaking Power, LLC, Big Cajun I Peaking Power LLC, NRG Rockford LLC, NRG Rockford II LLC, NRG Rockford Equipment II LLC, NRG Capital II LLC and NRG Sterlington Power LLC.

"Perfection Certificate" shall mean the Pre–Closing UCC Diligence Certificate substantially in the form of Exhibit K or any other form approved by the Collateral Agent.

"Permitted Business" shall mean the business of acquiring, constructing, managing, developing, improving, owning and operating Facilities, as well as any other activities reasonably related to the foregoing activities (including acquiring and holding reserves), including investing in Facilities.

"Permitted Debt" shall have the meaning assigned to such term in Section 6.01.

"Permitted Investments" shall mean (a) any Investment in the Company or in a Restricted Subsidiary that is a Subsidiary Guarantor; (b) any Investment in an Immaterial Subsidiary; (c) any Investment in an Excluded Foreign Subsidiary for so long as the Excluded Foreign Subsidiaries do not collectively own more than 20% of the consolidated assets of the Company as of the most recent fiscal quarter end for which financial statements are publicly available; (d) any issuance of letters of credit in an aggregate amount not to exceed $125,000,000 solely for working capital requirements and general corporate purposes of any of the Excluded Subsidiaries; (e) any Investment in Cash Equivalents (and, in the case of Excluded Subsidiaries only, Cash Equivalents or other liquid investments permitted under any other Credit Facility to which it is a party); (f) any Investment by the Company or any Restricted Subsidiary in a Person, if as a result of such Investment (i) such Person becomes a Restricted Subsidiary and a Subsidiary Guarantor or an Immaterial Subsidiary; or (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary that is a Subsidiary Guarantor; (g) any Investment made as a result of the receipt of non–cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 6.04 hereof; (h) Investments made solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company; (i) any Investments received in compromise or resolution of (i) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (ii) litigation, arbitration

or other disputes with Persons who are not Affiliates; (j) Investments represented by Hedging Obligations; (k) loans or advances to employees made in the ordinary course of business in an aggregate principal amount not to exceed $1,000,000 at any one time outstanding; (l) purchase of Indebtedness the payment or other acquisition of which is otherwise permitted by the terms of clauses (v), (w), (x), (y) or (z) of Section 6.05(a)(iii), (m) any Investment in securities of trade creditors or customers received in compromise of obligations of those Persons incurred in the ordinary course of business, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditors or customers; (n) negotiable instruments held for deposit or collection in the ordinary course of business; (o) receivables owing to the Company or any Restricted Subsidiary created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; provided, however, that such trade terms may include such concessionary trade terms as the Company of any such Restricted Subsidiary deems reasonable under the circumstances; (p) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business; (q) Investments resulting from the acquisition of a Person that at the time of such acquisition held instruments constituting Investments that were not acquired in contemplation of the acquisition of such Person; (r) any Investment made since the Closing Date in Persons engaged primarily in Permitted Businesses, if after giving effect to such Investment, such Person is or will become a Restricted Subsidiary; provided that the aggregate Fair Market Value of Investments made pursuant to this clause (r) (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (r) that are at the time outstanding, does not exceed 10% of the consolidated assets of the Company as of the most recent fiscal quarter end for which financial statements are publicly available; and (s) other Investments made since the Closing Date in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (s) that are at the time outstanding not to exceed $200,000,000; provided, however, that if any Investment pursuant to this clause (s) is made in any Person that is not a Restricted Subsidiary and a Subsidiary Guarantor at the date of the making of the Investment and such Person becomes a Restricted Subsidiary and a Subsidiary Guarantor after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (a) above, and shall cease to have been made pursuant to this clause (s).

"Permitted Liens" shall mean (a) Liens held by the Collateral Trustee on assets of the Company or any Subsidiary Guarantor securing (i) Secured Obligations of the Company or such Subsidiary Guarantor relating to Indebtedness and Letters of Credit under this Agreement and (ii) secured obligations or the Company or such Subsidiary Guarantor relating to Revolver Refinancing Indebtedness permitted by Section 6.01(b)(i); (b) Liens held by the Collateral Trustee Equally and Ratably securing the Senior Notes issued prior to the Restatement Date and all future Parity Lien Debt and other Parity Lien Obligations; (c) Liens on assets of Excluded Subsidiaries securing Indebtedness of Excluded Subsidiaries that was permitted by the terms of this Agreement to be incurred; (d) Liens (i) in favor of the Company or any of the Subsidiary Guarantors, (ii) incurred by Excluded Project Subsidiaries in favor of any other Excluded Project Subsidiary and (iii) incurred by Excluded Foreign Subsidiaries in favor of any other Excluded Foreign Subsidiary; (e) Liens to secure the performance of statutory obligations, surety or appeal

bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business; (f) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 6.01(b)(iv) hereof covering only the assets acquired with or financed by such Indebtedness; (g) Liens existing on the Closing Date and set forth on Schedule 6.02; (h) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded, provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor; (i) Liens imposed by law, such as carriers', warehousemen's, landlords' and mechanics' Liens, in each case, incurred in the ordinary course of business; (j) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person; (k) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under this Agreement, provided, however, that (i) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof) and (ii) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount or, if greater, committed amount, of the Permitted Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement; (l) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security; (m) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Company or any of its Restricted Subsidiaries, including rights of offset and set-off; (n) leases or subleases granted to others that do not materially interfere with the ordinary course of business of the Company and its Restricted Subsidiaries; (o) inchoate statutory Liens arising under ERISA incurred in the ordinary course of business; (p) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Subsidiary, provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Subsidiary; (q) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Company or any Subsidiary, provided that such Liens were in existence prior to, such acquisition, and not incurred in contemplation of, such acquisition; (r) Liens to secure obligations with respect to (i) contracts (other than for Indebtedness) for commercial and trading activities in the ordinary course of business for the purchase, transmission, distribution, sale, lease or hedge of any energy related commodity or service, (ii) agreements relating to Hedging Obligations or netting agreements representing commodity price contracts or derivatives or (iii) Specified Hedging Agreements; (s) Liens arising from UCC financing sta tements filed on a precautionary basis in respect of operating leases intended by the parties to be true leases (other than any such leases entered into in violation of this Agreement); (t) Liens on assets and Equity Interests of a Subsidiary that is an Excluded Subsidiary as of the Closing Date; (u) Liens granted in favor of Xcel Energy, Inc. pursuant to the Xcel Settlement Agreement as in effect on the Closing Date on the Company's interest in all revenues received

by the Company pursuant to the Facility Instruments; and (v) Liens incurred in the ordinary course of business of the Company or any Subsidiary with respect to obligations that do not exceed $25,000,000 at any one time outstanding.

"Permitted Refinancing Indebtedness" shall mean any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to refund, refinance, replace, defease or discharge, other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); provided that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on such Indebtedness and the amount of all expenses and premiums incurred in connection therewith); (b) such Permitted Refinancing Indebtedness has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; (c) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Secured Obligations hereunder, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Secured Obligations hereunder on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; (d) such Indebtedness is incurred either by the Company (and may be guaranteed by any Subsidiary Guarantor) or by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and (e) (i) if the Stated Maturity of the Indebtedness being refinanced is earlier than the Term Loan Maturity Date, the Permitted Refinancing Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Indebtedness being refinanced or (ii) if the Stated Maturity of the Indebtedness being refinanced is later than the Term Loan Maturity Date, the Permitted Refinancing Indebtedness has a Stated Maturity at least 91 days later than the Term Loan Maturity Date.

"Permitted Second Priority Secured Indebtedness" shall mean Indebtedness of the Company that is secured by Liens on the Collateral granted in favor of the Collateral Trustee; provided that such Liens are subordinate to the Liens securing the Secured Obligations hereunder in the manner set forth in, and are otherwise subject to, the Collateral Trust Agreement.

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint–stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Pledged Securities" shall have the meaning assigned to such term in the Guarantee and Collateral Agreement.

"Predecessor Security Documents" shall mean the "Security Documents" as such term is defined herein immediately prior to the amendment and restatement hereof on the Restatement Date.

"Preferred Stock" shall mean the 4% Convertible Perpetual Preferred Stock, par value $0.01 per share, of the Company issued prior to the Restatement Date.

"Prepayment Fee" shall have the meaning assigned to such term in Section 2.05(d).

"Prime Rate" shall mean the rate of interest per annum publicly announced from time to time by Credit Suisse First Boston as its prime rate in effect at its principal office in New York City; each change in the Prime Rate shall be effective as of the opening of business on the date such change is publicly announced as being effective. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually available.

"Pro Forma Cost Savings" shall mean, with respect to any period, reductions in costs and related adjustments that occurred during the four-quarter reference period or after the end of the four-quarter reference period and on or prior to the transaction date that were (a) directly attributable to an Asset Acquisition or Asset Sale and calculated on a basis that is consistent with Article 11 of Regulation S-X under the Securities Act or (b) actually implemented by the Company or the business that was the subject of such Asset Acquisition or Asset Sale within six months of the date of the Asset Acquisition or Asset Sale and that are supportable and quantifiable by the underlying accounting records of such business, as if, in the case of each of clauses (a) and (b), all such reductions in costs and related adjustments had been effected as of the beginning of such period.

"Pro Rata Percentage" of (a) any Revolving Credit Lender at any time shall mean the percentage of the Total Revolving Credit Commitment represented by such Lender's Revolving Credit Commitment and (b) any Funded L/C Lender at any time shall mean the percentage of the Total Credit-Linked Deposit represented by such Lender's Credit-Linked Deposit. In the event the Revolving Credit Commitments shall have expired or been terminated, the Pro Rata Percentages of any Revolving Credit Lender shall be determined on the basis of the Revolving Credit Commitments most recently in effect prior thereto. In the event the Credit-Linked Deposits shall have been applied in full to reimburse Funded L/C Disbursements or shall be returned, the Pro Rata Percentage of any Funded L/C Lender shall be determined on the basis of the Credit-Linked Deposits most recently in effect prior thereto.

"PUHCA" shall mean the Public Utility Holding Company Act of 1935 and the rules and regulations promulgated thereunder, as amended from time to time.

"PURPA" shall mean the Public Utility Regulatory Policies Act of 1978 and the rules and regulations promulgated thereunder, as amended from time to time.

"QF" shall mean a "qualifying facility" under PURPA.

"Qualified Counterparty" shall mean, with respect to any Specified Hedging Agreement, any counterparty thereto that, at the time such Specified Hedging Agreement was entered into, was a Lender, an Agent or the Syndication Agent or an Affiliate of a Lender, an Agent or the Syndication Agent.

"Recovery Event" shall mean the receipt of cash proceeds with respect to any settlement of or payment in respect of (a) any property or casualty insurance claim or (b) any taking under power of eminent domain or by condemnation or similar proceeding of or relating to any property or asset of the Company or any Subsidiary; provided that any such recovery event or

series of related recovery events having a value not in excess of $25,000,000 shall not be deemed to be a "Recovery Event" for purposes of Section 2.13(b).

"Refinancing Transactions" shall mean (a) the issuance of the Senior Notes, (b) the entering into of the Original Credit Agreement and (c) the application of the proceeds from the issuance of the Senior Notes on December 23, 2003, the initial borrowing of term loans under the Original Credit Agreement and cash on hand to (i) repay certain notes (including accrued interest) issued by NRG Northeast, (ii) repay certain notes (including accrued interest) issued by NRG South Central, (iii) repay certain indebtedness (including accrued interest) of NRG Mid–Atlantic, (iv) pay a settlement amount associated with the repayment of the notes described in clauses (i) and (ii), (v) make a $500,000,000 distribution to certain of the Company's unsecured creditors pursuant to the NRG Plan, (vi) pre–fund the $250,000,000 credit–linked deposits under the Original Credit Agreement and (v) pay fees and expenses relating to the offering of the Senior Notes and the entering into of the Original Credit Agreement.

"Register" shall have the meaning assigned to such term in Section 9.04(d).

"Regulation T" shall mean Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Regulation U" shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Regulation X" shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Related Fund" shall mean, with respect to any Lender that is a fund that invests in bank loans, any other fund that invests in bank loans and is advised or managed by such Lender, an Affiliate of such Lender, the same investment advisor as such Lender or by an Affiliate of such investment advisor.

"Related Parties" shall mean, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, trustees, employees, agents and advisors of such Person and such Person's Affiliates.

"Release" shall mean any release, spill, emission, leaking, pumping, injection, pouring, emptying, deposit, disposal, discharge, dispersal, dumping, escaping, leaching or migration into or through the environment or within or upon any building, structure, facility or fixture.

"Reorganization Events" shall mean (a) the effectiveness of the NRG Plan; (b) the following actions pursuant to the NRG Plan: (i) the cancellation of all of the Company's existing Capital Stock and the distribution to unsecured creditors of a combination of new common stock of the Company and up to $1,040,000,000 in cash, (ii) the issuance of the Xcel Note, (iii) the making of adjustments to the Company's consolidated financial statements for "fresh–start" reporting under GAAP; (c) the settlement with Xcel Energy Inc. pursuant to the Xcel Settlement Agreement under which the Company is expected to receive $640,000,000 from Xcel Energy Inc. in cash (and, under certain circumstances, its common stock) to be paid in three separate installments; (d) the distribution of $515,000,000 of cash received by the Company from Xcel

Energy Inc. to the Company's creditors; (e) as a result of the Company achieving certain liquidity measures in September 2004, the distribution of an additional $25,000,000 of the amount described in clause (c) to the Company's creditors; and (f) the use by the Company of $100,000,000 of the amount described in clause (c) for any purpose, subject to the restrictions contained in this Agreement and the Senior Note Documents.

"Repayment Date" shall have the meaning assigned to such term in Section 2.11.

"Requested Prepayment Amount" shall have the meaning assigned to such term in Section 2.13(d).

"Required Lenders" shall mean, at any time, the Majority Revolving Credit Lenders and the Majority Term Lenders, each voting as a separate class.

"Required Prepayment Percentage" shall mean (a) in the case of any Asset Sale or Recovery Event, 100%; and (b) in the case of any Adjusted Excess Cash Flow, if on the date of the applicable prepayment, the Company's issuer credit rating (in the case of S&P) or long term senior implied rating (in the case of Moody's) is (i) BB or lower from S&P or Ba2 or lower from Moody's, 50%, (ii) BB+ or higher from S&P and Ba1 or higher from Moody's (but not meeting the ratings described in clause (iii)), 25% or (iii) BBB− or higher from S&P and Baa3 or higher from Moody's, 0%.

"Restatement Date" shall mean the date on which the conditions specified in Section 4.02 are satisfied (or waived in accordance with Section 9.08).

"Restricted Investment" shall mean an Investment other than a Permitted Investment.

"Restricted Payment" shall have the meaning assigned to such term in Section 6.05.

"Restricted Subsidiary" of a specified Person shall mean, with respect to such Person, (a) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and (b) any partnership (i) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (ii) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof), in the case of each of clauses (a) and (b), that is not an Unrestricted Subsidiary. Unless otherwise indicated, any reference to a "Restricted Subsidiary" shall be deemed to be a reference to a Restricted Subsidiary of the Company. On the Restatement Date, all the Subsidiaries of the Company are Restricted Subsidiaries of the Company.

"Revolver Refinancing Indebtedness" shall mean Indebtedness issued or incurred under a new revolving credit facility (a "New Revolver") that refinances, refunds, extends, renews or replaces the Revolving Credit Commitments hereunder; provided that (a) the available commitments under such New Revolver shall not exceed $150,000,000, (b) the Revolving Loan

Borrowers shall be the only borrowers under such New Revolver and the Subsidiary Guarantors shall be the only guarantors, if any, with respect thereto, (c) unless such New Revolver shall be incurred within six months of the Revolving Credit Maturity Date, such New Revolver contains covenants and events of default which, taken as a whole, are determined in good faith by a Financial Officer of the Company to be substantially the same as the covenants contained herein, (d) the Indebtedness under such New Revolver, if secured, is secured only by Liens on the Collateral granted in favor of the Collateral Trustee that are subject to the terms of the Collateral Trust Agreement, (e) if such New Revolver is secured, the administrative agent in respect of such New Revolver executes and delivers a Collateral Trust Joinder as required by the Collateral Trust Agreement and (f) if such New Revolver is secured, the secured parties with respect to such New Revolver agree in writing for the enforceable benefit of all Secured Parties hereunder that such secured parties are bound by the provisions set forth in the Collateral Trust Agreement relating to the order of application of proceeds from the enforcement of Liens upon the Collateral to the same extent that the Secured Parties are bound by such provisions as of the Restatement Date.

"Revolving Credit Borrowing" shall mean a Borrowing comprised of Revolving Loans.

"Revolving Credit Commitment" shall mean, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans (and to acquire participations in Revolving Letters of Credit and Swingline Loans) hereunder as set forth on the Lender Addendum delivered by such Lender, or in the Assignment and Acceptance pursuant to which such Lender assumed its Revolving Credit Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.09 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender in accordance with Section 9.04.

"Revolving Credit Exposure" shall mean, with respect to any Lender at any time, the aggregate principal amount at such time of all outstanding Revolving Loans of such Lender, plus the aggregate amount at such time of such Lender's Revolving L/C Exposure, plus the aggregate amount at such time of such Lender's Swingline Exposure.

"Revolving Credit Lender" shall mean a Lender with a Revolving Credit Commitment or an outstanding Revolving Loan.

"Revolving Credit Maturity Date" shall mean December 24, 2007.

"Revolving Issuing Bank Fees" shall have the meaning assigned to such term in Section 2.05(c).

"Revolving L/C Commitment" shall mean the commitment of the Issuing Bank to issue Revolving Letters of Credit pursuant to Section 2.23.

"Revolving L/C Disbursement" shall mean a payment or disbursement made by the Issuing Bank pursuant to a Revolving Letter of Credit.

"Revolving L/C Exposure" shall mean, at any time, the sum of (a) the aggregate undrawn amount of all Revolving Letters of Credit at such time and (b) the aggregate amount of all Revolving L/C Disbursements that have not been reimbursed at such time. The Revolving L/C

Exposure of any Revolving Credit Lender at any time shall equal its Pro Rata Percentage of the aggregate Revolving L/C Exposure at such time.

"Revolving L/C Fee Payment Date" shall have the meaning assigned to such term in Section 2.05(c).

"Revolving L/C Participation Fee" shall have the meaning assigned to such term in Section 2.05(c).

"Revolving Letter of Credit" shall mean, at any time, any Letter of Credit that has been designated by a Revolving Loan Borrower (or deemed designated) as a Revolving Letter of Credit in accordance with the provisions of Section 2.23.

"Revolving Loan Borrowers" means the Company and NRG Power Marketing.

"Revolving Loans" shall mean the revolving loans made by the Lenders to the Revolving Loan Borrowers pursuant to clause (b) of Section 2.01.

"S&P" shall mean Standard & Poor's Ratings Group, Inc. or any successor entity.

"Sale of Collateral" shall mean any Asset Sale involving a sale or other disposition of Collateral.

"Secured Debt" shall have the meaning assigned to such term in the Collateral Trust Agreement.

"Secured Leverage Ratio" shall mean, on any date, the ratio of (a) the aggregate principal amount of Secured Debt outstanding on such date plus all Indebtedness of Restricted Subsidiaries outstanding on such date including Non-Recourse Indebtedness (and, for this purpose, letters of credit will be deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) to (b) the aggregate amount of the Company's Consolidated EBITDA for the most recent four-quarter period for which financial information is available. In addition, for purposes of calculating the Secured Leverage Ratio (i) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations or acquisitions of assets, or any Person or any of its Restricted Subsidiaries acquired by merger, consolidation or the acquisition of all or substantially all of its assets by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the date on which the event for which the calculation of the Secured Leverage Ratio is made (the "Leverage Calculation Date") will be given pro forma effect in accordance with Regulation S-X under the Securities Act) as if they had occurred on the first day of the four-quarter reference period; (ii) the Consolidated EBITDA attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Leverage Calculation Date, will be excluded; (iii) any Person that is a Restricted Subsidiary on the Leverage Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four-quarter period; (iv) any Person that is not a Restricted Subsidiary on the Leverage Calculation Date will be deemed

not to have been a Restricted Subsidiary at any time during such four–quarter period; and (v) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Leverage Calculation Date in excess of 12 months).

"Secured Obligations" shall have the meaning assigned to such term in the Guarantee and Collateral Agreement.

"Secured Parties" shall mean the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co–Documentation Agents, the Lenders and, with respect to any Specified Hedging Agreement, any Qualified Counterparty that has agreed to be bound by the provisions of Article VIII hereof and Section 7.2 of the Guarantee and Collateral Agreement as if it were a party hereto or thereto; provided that no Qualified Counterparty shall have any rights in connection with the management or release of any Collateral or the obligations of any Subsidiary Guarantor under the Guarantee and Collateral Agreement or the Collateral Trust Agreement.

"Securities Account" shall have the meaning assigned to such term in the UCC.

"Security Documents" shall mean the Guarantee and Collateral Agreement, the Mortgages, the Control Agreements, the Intellectual Property Security Agreements, the Collateral Trust Agreement and each of the other security agreements, pledges, mortgages, assignments (collateral or otherwise), consents and other instruments and documents executed and delivered pursuant to any of the foregoing or pursuant to Section 5.09 or 5.10.

"Senior Note Documents" shall mean the indenture under which the Senior Notes are issued and all other instruments, agreements and other documents evidencing or governing the Senior Notes or providing for any Guarantee or other right in respect thereof, in each case as the same may be amended or supplemented from time to time in accordance with the terms hereof and thereof.

"Senior Notes" shall mean the Company's 8% Second Priority Senior Secured Notes due 2013, in an aggregate principal amount of $1,725,000,000, including any notes issued by the Company in full exchange for, and as contemplated by, the Senior Notes with substantially identical terms as the Senior Notes.

"Sharing Confirmation" shall have the meaning assigned to such term in the Collateral Trust Agreement.

"Significant Subsidiary" shall mean any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1–02 of Regulation S–X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Restatement Date.

"SPC" shall have the meaning assigned to such term in Section 9.04(i).

"Specified Assets Held for Sale" shall mean the assets set forth on Schedule 1.01(g) (which shall describe such assets and indicate their anticipated date of sale).

"Specified Hedging Agreement" shall mean any interest rate or foreign exchange Hedging Agreement entered into by a Borrower or any Subsidiary Guarantor and any Qualified Counterparty.

"Specified Joint Venture Sale" shall mean the sale after the Closing Date by the Company or a Subsidiary of its Equity Interest in Enfield Energy Centre Limited or TermoRio S.A. to one or more holders of the remaining Equity Interests therein pursuant to the terms of the joint venture agreements relating thereto.

"Stated Maturity" shall mean, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the Closing Date, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Statutory Reserves" shall mean a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board and any other banking authority, domestic or foreign, to which the Administrative Agent or any Lender (including any branch, Affiliate or other fronting office making or holding a Loan) is subject for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. Statutory Reserves shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"subsidiary" shall mean, with respect to any Person (herein referred to as the "parent"), any corporation, partnership, limited liability company, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, controlled or held, or (b) that is, at the time any determination is made, otherwise controlled by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" shall mean any subsidiary of the Company.

"Subsidiary Guarantor" shall mean, initially, each Subsidiary specified on Schedule 1.01(h) and, at any time thereafter, shall include each other Subsidiary that is not (a) an Excluded Foreign Subsidiary or (b) an Excluded Project Subsidiary at such time.

"Swingline Commitment" shall mean the commitment of the Swingline Lender to make loans pursuant to Section 2.22, as the same may be reduced from time to time pursuant to Section 2.09 .

"Swingline Exposure" shall mean, at any time, the aggregate principal amount at such time of all outstanding Swingline Loans. The Swingline Exposure of any Revolving Credit

Lender at any time shall equal its Pro Rata Percentage of the aggregate Swingline Exposure at such time.

"Swingline Lender" shall mean Credit Suisse First Boston in its capacity as lender of Swingline Loans hereunder.

"Swingline Loan" shall mean any loan made by the Swingline Lender pursuant to Section 2.22.

"Syndication Agent" shall have the meaning assigned to such term in the preamble.

"Synthetic Lease Obligations" shall mean all monetary obligations of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease or (b) an agreement for the use or possession of any property (whether real, personal or mixed) creating obligations which do not appear on the balance sheet of such Person, but which, upon the insolvency or bankruptcy of such Person, would be characterized as Indebtedness of such Person (without regard to accounting treatment).

"Tax Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Taxes" shall mean any and all present or future taxes, levies, imposts, duties, deductions, charges, liabilities or withholdings imposed by any Governmental Authority.

"Term Borrowing" shall mean a Borrowing comprised of Term Loans.

"Term Lender" shall mean a Lender with a Term Loan Commitment or an outstanding Term Loan (including any Term Loan extended pursuant to Section 2.02(f) or resulting from a conversion pursuant to Section 2.09(d)).

"Term Loan Borrower" shall mean the Company.

"Term Loan Commitment" shall mean, with respect to each Lender, the commitment, if any, of such Lender to make Term Loans hereunder as set forth on the Lender Addendum delivered by such Lender, or in the Assignment and Acceptance pursuant to which such Lender assumed its Term Loan Commitment, as applicable, as the same may be (a) reduced from time to time pursuant to Section 2.09 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial aggregate amount of all Term Loan Commitments on the Restatement Date is $450,000,000.

"Term Loan Maturity Date" shall mean December 24, 2011.

"Term Loans" shall mean the term loans made by the Lenders to the Term Loan Borrower pursuant to Section 2.01(a), the term loans extended pursuant to Section 2.02(f) and the term loans resulting from a conversion pursuant to Section 2.09(d).

"Total Credit-Linked Deposit" shall mean, at any time, the sum of all Credit-Linked Deposits at such time, as the same may be reduced from time to time pursuant to Section

2.02(f), 2.09(b) or 2.09(d). The initial amount of the Total Credit–Linked Deposit on the Restatement Date is $350,000,000.

"Total Debt" shall mean, at any time, the aggregate amount of Indebtedness of the Company and the Subsidiaries outstanding at such time, in the amount that would be reflected on a balance sheet prepared at such time on a consolidated basis in accordance with GAAP.

"Total Revolving Credit Commitment" shall mean, at any time, the aggregate amount of the Revolving Credit Commitments, as in effect at such time. The initial Total Revolving Credit Commitment on the Restatement Date is $150,000,000.

"Transactions" shall mean, collectively, (a) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party, (b) the borrowings hereunder, the issuance of Letters of Credit and the use of proceeds of each of the foregoing, (c) the granting of Liens pursuant to the Security Documents and (d) any other transactions entered into in connection with any of the foregoing.

"Type", when used in respect of any Loan or Borrowing, shall refer to the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term "Rate" shall include the Adjusted LIBO Rate and the Alternate Base Rate.

"UCC" shall mean the Uniform Commercial Code as in effect in the State of New York or any other applicable jurisdiction.

"Uniform Customs" shall have the meaning assigned to such term in Section 9.07.

"Unrestricted Subsidiary" shall mean any Subsidiary (other than NRG Power Marketing) that is designated by the Board of Directors of the Company as an Unrestricted Subsidiary pursuant to a board resolution, but only to the extent that such Subsidiary (a) has no Indebtedness other than Non–Recourse Indebtedness; (b) except as permitted by Section 6.06 hereof, is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company; (c) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (i) to subscribe for additional Equity Interests or (ii) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results except as otherwise permitted by this Agreement; and (d) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries except as otherwise permitted by this Agreement. Notwithstanding anything else in this Agreement to the contrary, NRG Power Marketing shall not be an Unrestricted Subsidiary under this Agreement at any time. Any designation of a Subsidiary as an Unrestricted Subsidiary will be evidenced to the Administrative Agent by filing with the Administrative Agent a certified copy of the board resolution giving effect to such designation and an officers' certificate certifying that such designation complied with the conditions set forth in Section 6.09 and was permitted by Section 6.05. If, at any time, any

Unrestricted Subsidiary fails to meet the requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Agreement and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be incurred as of such date by Section 6.01, the Company will be in default of such covenant. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if (A) such Indebtedness is permitted by Section 6.01, calculated on a pro forma basis as if such designation had occurred at the beginning of the four–quarter reference period; and (B) no Default or Event of Default would be in existence following such designation.

"U.S. Person" shall have the meaning assigned to such term in the definition of "Net Cash Proceeds."

"Voting Stock" of any Person as of any date shall mean the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (ii) the number of years (calculated to the nearest one–twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

"wholly owned subsidiary" of any specified Person shall mean a subsidiary of such Person of which securities (except for directors' qualifying shares or securities held by foreign nationals as required by applicable law) or other ownership interests representing 100% of the Equity Interests are, at the time any determination is being made, owned, controlled or held by such Person or one or more wholly owned subsidiaries of such Person or by such Person and one or more wholly owned subsidiaries of such Person; a "wholly owned Subsidiary" shall mean any wholly owned subsidiary of the Company.

"Withdrawal Liability" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"Xcel Cash" shall mean all amounts paid in cash by Xcel Energy Inc. to the Company or any of the Subsidiaries after the Closing Date in connection with the Xcel Settlement Agreement.

"Xcel Note" shall mean the unsecured promissory note made by the Company in favor of Xcel Energy Inc. in a principal amount of $10,000,000 pursuant to the NRG Plan.

"Xcel Settlement Agreement" shall mean the Settlement Agreement delivered as of the effective date of the NRG Plan by and among Xcel Energy Inc., the Company and each of the Subsidiaries party thereto, which was approved by the Bankruptcy Court on November 24, 2003.

SECTION 1.02. Terms Generally. The definitions in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including", and words of similar import, shall not be limiting and shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". The words "asset" and "property" shall be construed as having the same meaning and effect and to refer to any and all rights and interests in tangible and intangible assets and properties of any kind whatsoever, whether real, personal or mixed, including cash, securities, Equity Interests, accounts and contract rights. The word "control", when used in connection with the Collateral Trustee's rights with respect to, or security interest in, any Collateral, shall have the meaning specified in the UCC with respect to that type of Collateral. The words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision of this Agreement unless the context shall otherwise require. All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, (a) any definition of, or reference to, any Loan Document or any other agreement, instrument or document in this Agreement shall mean such Loan Document or other agreement, instrument or document as amended, restated, supplemented or otherwise modified from time to time (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein) and (b) all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided, however, that if the Company notifies the Administrative Agent that the Company wishes to amend any covenant in Article VI or any related definition to eliminate the effect of any change in GAAP occurring after the Restatement Date on the operation of such covenant (or if the Administrative Agent notifies the Company that the Required Lenders wish to amend Article VI or any related definition for such purpose), then the Company's compliance with such covenant shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to the Company and the Required Lenders.

SECTION 1.03. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (*e.g.*, a "Revolving Loan") or by Type (*e.g.*, a "Eurocurrency Loan") or by Class and Type (*e.g.*, a "Eurocurrency Revolving Loan"). Borrowings also may be classified and referred to by Class (*e.g.*, a "Revolving Borrowing") or by Type (*e.g.*, a "Eurocurrency Borrowing") or by Class and Type (*e.g.*, a "Eurocurrency Revolving Borrowing").

SECTION 1.04. Pro Forma Calculations. All pro forma calculations permitted or required to be made by the Company or any Subsidiary pursuant to this Agreement shall (a) include only those adjustments that (i) would be permitted or required by Regulation S-X under the Securities Act of 1933, as amended, or (ii) were actually implemented by the Company or the business that was the subject of an Asset Acquisition or Asset Sale within six months of the date of the Asset Acquisition or Asset Sale and that are supportable and quantifiable by the underlying accounting records of such business and (b) be certified to by a Financial Officer of the Company as having been prepared in good faith based upon reasonable assumptions.

ARTICLE II.

The Credits

SECTION 2.01. Commitments. Subject to the terms and conditions hereof and relying upon the representations and warranties set forth herein, (a) each Term Lender agrees, severally and not jointly, to re–evidence and/or fund a Term Loan to the Term Loan Borrower on the Restatement Date in a principal amount not to exceed its Term Loan Commitment, and all Term Loans under the Original Credit Agreement and outstanding on the Restatement Date shall be re–evidenced as Term Loans hereunder, (b) each Revolving Credit Lender agrees, severally and not jointly, to re–evidence and/or fund Revolving Loans to the Revolving Loan Borrowers, at any time and from time to time after the Restatement Date and until the earlier of the Revolving Credit Maturity Date and the termination of the Revolving Credit Commitment of such Revolving Credit Lender in accordance with the terms hereof, in an aggregate principal amount at any time outstanding that will not result in such Revolving Credit Lender's Revolving Credit Exposure exceeding such Revolving Credit Lender's Revolving Credit Commitment, and all Revolving Loans and Revolving Credit Commitments under the Original Credit Agreement outstanding on the Restatement Date shall be re–evidenced as Revolving Loans and Revolving Credit Commitments hereunder, and (c) each Funded L/C Lender agrees, severally and not jointly, to re–evidence and/or fund its Credit–Linked Deposit with the Administrative Agent on the Restatement Date in accordance with Section 2.24, and all Credit–Linked Deposits under the Original Credit Agreement and outstanding on the Restatement Date shall be re–evidenced as Credit–Linked Deposits hereunder. Within the limits set forth in clause (b) of the preceding sentence and subject to the terms, conditions and limitations set forth herein, the Revolving Loan Borrowers may borrow, pay or prepay and reborrow Revolving Loans. Amounts paid or prepaid in respect of Term Loans may not be reborrowed.

SECTION 2.02. Loans. (a) Each Loan (other than Swingline Loans) shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class; provided, however, that the failure of any Lender to make any Loan required to be made by it shall not in itself relieve any other Lender of its obligation to lend hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to make any Loan required to be made by such other Lender). Except for Loans deemed made pursuant to Section 2.02(f) and subject to Section 2.22 relating to Swingline Loans, the Loans comprising any Borrowing shall be in an aggregate principal amount that is (i) an integral multiple of $1,000,000 and not less than $5,000,000 or (ii) equal to the remaining available balance of the applicable Commitments.

(b) Subject to Sections 2.08 and 2.15, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the applicable Borrower may request pursuant to Section 2.03; provided that no Borrowings may be converted into or continued as a Eurodollar Borrowing having an Interest Period in excess of one month prior to the date which is 30 days after the Restatement Date. Each Lender may at its option make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement. Borrowings of more than one Type may be outstanding at the same time; provided, however, that the Borrowers shall not be entitled to

request any Borrowing that, if made, would result in more than ten Eurodollar Borrowings outstanding hereunder at any time. For purposes of the foregoing, Borrowings having different Interest Periods, regardless of whether they commence on the same date, shall be considered separate Borrowings.

(c) Except with respect to Loans made pursuant to Section 2.02(f) or Section 2.09(d) and subject to Section 2.22 relating to Swingline Loans, each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds to such account in New York City as the Administrative Agent may designate not later than 11:00 a.m., New York City time, and the Administrative Agent shall promptly credit the amounts so received to an account designated by the applicable Borrower in the applicable Borrowing Request or, if a Borrowing shall not occur on such date because any condition precedent herein specified shall not have been met, return the amounts so received to the respective Lenders.

(d) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's portion of such Borrowing, the Administrative Agent may assume that such Lender has made such portion available to the Administrative Agent on the date of such Borrowing in accordance with paragraph (c) of this Section and the Administrative Agent may, in reliance upon such assumption, make available to the applicable Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, such Lender and the applicable Borrower severally agree to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the applicable Borrower to but excluding the date such amount is repaid to the Administrative Agent at (i) in the case of the applicable Borrower, the interest rate applicable at the time to the Loans comprising such Borrowing (in lieu of interest which would otherwise become due to such Lender pursuant to Section 2.06) or (ii) in the case of such Lender, a rate determined by the Administrative Agent to represent its cost of overnight or short-term funds (which determination shall be conclusive absent manifest error). If such Lender shall repay to the Administrative Agent such corresponding amount, such amount shall constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement.

(e) Notwithstanding any other provision of this Agreement, the Borrowers shall not be entitled to request any Revolving Credit Borrowing which is a Eurodollar Borrowing if the Interest Period requested with respect thereto would end after the Revolving Credit Maturity Date.

(f) If the Issuing Bank shall not have received from the applicable Borrower the payment required to be made by Section 2.23(e) with respect to a Revolving Letter of Credit within the time specified in such Section, the Issuing Bank will promptly notify the Administrative Agent of the Revolving L/C Disbursement and the Administrative Agent will promptly notify each Revolving Credit Lender of such Revolving L/C Disbursement and its Pro Rata Percentage thereof. Each Revolving Credit Lender shall pay by wire transfer of immediately available funds to the Administrative Agent not later than 2:00 p.m., New York

City time, on such date (or, if such Revolving Credit Lender shall have received such notice later than 12:00 (noon), New York City time, on any day, not later than 10:00 a.m., New York City time, on the immediately following Business Day), an amount equal to such Lender's Pro Rata Percentage of such Revolving L/C Disbursement (it being understood that such amount shall be deemed to constitute an ABR Revolving Loan of such Lender and such payment shall be deemed to have reduced the Revolving L/C Exposure), and the Administrative Agent will promptly pay to the Issuing Bank amounts so received by it from the Revolving Credit Lenders. The Administrative Agent will promptly pay to the Issuing Bank any amounts received by it from the applicable Borrower pursuant to Section 2.23(e) prior to the time that any Revolving Credit Lender makes any payment pursuant to this paragraph; any such amounts received by the Administrative Agent thereafter will be promptly remitted by the Administrative Agent to the Revolving Credit Lenders that shall have made such payments and to the Issuing Bank, as their interests may appear. If any Revolving Credit Lender shall not have made its Pro Rata Percentage of such Revolving L/C Disbursement available to the Administrative Agent as provided above, such Lender and the applicable Borrower severally agree to pay interest on such amount, for each day from and including the date such amount is required to be paid in accordance with this paragraph to but excluding the date such amount is paid, to the Administrative Agent for the account of the Issuing Bank at (i) in the case of the applicable Borrower, a rate per annum equal to the interest rate applicable to Revolving Loans pursuant to Section 2.06(a) (in lieu of interest which would otherwise become due to such Lender pursuant to Section 2.06), and (ii) in the case of such Lender, for the first such day, the Federal Funds Effective Rate, and for each day thereafter, the Alternate Base Rate.

If the Issuing Bank shall not have received from the Term Loan Borrower the payment that it may make pursuant to Section 2.23(e) with respect to a Funded Letter of Credit within the time specified in such Section, the Issuing Bank will promptly notify the Administrative Agent of the Funded L/C Disbursement and the Administrative Agent will promptly notify each Funded L/C Lender of such Funded L/C Disbursement and its Pro Rata Percentage thereof, and the Administrative Agent shall promptly pay to the Issuing Bank each Funded L/C Lender's Pro Rata Percentage of such Funded L/C Disbursement from such Funded L/C Lender's Credit-Linked Deposit. Upon the payment made from the Credit-Linked Deposit Account, or from funds of the Administrative Agent, pursuant to this paragraph to reimburse the Issuing Bank for any Funded L/C Disbursement, the Term Loan Borrower shall be deemed to have reimbursed the Issuing Bank as of such date and the Funded L/C Lenders shall be deemed to have extended, and the Term Loan Borrower shall be deemed to have accepted, a Term Loan in the aggregate principal amount of such payment without further action on the part of any party, and the Total Credit-Linked Deposit shall be permanently reduced by such amount; any amount so paid pursuant to this paragraph shall, on and after the payment date thereof, be deemed to be Term Loans for all purposes hereunder.

SECTION 2.03. Borrowing Procedure. In order to request a Borrowing (other than a Swingline Loan or a deemed Borrowing pursuant to Section 2.02(f), as to which this Section 2.03 shall not apply), the applicable Borrower shall notify the Administrative Agent by telephone (promptly confirmed by fax) or shall hand deliver or fax to the Administrative Agent a duly completed Borrowing Request (a) in the case of a Eurodollar Borrowing, not later than 12:00 (noon), New York City time, three Business Days before a proposed Borrowing and (b) in the case of an ABR Borrowing, not later than 12:00 (noon), New York City time, one Business

Day before a proposed Borrowing. Each Borrowing Request shall be irrevocable, shall be signed by or on behalf of the applicable Borrower and shall specify the following information: (i) whether the Borrowing then being requested is to be a Term Borrowing or a Revolving Credit Borrowing, and whether such Borrowing is to be a Eurodollar Borrowing or an ABR Borrowing; (ii) the date of such Borrowing (which shall be a Business Day); (iii) the number and location of the account to which funds are to be disbursed (which shall be an account that complies with the requirements of Section 2.02(c)); (iv) the amount of such Borrowing; and (v) if such Borrowing is to be a Eurodollar Borrowing, the initial Interest Period with respect thereto; provided, however, that, notwithstanding any contrary specification in any Borrowing Request, each requested Borrowing shall comply with the requirements set forth in Section 2.02. If no election as to the Type of Borrowing is specified in any such notice, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period with respect to any Eurodollar Borrowing is specified in any such notice, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall promptly advise the applicable Lenders of any notice given in accordance with this Section 2.03 (and the contents thereof), and of each Lender's portion of the requested Borrowing.

SECTION 2.04. Repayment of Loans; Evidence of Debt. (a) Each Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender (i) the principal amount of each Term Loan of such Lender made to such Borrower as provided in Section 2.11 and (ii) the then unpaid principal amount of each Revolving Loan of such Lender made to such Borrower on the Revolving Credit Maturity Date. Each Revolving Loan Borrower hereby unconditionally promises to pay to the Swingline Lender the then unpaid principal amount of each Swingline Loan made to such Revolving Loan Borrower on the earlier of the Revolving Credit Maturity Date and the first date after such Swingline Loan is made that is the 15th day or the last day of a calendar month and is at least three Business Days after such Swingline Loan is made.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the applicable Borrower to such Lender resulting from each Loan made by such Lender to such Borrower from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement, and shall provide copies of such accounts to the Company upon its reasonable request (at the Company's sole cost and expense).

(c) The Administrative Agent shall maintain accounts in which it will record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the applicable Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from any Borrower or any Subsidiary Guarantor and each Lender's share thereof, and shall provide copies of such accounts to the Company upon its reasonable request (at the Company's sole cost and expense).

(d) The entries made in the accounts maintained pursuant to paragraphs (b) and (c) of this Section shall be conclusive evidence of the existence and amounts of the obligations therein recorded absent manifest error; provided, however, that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner

affect the obligations of each Borrower to repay the Loans made to such Borrower in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it hereunder be evidenced by a promissory note. In such event, the applicable Borrower shall execute and deliver to such Lender a promissory note payable to such Lender and its registered assigns (i) in the form of Exhibit L, if such promissory note relates to Revolving Credit Borrowings or (ii) in the form of Exhibit M, if such promissory note relates to Term Borrowings, or, in any such case, any other form reasonably acceptable to the Administrative Agent. Notwithstanding any other provision of this Agreement, in the event any Lender shall request and receive such a promissory note, the interests represented by such note shall at all times (including after any assignment of all or part of such interests pursuant to Section 9.04) be represented by one or more promissory notes payable to the payee named therein or its registered assigns.

SECTION 2.05. Fees. (a) The Company agrees to pay to each Lender, through the Administrative Agent, on the last Business Day of March, June, September and December in each year (beginning with March 31, 2005) and on each date on which any Commitment of such Lender shall expire or be terminated as provided herein, a commitment fee (a "Commitment Fee") equal to the applicable Commitment Fee Rate in effect from time to time on the average daily unused amount of the Commitments of such Lender (other than the Swingline Commitment) during the preceding quarter (or shorter or longer period commencing with the Restatement Date or ending with the Revolving Credit Maturity Date or the date on which the Commitments of such Lender shall expire or be terminated). All Commitment Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days. The Commitment Fee due to each Lender shall commence to accrue on the Restatement Date and shall cease to accrue on the date on which the Commitment of such Lender shall expire or be terminated as provided herein. For purposes of calculating Commitment Fees with respect to Revolving Credit Commitments only, no portion of the Revolving Credit Commitments shall be deemed utilized under Section 2.17 as a result of outstanding Swingline Loans.

(b) The Company agrees to pay to the Administrative Agent, for its own account, the fees in the amounts and at the times from time to time agreed to in writing by the Company and the Administrative Agent, including pursuant to the Engagement Letter (the "Administrative Agent Fees").

(c) Each Revolving Loan Borrower agrees to pay (i) to each Revolving Credit Lender, through the Administrative Agent, on the last Business Day of March, June, September and December of each year (beginning with March 31, 2005) and on the date on which the Revolving Credit Commitment of such Lender shall be terminated as provided herein (each, a "Revolving L/C Fee Payment Date") a fee (a "Revolving L/C Participation Fee") calculated on such Lender's Pro Rata Percentage of the daily aggregate Revolving L/C Exposure (excluding the portion thereof attributable to unreimbursed Revolving L/C Disbursements which are earning interim interest pursuant to Section 2.23(h)) during the preceding quarter (or shorter or longer period commencing with the Restatement Date

Borrowings comprised of Eurodollar Loans pursuant to Section 2.06, and (ii) to the Issuing Bank with respect to each outstanding Revolving Letter of Credit issued for the account of (or at the request of) such Borrower a fronting fee, which shall accrue at the rate of 1/4 of 1% per annum or such other lower rate as shall be separately agreed upon between such Borrower and the Issuing Bank, on the drawable amount of such Revolving Letter of Credit, payable quarterly in arrears on each Revolving L/C Fee Payment Date after the issuance date of such Revolving Letter of Credit, as well as the Issuing Bank's standard and reasonable fees with respect to the issuance, amendment, renewal or extension of any Revolving Letter of Credit issued for the account of (or at the request of) such Borrower or processing of drawings thereunder (the fees in this clause (ii), collectively, the "Revolving Issuing Bank Fees"). All Revolving L/C Participation Fees and Revolving Issuing Bank Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

(d) Subject to the provisions of Section 2.07, the Term Loan Borrower agrees to pay (i) to each Funded L/C Lender, through the Administrative Agent, on the last Business Day of March, June, September and December of each year (beginning with March 31, 2005) and on the date on which the Credit-Linked Deposits are returned to the Funded L/C Lenders (each, a "Funded L/C Fee Payment Date") a fee (a "Funded L/C Participation Fee") calculated on such Lender's Pro Rata Percentage of the daily amount of the Total Credit-Linked Deposit (excluding the portion thereof attributable to unreimbursed Funded L/C Disbursements which are earning interim interest pursuant to Section 2.23(h)) during the preceding quarter (or shorter or longer period commencing with the Restatement Date or ending with the Funded Letter of Credit Maturity Date or the date on which the entire amount of such Lender's Credit-Linked Deposit is returned to it) at a rate per annum equal to the Applicable Margin used to determine the interest rate on Term Borrowings comprised of Eurodollar Loans pursuant to Section 2.06, (ii) to each Funded L/C Lender, through the Administrative Agent, the fees referred to in the last sentence of Section 2.24(b) and (iii) to the Issuing Bank with respect to each outstanding Funded Letter of Credit (including each Existing Letter of Credit) issued for the account of (or at the request of) such Borrower a fronting fee, which shall accrue at the rate of 1/4 of 1% per annum or such other lower rate as shall be separately agreed upon between such Borrower and the Issuing Bank, on the drawable amount of such Funded Letter of Credit, payable quarterly in arrears on each Funded L/C Fee Payment Date after the issuance date of such Funded Letter of Credit, as well as the Issuing Bank's standard and reasonable fees with respect to the issuance, amendment, renewal or extension of any Funded Letter of Credit issued for the account of (or at the request of) such Borrower or processing of drawings thereunder (the fees in this clause (ii), collectively, the "Funded Issuing Bank Fees"). All Funded L/C Participation Fees and Funded Issuing Bank Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

(e) All optional prepayments of Term Loans and all optional reductions of the Total Credit-Linked Deposit shall be accompanied by the payment of a prepayment fee (each, a "Prepayment Fee") equal to 1.0% of the aggregate amount of such prepayment or reduction, as the case be, if such prepayment or reduction, as the case may be, is made during the period beginning on the Restatement Date and ending on the date that is six months thereafter.

(f) All Fees shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders, except that the

Issuing Bank Fees shall be paid directly to the Issuing Bank. Once paid, none of the Fees shall be refundable under any circumstances.

SECTION 2.06. Interest on Loans. (a) Subject to the provisions of Section 2.07, the Loans comprising each ABR Borrowing, including each Swingline Loan, shall bear interest (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be, when the Alternate Base Rate is determined by reference to the Prime Rate and over a year of 360 days at all other times) at a rate per annum equal to the Alternate Base Rate plus the Applicable Margin.

(b) Subject to the provisions of Section 2.07, the Loans comprising each Eurodollar Borrowing shall bear interest (computed on the basis of the actual number of days elapsed over a year of 360 days) at a rate per annum equal to the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin.

(c) Interest on each Loan shall be payable on the Interest Payment Dates applicable to such Loan except as otherwise provided in this Agreement. Subject to Section 2.08, the applicable Alternate Base Rate or Adjusted LIBO Rate for each Interest Period, as the case may be, shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.07. Default Interest. If a Borrower shall default in the payment of the principal of or interest on any Loan or any other amount becoming due and payable hereunder or under any other Loan Document, by acceleration or otherwise, such Borrower shall on demand from time to time pay interest, to the extent permitted by law, on such defaulted amount to but excluding the date of actual payment (after as well as before judgment) (a) in the case of overdue principal, at the rate otherwise applicable to such Loan pursuant to Section 2.06 plus 2.00% per annum and (b) in all other cases, at a rate per annum (computed on the basis of the actual number of days elapsed over a year of 365 or 366 days, as the case may be, when determined by reference to the Prime Rate and over a year of 360 days at all other times) equal to the rate that would be applicable to an ABR Revolving Loan plus 2.00%.

SECTION 2.08. Alternate Rate of Interest. In the event, and on each occasion, that prior to the commencement of any Interest Period for a Eurodollar Borrowing or the determination of the Benchmark LIBO Rate on any day (a) the Administrative Agent shall have determined that adequate and reasonable means do not exist for determining the Adjusted LIBO Rate for such Interest Period or the Benchmark LIBO Rate for such day or (b) the Administrative Agent is advised by the Majority Revolving Credit Lenders or the Majority Term Lenders in good faith that the Adjusted LIBO Rate for such Interest Period or the Benchmark LIBO Rate for such day will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing or such Credit-Linked Deposit, as applicable, for such Interest Period the Administrative Agent shall, as soon as practicable thereafter, give written or fax notice of such determination to the applicable Borrower and the Lenders. In the event of any such notice, until the Administrative Agent shall have advised the applicable Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any request by a Borrower for a Eurodollar Borrowing pursuant to Section 2.03 or 2.10 shall be deemed to be a request for an ABR Borrowing, (ii) any Interest Period election that requests the conversion of

any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and (iii) the Credit-Linked Deposits shall be invested so as to earn a return equal to the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each determination by the Administrative Agent under this Section 2.08 shall be conclusive absent manifest error.

SECTION 2.09. Termination and Reduction of Commitments; Return, Reduction and Conversion of Credit-Linked Deposits. (a) Unless previously terminated in accordance with the terms hereof, (i) the Term Loan Commitments shall automatically terminate at 5:00 p.m., New York City time, on the Restatement Date and (ii) the Revolving Credit Commitments, the Swingline Commitment and the Revolving L/C Commitment shall automatically terminate on the Revolving Credit Maturity Date. If any Funded Letter of Credit remains outstanding on the Funded Letter of Credit Maturity Date, the Term Loan Borrower shall deposit with the Administrative Agent an amount in cash equal to 100% of the aggregate undrawn amount of such Letter of Credit to secure the full obligations with respect to any drawings that may occur thereunder. Subject only to the Borrowers' compliance with their obligations under the immediately preceding sentence, any amount of the Credit-Linked Deposits held in the Credit-Linked Deposit Account will be returned to the Funded L/C Lenders on the Funded Letter of Credit Maturity Date pursuant to Section 2.11(b). Notwithstanding the foregoing, all the Commitments shall automatically terminate at 5:00 p.m., New York City time, on December 24, 2004, if the initial Credit Event shall not have occurred by such time.

(b) Upon at least three Business Days' prior irrevocable written or fax notice to the Administrative Agent, the Company may at any time in whole permanently terminate, or from time to time in part permanently reduce, in each case without premium or penalty, the Revolving Credit Commitments or the Swingline Commitment; provided, however, that (i) each partial reduction of the Revolving Credit Commitments or the Swingline Commitment shall be in an integral multiple of $1,000,000 and in a minimum amount of $5,000,000 and (ii) the Total Revolving Credit Commitment shall not be reduced to an amount that is less than the Aggregate Revolving Credit Exposure then in effect. Upon at least three Business Days' prior irrevocable written or fax notice to the Administrative Agent, the Company may at any time in whole permanently terminate, or from time to time permanently reduce, the Total Credit-Linked Deposit; provided, however, that (i) each partial reduction of the Total Credit-Linked Deposit shall be in an integral multiple of $1,000,000 and in a minimum amount of $5,000,000 and (ii) the Total Credit-Linked Deposit shall not be reduced to an amount that would result in the aggregate Funded L/C Exposure exceeding the Total Credit-Linked Deposit (as so reduced). In the event the Credit-Linked Deposits shall be reduced as provided in the immediately preceding sentence, the Administrative Agent shall return all amounts in the Credit-Linked Deposit Account in excess of the reduced Total Credit-Linked Deposit to the Funded L/C Lenders ratably in accordance with their Pro Rata Percentages of the Total Credit-Linked Deposit (as determined immediately prior to such reduction).

(c) Each reduction in the Revolving Credit Commitments or Swingline Commitment, or reduction of the Total Credit-Linked Deposit, hereunder shall be made ratably among the applicable Lenders in accordance with their Pro Rata Percentages. The Company shall pay to the Administrative Agent for the account of the applicable Lenders, on the date of each termination

or reduction, the Commitment Fees on the amount of the Commitments so terminated or reduced accrued to but excluding the date of such termination or reduction.

(d) In addition to the foregoing and subject to the terms hereof, so long as no Default or Event of Default shall have occurred and be continuing, upon at least three Business Days' prior irrevocable written or fax notice to the Administrative Agent, the Term Loan Borrower may, at any time and from time to time, request that any unused portion of the Total Credit-Linked Deposit in an amount not greater than the excess of the Total Credit-Linked Deposit over the aggregate Funded L/C Exposure be permanently converted into Term Loans, in whole or in part, without premium or penalty; provided, however, that (i) each partial conversion shall be an integral multiple of $1,000,000 and in a minimum amount of $5,000,000 and (ii) the Total Credit-Linked Deposit shall not be reduced to an amount that would result in the aggregate Funded L/C Exposure exceeding the Total Credit-Linked Deposit (as so reduced). Any such notice of conversion shall include the date and amount of such conversion. If any such notice of conversion is properly given, the Administrative Agent shall irrevocably and permanently fund the requested amount in the Credit-Linked Deposit Account to the Term Loan Borrower as proceeds of Term Loans made on such date by the Funded L/C Lenders ratably in accordance with their Pro Rata Percentages of the Total Credit-Linked Deposit, and the amount so funded shall permanently reduce the Total Credit-Linked Deposit; any amount so funded pursuant to this paragraph shall, on and after the funding date thereof, be deemed to be Term Loans for all purposes hereunder.

SECTION 2.10. Conversion and Continuation of Borrowings. Each Borrower shall have the right at any time upon prior irrevocable notice to the Administrative Agent (a) not later than 12:00 (noon), New York City time, one Business Day prior to conversion, to convert any Eurodollar Borrowing of such Borrower into an ABR Borrowing, (b) not later than 12:00 (noon), New York City time, three Business Days prior to conversion or continuation, to convert any ABR Borrowing of such Borrower into a Eurodollar Borrowing or to continue any Eurodollar Borrowing of such Borrower as a Eurodollar Borrowing for an additional Interest Period and (c) not later than 12:00 (noon), New York City time, three Business Days prior to conversion, to convert the Interest Period with respect to any Eurodollar Borrowing of such Borrower to another permissible Interest Period, subject in each case to the following:

(i) each conversion or continuation shall be made pro rata among the Lenders in accordance with the respective principal amounts of the Loans comprising the converted or continued Borrowing;

(ii) if less than all the outstanding principal amount of any Borrowing shall be converted or continued, then each resulting Borrowing shall satisfy the limitations specified in Sections 2.02(a) and 2.02(b) regarding the principal amount and maximum number of Borrowings of the relevant Type;

(iii) each conversion shall be effected by each Lender and the Administrative Agent by recording for the account of such Lender the new Loan of such Lender resulting from such conversion and reducing the Loan (or portion thereof) of such Lender being converted by an equivalent principal amount; accrued and unpaid interest on any

Eurodollar Loan (or portion thereof) being converted shall be paid by the applicable Borrower at the time of conversion;

(iv) if any Eurodollar Borrowing is converted at a time other than the end of the Interest Period applicable thereto, the applicable Borrower shall pay, upon demand, any amounts due to the Lenders pursuant to Section 2.16;

(v) any portion of a Borrowing maturing or required to be repaid in less than one month may not be converted into or continued as a Eurodollar Borrowing;

(vi) any portion of a Eurodollar Borrowing that cannot be converted into or continued as a Eurodollar Borrowing by reason of the immediately preceding clause shall be automatically converted at the end of the Interest Period in effect for such Borrowing into an ABR Borrowing;

(vii) no Interest Period may be selected for any Eurodollar Term Borrowing that would end later than a Repayment Date occurring on or after the first day of such Interest Period if, after giving effect to such selection, the aggregate outstanding amount of the sum of (A) the Eurodollar Term Borrowings with Interest Periods ending on or prior to such Repayment Date and (B) the ABR Term Borrowings would not be at least equal to the principal amount of Term Borrowings to be paid on such Repayment Date; and

(viii) after the occurrence and during the continuance of an Event of Default, no outstanding Loan may be converted into, or continued as, a Eurodollar Loan.

Each notice pursuant to this Section 2.10 shall be irrevocable and shall refer to this Agreement and specify (i) the identity and amount of the Borrowing that the applicable Borrower requests be converted or continued, (ii) whether such Borrowing is to be converted to or continued as a Eurodollar Borrowing or an ABR Borrowing, (iii) if such notice requests a conversion, the date of such conversion (which shall be a Business Day) and (iv) if such Borrowing is to be converted to or continued as a Eurodollar Borrowing, the Interest Period with respect thereto. If no Interest Period is specified in any such notice with respect to any conversion to or continuation as a Eurodollar Borrowing, the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration. The Administrative Agent shall advise the Lenders of any notice given pursuant to this Section 2.10 and of each Lender's portion of any converted or continued Borrowing. If the applicable Borrower shall not have given notice in accordance with this Section 2.10 to continue any Borrowing into a subsequent Interest Period (and shall not otherwise have given notice in accordance with this Section 2.10 to convert such Borrowing), such Borrowing shall, at the end of the Interest Period applicable thereto (unless repaid pursuant to the terms hereof), automatically be converted or continued into an ABR Borrowing.

SECTION 2.11. Repayment of Term Borrowings. (a) On the dates set forth below, or if any such date is not a Business Day, on the next preceding Business Day (each such date being called a "Repayment Date"), the Term Loan Borrower shall pay to the Administrative Agent, for the account of the Term Lenders, a principal amount of the Term Loans (as adjusted from time to

time pursuant to Sections 2.11(b), 2.12 and 2.13(e)) in an aggregate amount equal to the sum of the principal amount of Term Loans made on the Restatement Date, multiplied, in each case, by the percentage set forth below for such date, together in each case with accrued and unpaid interest and Fees on the amount to be paid to but excluding the date of such payment:

Repayment Date	Percentage
March 31, 2005	0.25%
June 30, 2005	0.25%
September 30, 2005	0.25%
December 31, 2005	0.25%
March 31, 2006	0.25%
June 30, 2006	0.25%
September 30, 2006	0.25%
December 31, 2006	0.25%
March 31, 2007	0.25%
June 30, 2007	0.25%
September 30, 2007	0.25%
December 31, 2007	0.25%
March 31, 2008	0.25%
June 30, 2008	0.25%
September 30, 2008	0.25%
December 31, 2008	0.25%
March 31, 2009	0.25%
June 30, 2009	0.25%
September 30, 2009	0.25%
December 31, 2009	0.25%
March 31, 2010	0.25%
June 30, 2010	0.25%
September 30, 2010	0.25%
December 31, 2010	0.25%
March 31, 2011	0.25%
June 30, 2011	0.25%
September 30, 2011	0.25%
Term Loan Maturity Date	93.25% or Remainder

(b) In the event and on each occasion that any Term Loan Commitments shall be reduced or shall expire or terminate other than as a result of the making of a Term Loan, the installments payable on each Repayment Date shall be reduced pro rata by an aggregate amount equal to the amount of such reduction, expiration or termination.

(c) To the extent not previously paid, all Term Loans shall be due and payable on the Term Loan Maturity Date, together with accrued and unpaid interest on the principal amount to be paid to but excluding the date of payment. To the extent not previously returned, all Credit-Linked Deposits shall be returned to the Funded L/C Lenders on the Funded Letter of Credit Maturity Date, together with accrued and unpaid fees and other amounts due hereunder.

(d) All repayments pursuant to this Section 2.11 shall be subject to Section 2.16, but shall otherwise be without premium or penalty.

SECTION 2.12. Prepayment. (a) Each Borrower shall have the right at any time and from time to time to prepay any Borrowing of such Borrower, in whole or in part, upon at least three Business Days' prior written or fax notice (or telephone notice promptly confirmed by written or fax notice) in the case of Eurodollar Loans, or written or fax notice (or telephone notice promptly confirmed by written or fax notice) at least one Business Day prior to the date of prepayment in the case of ABR Loans, to the Administrative Agent before 11:00 a.m., New York City time; provided, however, that each partial prepayment shall be in an amount that is an integral multiple of $1,000,000 and not less than $5,000,000.

(b) Optional prepayments of Term Loans shall be applied pro rata against the remaining scheduled installments of principal due in respect of the Term Loans.

(c) Each notice of prepayment shall specify the prepayment date and the principal amount of each Borrowing (or portion thereof) to be prepaid, shall be irrevocable and shall commit the applicable Borrower to prepay such Borrowing by the amount stated therein on the date stated therein. All prepayments under this Section 2.12 shall be subject to Sections 2.05(e) and 2.16. All prepayments under this Section 2.12 shall be accompanied by accrued and unpaid interest on the principal amount to be prepaid to but excluding the date of payment.

SECTION 2.13. Mandatory Prepayments. (a) In the event of any termination of all the Revolving Credit Commitments, each Revolving Loan Borrower shall, on the date of such termination, repay or prepay all its outstanding Revolving Credit Borrowings and all its outstanding Swingline Loans and replace all its outstanding Revolving Letters of Credit and/or deposit an amount equal to the Revolving L/C Exposure in cash in a cash collateral account established with the Collateral Agent for the benefit of the Revolving Credit Lenders. If as a result of any partial reduction of the Revolving Credit Commitments the Aggregate Revolving Credit Exposure would exceed the Total Revolving Credit Commitment after giving effect thereto, then the Revolving Loan Borrowers shall, on the date of such reduction, repay or prepay Revolving Credit Borrowings or Swingline Loans (or a combination thereof) and/or cash collateralize Revolving Letters of Credit in an amount sufficient to eliminate such excess.

(b) Not later than the tenth Business Day following receipt of Net Cash Proceeds from the completion of any Asset Sale (other than Excluded Proceeds) or the occurrence of any Recovery Event, the Term Loan Borrower shall apply the Required Prepayment Percentage of the Net Cash Proceeds received with respect thereto to prepay outstanding Term Loans and, thereafter, to permanently reduce the Total Credit-Linked Deposit, such prepayment and reduction to be made in accordance with Section 2.13(d).

(c) No later than the earlier of (i) 90 days after the end of each fiscal year of the Term Loan Borrower, commencing with the fiscal year ending on December 31, 2005, and (ii) the date on which the financial statements with respect to such period are delivered pursuant to Section 5.04(a), the Term Loan Borrower shall prepay outstanding Term Loans and, thereafter, permanently reduce the Total Credit-Linked Deposit, such prepayment and reduction to be made

in accordance with Section 2.13(d), in an aggregate principal amount equal to the Required Prepayment Percentage of Adjusted Excess Cash Flow for the fiscal year then ended.

(d) Notwithstanding any provision in this Agreement to the contrary, but subject to the right of each Term Lender and each Funded L/C Lender to elect to decline all or any portion of any prepayment or return pursuant to this Section 2.13 as described below, the amount to be prepaid or returned on any date pursuant to this Section 2.13 shall be applied first to the prepayment (to the extent required to be so applied) of all Term Loans outstanding on such date and thereafter (to the extent of any residual) to the permanent return of Credit-Linked Deposits outstanding on such date (or to be deposited in an account with the Administrative Agent if required under the circumstances described in paragraph (e) below). No later than 5:00 p.m., New York City time, one Business Day prior to the applicable prepayment or return date, each Term Lender and each Funded L/C Lender may provide written notice to the Administrative Agent either (i) setting forth the maximum amount of the aggregate amount of its Term Loans and/or Credit-Linked Deposits that it wishes to have prepaid or returned on such date pursuant to this Section (the "Requested Prepayment Amount") or (ii) declining in its entirety any prepayment or return on such date pursuant to this Section. In the event that any Term Lender or any Funded L/C Lender shall fail to provide such written notice to the Administrative Agent within the time period specified above, (i) such Term Lender shall be deemed to have elected a Requested Prepayment Amount equal to its ratable share of such mandatory prepayment (determined based on the percentage of the aggregate amount of all Term Loans represented by such Term Lender's Term Loans as determined immediately prior to such prepayment and without taking into account any Requested Prepayment Amount of any other Lender) and (ii) such Funded L/C Lender shall be deemed to have elected a Requested Prepayment Amount equal to its ratable share of such mandatory return (determined based on the percentage of the aggregate amount of the Total Credit-Linked Deposit represented by such Funded L/C Lender's Credit-Linked Deposits as determined immediately prior to such return and without taking into account any Requested Prepayment Amount of any other Lender). In the event that the amount of any mandatory prepayment or return to be made pursuant to this Section shall be equal to or exceed the aggregate amount of all Requested Prepayment Amounts of all Term Lenders electing (or deemed to be electing) such a prepayment, each Term Lender electing (or deemed to be electing) such a prepayment shall have an amount of its Term Loans prepaid that is equal to such Term Lender's Requested Prepayment Amount, and any residual amount of any mandatory prepayment or return remaining after such application shall be applied to the return of the Credit-Linked Deposits of the Funded L/C Lenders as follows: (i) in the event that any such residual amount shall be equal to or exceed the aggregate amount of all Requested Prepayment Amounts of all Funded L/C Lenders electing (or deemed to be electing) such a return, each Funded L/C Lender electing (or deemed to be electing) such a return shall have an amount of its Credit-Linked Deposits returned that is equal to such Funded L/C Lender's Requested Prepayment Amount or (ii) in the event that any such residual amount shall be less than the aggregate amount of all Requested Prepayment Amounts of all Funded L/C Lenders electing (or deemed to be electing) such a return, each Funded L/C Lender electing (or deemed to be electing) such a return shall have its Credit-Linked Deposits returned in an amount equal to the product of (A) the amount of such residual and (B) the percentage of the aggregate Requested Prepayment Amounts of all Funded L/C Lenders electing (or deemed to be electing) such a return represented by such Funded L/C Lender's Requested Prepayment Amount. In the event that the amount of any mandatory prepayment to be made pursuant to this Section shall be less than the aggregate

amount of all Requested Prepayment Amounts of all Term Lenders electing (or deemed to be electing) such a prepayment, (i) each Term Lender electing (or deemed to be electing) such a prepayment shall have its Term Loans prepaid in an amount equal to the product of (A) the amount of such mandatory prepayment and (B) the percentage of the aggregate Requested Prepayment Amounts of all Term Lenders electing (or deemed to be electing) such a prepayment represented by such Term Lender's Requested Prepayment Amount and (ii) no amount shall be returned in respect of the Credit-Linked Deposits. Mandatory prepayments of outstanding Term Loans under this Agreement shall be applied pro rata against the remaining scheduled installments due in respect of the Term Loans under Section 2.11.

(e) Notwithstanding any provision in this Agreement to the contrary, in the event that any permanent reduction of the Total Credit-Linked Deposit pursuant to this Section would result in the Funded L/C Exposure exceeding the Total Credit-Linked Deposit, the Term Loan Borrower shall deposit cash in a cash collateral account established with the Administrative Agent pursuant to Section 2.23(j) in the amount of such excess.

(f) The Term Loan Borrower shall deliver to the Administrative Agent, at the time of each prepayment or reduction required under this Section 2.13, (i) a certificate signed by a Financial Officer of the Term Loan Borrower setting forth in reasonable detail the calculation of the amount of such prepayment or reduction and (ii) to the extent practicable, at least ten days prior written notice of such prepayment or reduction (and the Administrative Agent shall promptly provide the same to each Term Lender and Funded L/C Lender). Each notice of prepayment or reduction shall specify the prepayment or reduction date, the Type of each Loan being prepaid and the principal amount of each Loan (or portion thereof) to be prepaid and the amount of any reduction of the Total Credit-Linked Deposit. All prepayments of Borrowings or reductions of the Total Credit-Linked Deposit pursuant to this Section 2.13 shall be subject to Section 2.16, but shall otherwise be without premium or penalty.

SECTION 2.14. Reserve Requirements; Change in Circumstances. (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender, the Administrative Agent or the Issuing Bank (except any such reserve requirement which is reflected in the Adjusted LIBO Rate) or

(ii) impose on any Lender, the Administrative Agent or the Issuing Bank or the London interbank market any other condition affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein or any Credit-Linked Deposit,

and the result of any of the foregoing shall be to increase the cost to such Lender or the Issuing Bank of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to any Lender, the Administrative Agent or the Issuing Bank of issuing or maintaining any Letter of Credit or any Credit-Linked Deposit or purchasing or maintaining a participation therein or to reduce the amount of any sum received or receivable by such Lender or the Issuing Bank hereunder (whether of principal, interest or otherwise) by an

amount reasonably deemed by such Lender, the Administrative Agent or the Issuing Bank to be material, then the Borrowers will pay to such Lender, the Administrative Agent or the Issuing Bank, as the case may be, upon demand such additional amount or amounts as will compensate such Lender or the Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender, the Administrative Agent or the Issuing Bank shall have determined that any Change in Law regarding capital adequacy has or would have the effect of reducing the rate of return on such Lender's, the Administrative Agent's or the Issuing Bank's capital or on the capital of such Lender's, the Administrative Agent's or the Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit purchased by, such Lender or the Letters of Credit issued by the Issuing Bank to a level below that which such Lender, the Administrative Agent or the Issuing Bank or such Lender's, the Administrative Agent's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's, the Administrative Agent's or the Issuing Bank's policies and the policies of such Lender's, the Administrative Agent's or the Issuing Bank's holding company with respect to capital adequacy) by an amount reasonably deemed by such Lender, the Administrative Agent or the Issuing Bank to be material, then from time to time the Borrowers shall pay to such Lender, the Administrative Agent or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender, the Administrative Agent or the Issuing Bank or such Lender's, the Administrative Agent's or the Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender, the Administrative Agent or the Issuing Bank setting forth the amount or amounts reasonably determined by such Person to be necessary to compensate such Lender, the Administrative Agent or the Issuing Bank or its holding company, as applicable, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrowers and shall be conclusive absent manifest error. The Borrowers shall pay such Lender, the Administrative Agent or the Issuing Bank, as the case may be, the amount or amounts shown as due on any such certificate delivered by it within 10 days after its receipt of the same.

(d) Failure or delay on the part of any Lender, the Administrative Agent or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's, the Administrative Agent's or the Issuing Bank's right to demand such compensation; provided that the Borrowers shall not be under any obligation to compensate any Lender, the Administrative Agent or the Issuing Bank under paragraph (a) or (b) above for increased costs or reductions with respect to any period prior to the date that is 270 days prior to such request if such Lender, the Administrative Agent or the Issuing Bank knew or could reasonably have been expected to know of the circumstances giving rise to such increased costs or reductions and of the fact that such circumstances would result in a claim for increased compensation by reason of such increased costs or reductions; provided further that the foregoing limitation shall not apply to any increased costs or reductions arising out of the retroactive application of any Change in Law within such 270-day period. The protection of this Section shall be available to each Lender, the Administrative Agent and the Issuing Bank regardless of any possible contention of the invalidity or inapplicability of the Change in Law that shall have occurred or been imposed.

SECTION 2.15. Change in Legality. (a) Notwithstanding any other provision of this Agreement, if any Change in Law shall make it unlawful for any Lender to make or maintain any Eurodollar Loan or to give effect to its obligations as contemplated hereby with respect to any Eurodollar Loan, then, by written notice to the Borrowers and to the Administrative Agent:

(i) such Lender may declare that Eurodollar Loans will not thereafter (for the duration of such unlawfulness) be made by such Lender hereunder (or be continued for additional Interest Periods and ABR Loans will not thereafter (for such duration) be converted into Eurodollar Loans), whereupon any request for a Eurodollar Borrowing (or to convert an ABR Borrowing to a Eurodollar Borrowing or to continue a Eurodollar Borrowing for an additional Interest Period) shall, as to such Lender only, be deemed a request for an ABR Loan (or a request to continue an ABR Loan as such for an additional Interest Period or to convert a Eurodollar Loan into an ABR Loan, as the case may be), unless such declaration shall be subsequently withdrawn; and

(ii) such Lender may require that all outstanding Eurodollar Loans made by it be converted to ABR Loans, in which event all such Eurodollar Loans shall be automatically converted to ABR Loans as of the effective date of such notice as provided in paragraph (b) below.

In the event any Lender shall exercise its rights under (i) or (ii) above, all payments and prepayments of principal that would otherwise have been applied to repay the Eurodollar Loans that would have been made by such Lender or the converted Eurodollar Loans of such Lender shall instead be applied to repay the ABR Loans made by such Lender in lieu of, or resulting from the conversion of, such Eurodollar Loans. Any such conversion of a Eurodollar Loan under (i) above shall be subject to Section 2.16.

(b) For purposes of this Section 2.15, a notice to the Borrowers by any Lender shall be effective as to each Eurodollar Loan made by such Lender, if lawful, on the last day of the Interest Period then applicable to such Eurodollar Loan; in all other cases such notice shall be effective on the date of receipt by the Borrowers.

SECTION 2.16. Indemnity. The Borrowers shall indemnify each Lender against any loss or expense that such Lender may sustain or incur as a consequence of (a) any event, other than a default by such Lender in the performance of its obligations hereunder, which results in (i) such Lender receiving or being deemed to receive any amount on account of the principal of any Eurodollar Loan prior to the end of the Interest Period in effect therefor, (ii) the conversion of any Eurodollar Loan to an ABR Loan, or the conversion of the Interest Period with respect to any Eurodollar Loan, in each case other than on the last day of the Interest Period in effect therefor, (iii) any Eurodollar Loan to be made by such Lender (including any Eurodollar Loan to be made pursuant to a conversion or continuation under Section 2.10) not being made after notice of such Loan shall have been given by the applicable Borrower hereunder, (iv) the default by the Term Loan Borrower in making any reduction or conversion of any Credit-Linked Deposits after notice thereof shall have been given by the Term Loan Borrower hereunder or (v) the reduction or conversion of any Credit-Linked Deposits on a day which is not the last day of the Interest Period with respect thereto (any of the events referred to in this clause (a) being called a "Breakage Event") or (b) any default in the making of any payment or prepayment

required to be made hereunder. In the case of any Breakage Event, such loss shall include an amount equal to the excess, as reasonably determined by such Lender, of (i) its cost of obtaining funds for the Eurodollar Loan or Credit–Linked Deposit that is the subject of such Breakage Event for the period from the date of such Breakage Event to the last day of the Interest Period in effect (or that would have been in effect) for such Loan or Credit–Linked Deposit, as the case may be, over (ii) the amount of interest likely to be realized by such Lender in redeploying the funds released or not utilized by reason of such Breakage Event for such period. A certificate of any Lender setting forth any amount or amounts which such Lender is entitled to receive pursuant to this Section 2.16 shall be delivered to the Borrowers and shall be conclusive absent manifest error.

SECTION 2.17. Pro Rata Treatment. Except as provided below in this Section 2.17 with respect to Swingline Loans and as required under Section 2.13, 2.14, 2.15 or 2.20, each Borrowing, each payment or prepayment of principal of any Borrowing, each payment of interest on the Loans, each payment of the Commitment Fees, each reduction of the Term Loan Commitments or the Revolving Credit Commitments and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type shall be allocated pro rata among the Lenders in accordance with their respective applicable Commitments (or, if such Commitments shall have expired or been terminated, in accordance with the respective principal amounts of their outstanding Loans). For purposes of determining the available Revolving Credit Commitments of the Lenders at any time, each outstanding Swingline Loan shall be deemed to have utilized the Revolving Credit Commitments of the Lenders (including those Lenders which shall not have made Swingline Loans) pro rata in accordance with such respective Revolving Credit Commitments. Each Lender agrees that in computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender's percentage of such Borrowing to the next higher or lower whole dollar amount.

SECTION 2.18. Sharing of Setoffs. Each Lender agrees that if it shall, through the exercise of a right of banker's lien, setoff or counterclaim against any Borrower or any other Loan Party, or pursuant to a secured claim under Section 506 of Title 11 of the United States Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, insolvency or other similar law or otherwise, or by any other means, obtain payment (voluntary or involuntary) in respect of any Loan or Loans or L/C Disbursement as a result of which the unpaid principal portion of its Loans and participations in L/C Disbursements shall be proportionately less than the unpaid principal portion of the Loans and participations in L/C Disbursements of any other Lender, it shall be deemed simultaneously to have purchased from such other Lender at face value, and shall promptly pay to such other Lender the purchase price for, a participation in the Loans and L/C Exposure of such other Lender, so that the aggregate unpaid principal amount of the Loans and L/C Exposure and participations in Loans and L/C Exposure held by each Lender shall be in the same proportion to the aggregate unpaid principal amount of all Loans and L/C Exposure then outstanding as the principal amount of its Loans and L/C Exposure prior to such exercise of banker's lien, setoff or counterclaim or other event was to the principal amount of all Loans and L/C Exposure outstanding prior to such exercise of banker's lien, setoff or counterclaim or other event; provided, however, that if any such purchase or purchases or adjustments shall be made pursuant to this Section 2.18 and the payment giving rise thereto shall thereafter be recovered, such purchase or purchases or adjustments shall be rescinded to the extent of such recovery and the

purchase price or prices or adjustment restored without interest. Each Borrower expressly consents to the foregoing arrangements and agrees that any Lender holding a participation in a Loan or L/C Disbursement deemed to have been so purchased may exercise any and all rights of banker's lien, setoff or counterclaim with respect to any and all moneys owing by such Borrower to such Lender by reason thereof as fully as if such Lender had made a Loan directly to such Borrower in the amount of such participation.

SECTION 2.19. Payments. (a) Each Borrower shall make each payment (including principal of or interest on any Borrowing or any L/C Disbursement or any Fees or other amounts) hereunder and under any other Loan Document not later than 12:00 (noon), New York City time, on the date when due in immediately available dollars, without setoff, defense or counterclaim. Each such payment (other than (i) Issuing Bank Fees, which shall be paid directly to the Issuing Bank, and (ii) principal of and interest on Swingline Loans, which shall be paid directly to the Swingline Lender except as otherwise provided in Section 2.22(e)) shall be made to the Administrative Agent at its offices at Eleven Madison Avenue, New York, NY 10010 by wire transfer of immediately available funds (or as otherwise agreed by the Company and the Administrative Agent). All payments hereunder and under each other Loan Document shall be made in dollars.

(b) Except as otherwise expressly provided herein, whenever any payment (including principal of or interest on any Borrowing or any Fees or other amounts) hereunder or under any other Loan Document shall become due, or otherwise would occur, on a day that is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or Fees, if applicable.

SECTION 2.20. Taxes. (a) Except as otherwise provided herein, any and all payments by or on account of any obligation of any Borrower or any other Loan Party hereunder or under any other Loan Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if any Borrower or any other Loan Party shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent or such Lender (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) such Borrower or such other Loan Party shall make (or cause to be made) such deductions and (iii) such Borrower or such other Loan Party shall pay (or cause to be paid) the full amount deducted to the relevant Governmental Authority in accordance with applicable law. In addition, any Borrower or any other Loan Party hereunder shall pay (or cause to be paid) any Other Taxes imposed other than by deduction or withholding to the relevant Governmental Authority in accordance with applicable law.

(b) Any and all payments by or on account of any obligation of the Administrative Agent pursuant to Section 2.24(b) hereunder shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if the Administrative Agent shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the Administrative Agent shall so notify the Company and advise it of the additional amount required to be paid so that the sum payable by the Administrative Agent pursuant to Section

2.24(b) after making all required deductions (including deductions applicable to additional sums payable under this Section) to the Funded L/C Lenders is an amount from the Administrative Agent equal to the sum they would have received from the Administrative Agent had no deductions been made, (ii) the Borrowers shall pay such additional amount to the Administrative Agent, (iii) the Administrative Agent shall make all required deductions, (iv) the Administrative Agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law and (v) the Borrowers shall jointly and severally indemnify, within 10 days after written demand therefor, the Administrative Agent with respect to any payments made on account of any obligation of the Administrative Agent pursuant to Section 2.24(b).

(c) Each Borrower shall jointly and severally indemnify the Administrative Agent and each Lender, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent or such Lender, as the case may be, or any of their respective Affiliates, on or with respect to any payment by or on account of any obligation of any Borrower or any Loan Party hereunder or under any other Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto. A certificate as to the amount of such payment or liability shall be delivered to any Borrower by a Lender, or by the Administrative Agent on its behalf or on behalf of a Lender, promptly upon such party's determination of an indemnifiable event and such certificate shall be conclusive absent clearly demonstrable error; provided that the failure to deliver such certificate shall not affect the obligations of the Borrowers under this Section 2.20(c) except to the extent the Borrower is actually prejudiced thereby. Payment under this Section 2.20(c) shall be made within 15 days from the date of delivery of such certificate; provided that no Borrower shall be obligated to make any such payment to the Administrative Agent or the Lender (as the case may be) in respect of penalties, interest and other liabilities attributable to any Indemnified Taxes or Other Taxes if and to the extent that such penalties, interest and other liabilities are attributable to the gross negligence or willful misconduct of the Administrative Agent or such Lender or to the failure of the Administrative Agent or a Lender to deliver a certificate as to the amount of an indemnifiable liability within 180 days of such party's determination of an indemnifiable event.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Borrower or any other Loan Party to a Governmental Authority, such Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which any Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to such Borrower (with a copy to the Administrative Agent), at the reasonable written request of such Borrower, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate, provided that such Lender is legally entitled to complete, execute and deliver such documentation and in such Lender's reasonable judgment such completion, execution or delivery would not materially prejudice the legal position of such Lender.

SECTION 2.21. Assignment of Commitments Under Certain Circumstances; Duty to Mitigate. (a) In the event (i) any Lender or the Issuing Bank delivers a certificate requesting compensation pursuant to Section 2.14, (ii) any Lender or the Issuing Bank delivers a notice described in Section 2.15 or (iii) any Borrower is required to pay any additional amount to any Lender or the Issuing Bank or any Governmental Authority on account of any Lender or the Issuing Bank pursuant to Section 2.20, the Borrowers may, at their sole expense and effort (including with respect to the processing and recordation fee referred to in Section 9.04(b)), upon notice to such Lender or the Issuing Bank and the Administrative Agent, require such Lender or the Issuing Bank to transfer and assign, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all of its interests, rights and obligations under this Agreement to an assignee that shall assume such assigned obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (x) such assignment shall not conflict with any law, rule or regulation or order of any court or other Governmental Authority having jurisdiction, (y) the Borrowers shall have received the prior written consent of the Administrative Agent (and, if a Revolving Credit Commitment is being assigned, of the Issuing Bank and the Swingline Lender), which consent shall not unreasonably be withheld, and (z) the Borrowers or such assignee shall have paid to the affected Lender or the Issuing Bank in immediately available funds an amount equal to the sum of the principal of and interest accrued to the date of such payment on the outstanding Loans or L/C Disbursements of such Lender or the Issuing Bank, respectively, plus all Fees and other amounts accrued for the account of such Lender or the Issuing Bank hereunder (including any amounts under Section 2.14 and Section 2.16); provided further that, if prior to any such transfer and assignment the circumstances or event that resulted in such Lender's or the Issuing Bank's claim for compensation under Section 2.14 or notice under Section 2.15 or the amounts paid pursuant to Section 2.20, as the case may be, cease to cause such Lender or the Issuing Bank to suffer increased costs or reductions in amounts received or receivable or reduction in return on capital, or cease to have the consequences specified in Section 2.15, or cease to result in amounts being payable under Section 2.20, as the case may be (including as a result of any action taken by such Lender or the Issuing Bank pursuant to paragraph (b) below), or if such Lender or the Issuing Bank shall waive its right to claim further compensation under Section 2.14 in respect of such circumstances or event or shall withdraw its notice under Section 2.15 or shall waive its right to further payments under Section 2.20 in respect of such circumstances or event, as the case may be, then such Lender or the Issuing Bank shall not thereafter be required to make any such transfer and assignment hereunder.

(b) If (i) any Lender or the Issuing Bank shall request compensation under Section 2.14, (ii) any Lender or the Issuing Bank delivers a notice described in Section 2.15 or (iii) any Borrower is required to pay any additional amount to any Lender or the Issuing Bank or any Governmental Authority on account of any Lender or the Issuing Bank, pursuant to Section 2.20, then such Lender or the Issuing Bank shall use reasonable efforts (which shall not require such Lender or the Issuing Bank to incur an unreimbursed loss or unreimbursed cost or expense or otherwise take any action inconsistent with its internal policies or legal or regulatory restrictions or suffer any disadvantage or burden deemed by it to be significant) (x) to file any certificate or document reasonably requested in writing by the Borrowers or (y) to assign its rights and delegate and transfer its obligations hereunder to another of its offices, branches or affiliates, if such filing or assignment would reduce its claims for compensation under Section 2.14 or enable it to withdraw its notice pursuant to Section 2.15 or would reduce

amounts payable pursuant to Section 2.20, as the case may be, in the future. Each Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or the Issuing Bank in connection with any such filing or assignment, delegation and transfer.

SECTION 2.22. Swingline Loans. (a) Swingline Commitment. Subject to the terms and conditions hereof and relying upon the representations and warranties set forth herein, the Swingline Lender agrees to make loans to the Revolving Loan Borrowers, at any time and from time to time after the Restatement Date, and until the earlier of the Revolving Credit Maturity Date and the termination of the Revolving Credit Commitments in accordance with the terms hereof, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of all Swingline Loans exceeding $30,000,000 in the aggregate or (ii) the Aggregate Revolving Credit Exposure, after giving effect to any Swingline Loan, exceeding the Total Revolving Credit Commitment. Each Swingline Loan shall be in a principal amount that is an integral multiple of $500,000. The Swingline Commitment may be terminated or reduced from time to time as provided herein. Within the foregoing limits, the Revolving Loan Borrowers may borrow, pay or prepay, without premium or penalty, and reborrow Swingline Loans hereunder, subject to the terms, conditions and limitations set forth herein.

(b) Swingline Loans. Each Revolving Loan Borrower shall notify the Administrative Agent by fax, or by telephone (confirmed by fax), not later than 10:00 a.m., New York City time, on the day of a proposed Swingline Loan to be made to it. Such notice shall be delivered on a Business Day, shall be irrevocable and shall refer to this Agreement and shall specify the requested date (which shall be a Business Day) and amount of such Swingline Loan. The Administrative Agent will promptly advise the Swingline Lender of any notice received from a Revolving Loan Borrower pursuant to this paragraph (b). The Swingline Lender shall make each Swingline Loan available to the applicable Revolving Loan Borrower by means of a credit to the general deposit account of such Revolving Loan Borrower with the Swingline Lender by 3:00 p.m. on the date such Swingline Loan is so requested.

(c) Prepayment. The Revolving Loan Borrowers shall have the right at any time and from time to time to prepay any Swingline Loan, in whole or in part, upon giving written or fax notice (or telephone notice promptly confirmed by written or fax notice) to the Swingline Lender and to the Administrative Agent before 12:00 (noon), New York City time, on the date of prepayment at the Swingline Lender's address for notices specified in the Lender Addendum delivered by the Swingline Lender. All principal payments of Swingline Loans shall be accompanied by accrued interest on the principal amount being repaid to the date of payment.

(d) Interest. Each Swingline Loan shall be an ABR Loan and, subject to the provisions of Section 2.07, shall bear interest as provided in Section 2.06(a).

(e) Participations. The Swingline Lender may by written notice given to the Administrative Agent not later than 10:00 a.m., New York City time, on any Business Day require the Revolving Credit Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Revolving Credit Lenders will participate. The Administrative Agent will, promptly upon receipt of such notice, give notice to each Revolving Credit Lender, specifying in such notice such Lender's Pro Rata Percentage of such Swingline Loan or Loans.

In furtherance of the foregoing, each Revolving Credit Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Revolving Credit Lender's Pro Rata Percentage of such Swingline Loan or Loans. Each Revolving Credit Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or an Event of Default, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Credit Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.02(c) with respect to Loans made by such Lender (and Section 2.02(c) shall apply, mutatis mutandis, to the payment obligations of the Lenders under this Section) and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Revolving Loan Borrowers of any participations in any Swingline Loan acquired pursuant to this paragraph and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Revolving Loan Borrowers (or other party on behalf of the Revolving Loan Borrowers) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve any Revolving Loan Borrower (or other party liable for obligations of any Revolving Loan Borrower) of any default in the payment thereof.

SECTION 2.23. Letters of Credit. (a) General. On the Restatement Date, the Existing Letters of Credit will automatically, without any action on the part of any Person, be deemed to be Funded Letters of Credit issued hereunder for the account of the Term Loan Borrower for all purposes of this Agreement and the other Loan Documents. Subject to the terms and conditions hereof, (i) each Revolving Loan Borrower may request the issuance of a Revolving Letter of Credit at any time and from time to time while the Revolving Credit Commitments remain in effect, and (ii) the Term Loan Borrower may request the issuance of a Funded Letter of Credit at any time and from time to time during the Funded Letter of Credit Availability Period, in the case of each of clauses (i) and (ii), for its own account or for the account of any of the Subsidiary Guarantors or for the account of any other Subsidiary provided that the L/C Exposure with respect to all such Letters of Credit for the account of Subsidiaries that are not Subsidiary Guarantors shall not exceed the L/C Exposure Cap (and, if for the account of a Subsidiary Guarantor or other Subsidiary, such Borrower and such Subsidiary Guarantor or such other Subsidiary, as the case may be, shall be co-applicants with respect to such Letter of Credit), in a form reasonably acceptable to the Administrative Agent and the Issuing Bank. This Section shall not be construed to impose an obligation upon the Issuing Bank to issue any Letter of Credit that is inconsistent with the terms and conditions of this Agreement.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. In order to request the issuance of a Letter of Credit (or to amend, renew or extend an existing Letter of Credit), the applicable Borrower shall hand deliver or fax to the Issuing Bank and the

Administrative Agent (no less than three Business Days (or such shorter period of time acceptable to the Issuing Bank) in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, whether such Letter of Credit shall be a Funded Letter of Credit or a Revolving Letter of Credit, the date of issuance, amendment, renewal or extension, the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) below), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare such Letter of Credit. The Issuing Bank shall promptly (i) notify the Administrative Agent in writing of the amount and expiry date of each Letter of Credit issued by it and (ii) provide a copy of such Letter of Credit (and any amendments, renewals or extensions thereof) to the Administrative Agent. A Funded Letter of Credit shall be issued, amended, renewed or extended only if, and upon issuance, amendment, renewal or extension of each such Funded Letter of Credit the Term Loan Borrower shall be deemed to represent and warrant that, after giving effect to such issuance, amendment, renewal or extension the Funded L/C Exposure shall not exceed the Total Credit-Linked Deposit at such time. A Revolving Letter of Credit shall be issued, amended, renewed or extended only if, and upon issuance, amendment, renewal or extension of each such Revolving Letter of Credit the applicable Revolving Loan Borrower shall be deemed to represent and warrant that, after giving effect to such issuance, amendment, renewal or extension, the Aggregate Revolving Credit Exposure shall not exceed the Total Revolving Credit Commitment. If the applicable Borrower shall fail to specify whether any requested Letter of Credit is to be a Funded Letter of Credit or a Revolving Letter of Credit, then the requested Letter of Credit shall be deemed to be a Funded Letter of Credit unless the issuance thereof would result in the Funded L/C Exposure exceeding the Total Credit-Linked Deposit at such time, in which case it shall be deemed to be a Revolving Letter of Credit, but only if the issuance of a Revolving Letter of Credit is permissible at such time as described above. Notwithstanding the foregoing, the issuance of Funded Letters of Credit shall also be subject to the limitations set forth in Section 2.23(e) below.

(c) Expiration Date. Each Letter of Credit shall expire at the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit and (ii)(A) in the case of any Revolving Letter of Credit, the date that is five Business Days prior to the Revolving Credit Maturity Date and (B) in the case of any Funded Letter of Credit, the date that is five Business Days prior to the Funded Letter of Credit Maturity Date, unless such Letter of Credit expires by its terms on an earlier date; provided, however, that a Letter of Credit may, upon the request of the applicable Borrower, include a provision whereby such Letter of Credit shall be renewed automatically for additional consecutive periods of 12 months or less (but not beyond the date that is five Business Days prior to, in the case of any Revolving Letter of Credit, the Revolving Credit Maturity Date or, in the case of any Funded Letter of Credit, the Funded Letter of Credit Maturity Date) unless the Issuing Bank notifies the beneficiary thereof at least 30 days prior to the then-applicable expiration date that such Letter of Credit will not be renewed.

(d) Participations. By the issuance of a Revolving Letter of Credit and without any further action on the part of the Issuing Bank or the Lenders, the Issuing Bank hereby grants to each Revolving Credit Lender, and each such Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Pro Rata Percentage of the

aggregate amount available to be drawn under such Letter of Credit, effective upon the issuance of such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Credit Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Bank, such Lender's Pro Rata Percentage of each Revolving L/C Disbursement made by the Issuing Bank and not reimbursed by any Borrower (or, if applicable, another party pursuant to its obligations under any other Loan Document) forthwith on the date due as provided in Section 2.02(f). Each Revolving Credit Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Revolving Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or an Event of Default, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

On the Restatement Date, without any further action on the part of the Issuing Bank or the Lenders, the Issuing Bank hereby grants to each Funded L/C Lender, and each such Lender hereby acquires from the Issuing Bank, a participation in each Funded Letter of Credit (including each Existing Letter of Credit) equal to such Lender's Pro Rata Percentage of the aggregate amount available to be drawn under such Letter of Credit. The aggregate purchase price for the participations of each Funded L/C Lender in Funded Letters of Credit shall equal the amount of the Credit–Linked Deposit of such Lender. Each Funded L/C Lender shall pay to the Administrative Agent its Credit–Linked Deposit in full on the Restatement Date. Each Funded L/C Lender hereby absolutely and unconditionally agrees that if the Issuing Bank makes a Funded L/C Disbursement which is not reimbursed by the Term Loan Borrower pursuant to Section 2.23(e), the Administrative Agent shall reimburse the Issuing Bank for the amount of such Funded L/C Disbursement, ratably as among the Funded L/C Lenders in accordance with their Pro Rata Percentages of the Total Credit–Linked Deposit, from such Funded L/C Lender's Credit–Linked Deposit on deposit in the Credit–Linked Deposit Account. Each Funded L/C Lender acknowledges and agrees that its obligation to acquire and fund participations in respect of Funded Letters of Credit pursuant to this paragraph is unconditional and irrevocable and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or an Event of Default or the return of the Credit–Linked Deposits, and that such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Without limiting the foregoing, each Funded L/C Lender irrevocably authorizes the Administrative Agent to apply amounts of its Credit–Linked Deposit as provided in this paragraph.

(e) Reimbursement. If the Issuing Bank shall make any Revolving L/C Disbursement in respect of a Revolving Letter of Credit, the applicable Revolving Loan Borrower shall pay or cause to be paid to the Administrative Agent an amount equal to such Revolving L/C Disbursement not later than two hours after such Revolving Loan Borrower shall have received notice from the Issuing Bank that payment of such draft will be made, or, if such Revolving Loan Borrower shall have received such notice later than 10:00 a.m., New York City time, on any Business Day, not later than 12:00 (noon), New York City time, on the immediately following Business Day.

If the Issuing Bank shall make any Funded L/C Disbursement in respect of a Funded Letter of Credit, the Term Loan Borrower shall have the right (but not the obligation) to pay or

cause to be paid to the Administrative Agent an amount equal to the entire amount of such Funded L/C Disbursement not later than two hours after the Term Loan Borrower shall have received notice from the Issuing Bank that payment of such draft will be made or, if the Term Loan Borrower shall have received such notice later than 10:00 a.m., New York City time, on any Business Day, not later than 12:00 (noon), New York City time, on the immediately following Business Day. If the Term Loan Borrower does not so elect to reimburse the Issuing Bank for such Funded L/C Disbursement, reimbursement of the Issuing Bank shall be made in accordance with the provisions of Section 2.02(f). In the event that the Term Loan Borrower elects to reimburse the Issuing Bank for any Funded L/C Disbursement, for a period of 91 days following such reimbursement payment by the Term Loan Borrower, the Funded L/C Exposure shall be deemed to include for all purposes hereunder (including for purposes of the issuance of any new Funded Letter of Credit during such period) the amount of such reimbursement payment until the end of such 91-day period.

(f) Obligations Absolute. Each Borrower's obligations to reimburse L/C Disbursements as provided in paragraph (e) above shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement, under any and all circumstances whatsoever, and irrespective of:

(i) any lack of validity or enforceability of any Letter of Credit or any Loan Document, or any term or provision therein;

(ii) any amendment or waiver of, or any consent to departure from, all or any of the provisions of any Letter of Credit or any Loan Document;

(iii) the existence of any claim, setoff, defense or other right that the applicable Borrower, any other party guaranteeing, or otherwise obligated with, such Borrower, any subsidiary or other Affiliate thereof or any other Person may at any time have against the beneficiary under any Letter of Credit, the Issuing Bank, the Administrative Agent or any Lender or any other Person, whether in connection with this Agreement, any other Loan Document or any other related or unrelated agreement or transaction;

(iv) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(v) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit; and

(vi) any other act or omission to act or delay of any kind of the Issuing Bank, any Lender, the Administrative Agent or any other Person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of the applicable Borrower's obligations hereunder.

Without limiting the generality of the foregoing, it is expressly understood and agreed that the absolute and unconditional obligation of each Borrower hereunder to reimburse L/C

Disbursements will not be excused by the gross negligence or willful misconduct of the Issuing Bank. However, the foregoing shall not be construed to excuse the Issuing Bank from liability to any Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by each Borrower to the extent permitted by applicable law) suffered by such Borrower that are caused by the Issuing Bank's gross negligence or willful misconduct in determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof; it is understood that the Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary and, in making any payment under any Letter of Credit (i) the Issuing Bank's exclusive reliance on the documents presented to it under such Letter of Credit as to any and all matters set forth therein, including reliance on the amount of any draft presented under such Letter of Credit, whether or not the amount due to the beneficiary thereunder equals the amount of such draft and whether or not any document presented pursuant to such Letter of Credit proves to be insufficient in any respect, if such document on its face appears to be in order, and whether or not any other statement or any other document presented pursuant to such Letter of Credit proves to be forged or invalid or any statement therein proves to be inaccurate or untrue in any respect whatsoever and (ii) any noncompliance in any immaterial respect of the documents presented under such Letter of Credit with the terms thereof shall, in each case, be deemed not to constitute willful misconduct or gross negligence of the Issuing Bank.

(g) Disbursement Procedures. The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall as promptly as possible give telephonic notification, confirmed by fax, to the Administrative Agent and the applicable Borrower of such demand for payment and whether the Issuing Bank has made or will make an L/C Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the applicable Borrower of its obligation to reimburse the Issuing Bank and the applicable Lenders with respect to any such L/C Disbursement. The Administrative Agent shall promptly give each Revolving Credit Lender or each Funded L/C Lender, as the case may be, notice thereof.

(h) Interim Interest. If the Issuing Bank shall make any L/C Disbursement in respect of a Letter of Credit, then, (i) in the case of any Revolving L/C Disbursement, unless the applicable Borrower shall reimburse such Revolving L/C Disbursement in full on such date or (ii) in the case of any Funded L/C Disbursement, unless either the Term Loan Borrower shall reimburse such Funded L/C Disbursement in full within the time period specified in Section 2.23(e) or the Administrative Agent shall reimburse such Funded L/C Disbursement with funds held in the Credit-Linked Deposit Account in full on such date, in each case the unpaid amount thereof shall bear interest for the account of the Issuing Bank, for each day from and including the date of such L/C Disbursement to but excluding the earlier of the date of payment by the applicable Borrower or the date on which interest shall commence to accrue thereon as

(i) Resignation or Removal of the Issuing Bank. The Issuing Bank may resign at any time by giving 30 days' prior written notice to the Administrative Agent, the Lenders and the Borrowers, and may be removed at any time by the Company by notice to the Issuing Bank, the Administrative Agent and the Lenders. Subject to the next succeeding paragraph, upon the acceptance of any appointment as the Issuing Bank hereunder by a Lender that shall agree to serve as successor Issuing Bank, such successor shall succeed to and become vested with all the interests, rights and obligations of the retiring Issuing Bank and the retiring Issuing Bank shall be discharged from its obligations to issue additional Letters of Credit hereunder without affecting its rights and obligations with respect to Letters of Credit previously issued by it. At the time such removal or resignation shall become effective, the Borrowers shall pay all accrued and unpaid fees pursuant to Section 2.05(c)(ii). The acceptance of any appointment as the Issuing Bank hereunder by a successor Lender shall be evidenced by an agreement entered into by such successor, in a form satisfactory to the Borrowers and the Administrative Agent, and, from and after the effective date of such agreement, (i) such successor Lender shall have all the rights and obligations of the previous Issuing Bank under this Agreement and the other Loan Documents and (ii) references herein and in the other Loan Documents to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the resignation or removal of the Issuing Bank hereunder, the retiring Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement and the other Loan Documents with respect to Letters of Credit issued by it prior to such resignation or removal, but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, the Borrowers shall, on the Business Day they receive notice from the Administrative Agent or the Majority Lenders (or, if the maturity of the Loans has been accelerated, Revolving Credit Lenders and Funded L/C Lenders with L/C Exposure representing greater than 50% of the total L/C Exposure) thereof and of the amount to be deposited, deposit in an account with the Collateral Agent, for the ratable benefit of the Lenders with L/C Exposure, an amount in cash equal to the L/C Exposure as of such date. Such deposit shall be held by the Collateral Agent as collateral for the payment and performance of the obligations of the Borrowers under this Agreement. The Collateral Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits in Cash Equivalents, which investments shall be made at the option and sole discretion of the Collateral Agent, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall (i) automatically be applied by the Administrative Agent to reimburse the Issuing Bank for L/C Disbursements for which it has not been reimbursed, (ii) be held for the satisfaction of the reimbursement obligations of the Borrowers for the L/C Exposure at such time and (iii) if the maturity of the Loans has been accelerated (but subject to the consent of Revolving Credit Lenders and Funded L/C Lenders with L/C Exposure representing greater than 50% of the total L/C Exposure), be applied to satisfy the Secured Obligations hereunder. If the Borrowers are required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrowers within three Business Days after all Events of Default have been cured or waived.

(k) Additional Issuing Banks. The Borrowers may, at any time and from time to time with the consent of the Administrative Agent (which consent shall not be unreasonably withheld) and such Lender, designate one or more additional Lenders to act as an issuing bank under the terms of the Agreement. Any Lender designated as an issuing bank pursuant to this paragraph shall be deemed to be an "Issuing Bank" (in addition to being a Lender) in respect of Letters of Credit issued or to be issued by such Lender, and, with respect to such Letters of Credit, such term shall thereafter apply to the other Issuing Bank and such Lender.

SECTION 2.24. Credit-Linked Deposit Account. (a) The Credit-Linked Deposits shall be held by the Administrative Agent in the Credit-Linked Deposit Account, and no party other than the Administrative Agent shall have a right of withdrawal from the Credit-Linked Deposit Account or any other right or power with respect to the Credit-Linked Deposits, except as expressly set forth in Section 2.02(f), 2.09(b) or 2.09(d). Notwithstanding any provision in this Agreement to the contrary, the sole funding obligation of each Funded L/C Lender in respect of its participation in Funded Letters of Credit shall be satisfied in full upon the funding of its Credit-Linked Deposit on the Restatement Date.

(b) Each of the Borrowers, the Administrative Agent, the Issuing Bank and each Funded L/C Lender hereby acknowledges and agrees that each Funded L/C Lender is funding its Credit-Linked Deposit to the Administrative Agent for application in the manner contemplated by Section 2.02(f) and that the Administrative Agent has agreed to invest the Credit-Linked Deposits so as to earn a return (subject to Section 2.08) for the Funded L/C Lenders equal to (i) the LIBO Rate (without giving effect to the last proviso in the definition thereof) for the Interest Period in effect for the Credit-Linked Deposits at such time (the "Benchmark LIBO Rate") minus (ii) 0.10%. Such interest will be paid to the Funded L/C Lenders by the Administrative Agent quarterly in arrears when Letter of Credit fees are payable pursuant to Section 2.05(d). In addition to the foregoing payments by the Administrative Agent, the Borrowers agree to make payments to the Funded L/C Lenders quarterly in arrears when Letter of Credit fees are payable pursuant to Section 2.05(d) (and together with the payment of such fees) in an amount equal to 0.10% on the average daily amount of the Credit-Linked Deposit during the applicable Interest Period.

(c) Subject to Section 2.09(d), the Borrowers shall have no right, title or interest in or to the Credit-Linked Deposits and no obligations with respect thereto, it being acknowledged and agreed by the parties hereto that the making of the Credit-Linked Deposits by the Funded L/C Lenders, the provisions of this Section 2.24 and the application of the Credit-Linked Deposits in the manner contemplated by Section 2.02(f) constitute agreements among the Administrative Agent, the Issuing Bank and each Funded L/C Lender with respect to the funding obligations of each Funded L/C Lender in respect of its participation in Funded Letters of Credit and do not constitute any loan or extension of credit to the Borrowers, subject to the provisions of Section 2.02(f).

(d) Subject to the Borrowers' compliance with the cash-collateralization requirements set forth in Section 2.09, the Administrative Agent shall return any remaining Credit-Linked Deposits to the Funded L/C Lenders following the occurrence of the Funded Letter of Credit Maturity Date.

ARTICLE III.

Representations and Warranties

Each Borrower jointly and severally represents and warrants to the Arrangers, the Administrative Agent, the Collateral Agent, the Issuing Bank and each of the Lenders that:

SECTION 3.01. Organization; Powers. The Company and each of the Subsidiaries (a) is duly organized or formed, validly existing and in good standing under the laws of the jurisdiction of its organization or formation, (b) has all requisite power and authority, and the legal right, to own and operate its property and assets, to lease the property it operates as lessee and to carry on its business as now conducted and as proposed to be conducted, (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure so to qualify, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect and (d) has the power and authority, and the legal right, to execute, deliver and perform its obligations under this Agreement, each of the other Loan Documents and each other agreement or instrument contemplated hereby or thereby to which it is or will be a party, including, in the case of the Borrowers, to borrow hereunder, in the case of each Loan Party, to grant the Liens contemplated to be granted by it under the Security Documents and, in the case of each Subsidiary Guarantor, to Guarantee the Secured Obligations hereunder as contemplated by the Guarantee and Collateral Agreement.

SECTION 3.02. Authorization; No Conflicts. The Transactions (a) have been duly authorized by all requisite corporate, partnership or limited liability company and, if required, stockholder, partner or member action and (b) will not (i) violate (A) any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of the Company or any Subsidiary, (B) any order of any Governmental Authority or arbitrator or (C) any provision of any indenture or any material agreement or other material instrument to which the Company or any Subsidiary is a party or by which any of them or any of their property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under, or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any such indenture or material agreement or other material instrument or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Company or any other Loan Party (other than Liens created under the Security Documents).

SECTION 3.03. Enforceability. This Agreement has been duly executed and delivered by each Borrower and constitutes, and each other Loan Document when executed and delivered by each Loan Party party thereto will constitute, a legal, valid and binding obligation of such Loan Party enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.04. Governmental Approvals. No action, consent or approval of, registration or filing with, notice to, or any other action by, any Governmental Authority is or will be

required in connection with the Transactions, except for (a) the filing of UCC financing statements and filings with the United States Patent and Trademark Office and the United States Copyright Office, (b) recordation of the Mortgages and (c) such as have been made or obtained and are in full force and effect.

SECTION 3.05. Financial Statements. (a) The Company has, on or prior to the Restatement Date, furnished to the Lenders its consolidated balance sheets and statements of income and stockholder's equity (i) as of and for the fiscal years ended December 31, 2003, December 31, 2002 and December 31, 2001, audited by and accompanied by the opinion of PricewaterhouseCoopers LLP, independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended September 30, 2004, certified by a Financial Officer of the Company and reviewed by KPMG LLP, independent public accountants, as provided in Statement on Auditing Standards No. 100. Such financial statements present fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries as of such dates and for such periods, subject to normal year-end audit adjustments and the absence of footnotes in the case of the financial statements referred to in clause (ii) above. Such balance sheets and the notes thereto disclose all material liabilities, direct or contingent, of the Company and its consolidated Subsidiaries as of the dates thereof. Such financial statements were prepared in accordance with GAAP applied on a consistent basis (except, with respect to such financial statements referred to in clause (ii) above, for the absence of footnotes and normal year-end adjustments).

(b) The Company has heretofore delivered to the Lenders its unaudited pro forma consolidated balance sheet and statements of income, stockholder's equity and cash flows as of September 30, 2004, prepared giving effect to the Transactions as if they had occurred, with respect to such balance sheet, on such date and, with respect to such other financial statements, on the first day of each of the 9-month period and 12-month period ending on such date. Such pro forma financial statements (i) have been prepared in good faith by the Company, based on the assumptions used to prepare the pro forma financial information contained in the Confidential Information Memorandum (which assumptions are believed by the Company on the Restatement Date to be reasonable) and (ii) present fairly in all material respects on a pro forma basis the estimated consolidated financial position of the Company and its consolidated Subsidiaries as of such date and for such period, assuming that the Transactions had actually occurred at such date or at the beginning of such period, as the case may be (it being understood that estimates, by their nature, are inherently uncertain and that no assurances are being made that such results will be achieved).

SECTION 3.06. No Material Adverse Change. No event, change or condition has occurred that has had, or could reasonably be expected to have, a Material Adverse Effect, since December 31, 2003.

SECTION 3.07. Title to Properties; Possession Under Leases. (a) Each of the Company and the other Loan Parties has good and marketable title to, or valid leasehold interests in, all its material properties and material assets that are included in the Collateral (including all Mortgaged Property) and including valid rights, title and interests in or rights to control or occupy easements or rights of way used in connection with such properties and assets ("Easements"), free and clear of all Liens or other exceptions to title other than Permitted Liens.

(b) Each of the Company and the Subsidiaries has complied with all material obligations under all material leases to which it is a party and all such material leases are in full force and effect. Each of the Company and the Subsidiaries enjoys peaceful and undisturbed possession under all such material leases.

(c) None of the Company or any of the other Loan Parties has received any notice of, nor has any knowledge of, any pending or contemplated condemnation proceeding affecting the Mortgaged Properties or any sale or disposition thereof in lieu of condemnation (i) as of the Restatement Date or (ii) at any time thereafter, which in the case of clause (ii) has had, or could reasonably be expected to have, a Material Adverse Effect.

(d) Except as set forth on Schedule 3.07, none of the Company or any of the Subsidiaries is obligated under any right of first refusal, option or other contractual right to sell, assign or otherwise dispose of any Mortgaged Property or any interest therein.

SECTION 3.08. Subsidiaries. Schedule 3.08 sets forth as of the Restatement Date a list of all Subsidiaries, including each Subsidiary's exact legal name (as reflected in such Subsidiary's certificate or articles of incorporation or other constitutive documents) and jurisdiction of incorporation or formation and the percentage ownership interest of the Company (direct or indirect) therein, and identifies each Subsidiary that is a Loan Party. The shares of capital stock or other Equity Interests so indicated on Schedule 3.08 are owned by the Company, directly or indirectly, free and clear of all Liens (other than Liens created under the Security Documents and, in the case of Equity Interests (other than Pledged Securities), Liens expressly permitted hereunder) and all such shares of capital stock are fully paid and non-assessable.

SECTION 3.09. Litigation; Compliance with Laws. (a) Except as set forth on Schedule 3.09, there are no actions, suits or proceedings at law or in equity or by or before any arbitrator or Governmental Authority now pending or, to the knowledge of any Borrower, threatened against the Company or any Subsidiary or any business, property or rights of the Company or any Subsidiary (i) that involve any Loan Document or the Transactions or (ii) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except as set forth on Schedule 3.09, none of the Company or any of the Subsidiaries or any of their respective material properties or assets is in violation of any law, rule or regulation (including any zoning, building, ordinance, code or approval or any building permits, but not including any Environmental Law which is the subject of Section 3.17) or any restrictions of record or agreements affecting the Mortgaged Property, or is in default with respect to any judgment, writ, injunction, decree or order of any Governmental Authority, where such violation or default, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

(c) Certificates of occupancy and permits are in effect for each Mortgaged Property as currently constructed.

SECTION 3.10. Agreements. (a) None of the Company or any of the Subsidiaries is a party to any agreement or instrument, or subject to any corporate restriction, that, individually or in the aggregate, has resulted or could reasonably be expected to result in a Material Adverse Effect.

(b) None of the Company or any of the Subsidiaries is in default in any manner under any provision of any indenture or other agreement or instrument evidencing Indebtedness, or any other material agreement or instrument to which it is a party or by which it or any of its properties or assets are or may be bound, where such default, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11. Federal Reserve Regulations. (a) None of the Company or any of the Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock.

(b) No part of the proceeds of any Loan or any Letter of Credit will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for purchasing or carrying Margin Stock or for the purpose of purchasing, carrying or trading in any securities under such circumstances as to involve any Borrower in a violation of Regulation X or to involve any broker or dealer in a violation of Regulation T. No Indebtedness being reduced or retired out of the proceeds of any Loans or Letters of Credit was or will be incurred for the purpose of purchasing or carrying any Margin Stock. Following the application of the proceeds of the Loans and the Letters of Credit, Margin Stock will not constitute more than 25% of the value of the assets of the Company and the Subsidiaries. None of the transactions contemplated by this Agreement will violate or result in the violation of any of the provisions of the Regulations of the Board, including Regulation T, U or X. If requested by any Lender or the Administrative Agent, each Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G–3 or FR Form U–1 referred to in Regulation U.

SECTION 3.12. Investment Company Act. None of the Company or any of the Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended from time to time.

SECTION 3.13. Use of Proceeds. The Borrowers will use the proceeds of the Term Loans and Revolving Loans made on the Restatement Date solely in connection with the assignment of the Term Loans, Credit–Linked Deposits, Revolving Loans and Revolving Credit Commitments existing on the Restatement Date, and to re–evidence and/or to pay amounts outstanding under the Original Credit Agreement and fees and expenses incurred in connection therewith. The Revolving Loan Borrowers will use the proceeds of the Revolving Loans and the Swingline Loans made after the Restatement Date solely for the working capital requirements and general corporate purposes of the Company and the Subsidiary Guarantors. The Revolving Loan Borrowers and the Term Loan Borrower, as the case may be, will request the issuance of Letters of Credit solely for the working capital requirements and general corporate purposes of (i) the Company and the Subsidiary Guarantors or (ii) any other Subsidiary, provided that the L/C Exposure with respect thereto shall not exceed the L/C Exposure Cap. The Term Loan Borrower will use the proceeds of the Term Loans that may be made, or deemed to be made,

from the requested conversion of Credit–Linked Deposits into Term Loans solely for the working capital requirements and general corporate purposes of the Company and the Subsidiary Guarantors.

SECTION 3.14. Tax Returns. Each of the Company and each of the Subsidiaries has filed or caused to be filed all Federal, state, local and foreign tax returns or materials required to have been filed by it and all such tax returns are correct and complete in all material respects. Each of the Company and each of the Subsidiaries has paid or caused to be paid all Taxes due and payable by it and all assessments received by it, except Taxes that are being contested in good faith by appropriate proceedings and for which the Company or such Subsidiary, as applicable, shall have set aside on its books adequate reserves. No Lien for Taxes has been filed (except for Taxes not yet delinquent that are being contested in good faith by appropriate proceedings), and to the knowledge of the Company and each of the Subsidiaries, no claim is being asserted, with respect to any Tax. Neither the Company nor any of the Subsidiaries (a) intends to treat the Loans or any of the transactions contemplated by any Loan Document as being a "reportable transaction" (within the meaning of Treasury Regulation Section 1.6011–4) or (b) is aware of any facts or events that would result in such treatment.

SECTION 3.15. No Material Misstatements. The Borrowers have disclosed to the Arrangers, the Administrative Agent and the Lenders all agreements, instruments and corporate or other restrictions to which the Company or any of the Subsidiaries is subject, and all other matters known to any of them, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of (i) the Confidential Information Memorandum or (ii) any other information, report, financial statement, exhibit or schedule furnished by or on behalf of the Company or any Subsidiary to the Arrangers, the Administrative Agent or any Lender for use in connection with the transactions contemplated by the Loan Documents or in connection with the negotiation of any Loan Document or included therein or delivered pursuant thereto contained, contains or will contain (as of the date of its delivery to the Arrangers, the Administrative Agent or any Lender or, as modified or supplemented, as of the Restatement Date) any material misstatement of fact or omitted, omits or will omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were, are or will be made, not misleading; provided that to the extent any such information, report, financial statement, exhibit or schedule was based upon or constitutes a forecast or projection, each Borrower represents only that it acted in good faith and utilized reasonable assumptions and due care in the preparation of such information, report, financial statement, exhibit or schedule.

SECTION 3.16. Employee Benefit Plans. Each of the Company and each of its ERISA Affiliates is in compliance in all material respects with the applicable provisions of ERISA and, in respect of the Benefit Plans and Multiemployer Plans, the Tax Code and the regulations and published interpretations thereunder. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, could reasonably be expected to result in material liability of the Company or any of its ERISA Affiliates.

SECTION 3.17. Environmental Matters . (a) Except as set forth in Schedule 3.17 or except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, none of the Company or any of the Subsidiaries:

(i) has failed to comply with any Environmental Law or to take all actions necessary to obtain, maintain, renew and comply with any permit, license or other approval required under Environmental Law;

(ii) has become a party to any administrative or judicial proceeding or possesses knowledge of any such proceeding that has been threatened that may result in the termination, revocation or modification of any permit, license or other approval required under Environmental Law;

(iii) has become subject to any Environmental Liability or possesses knowledge that any Mortgaged Property (A) is subject to any Lien imposed pursuant to Environmental Law or (B) contains Hazardous Materials of a form or type or in a quantity or location that could reasonably be expected to result in any Environmental Liability;

(iv) has received written notice of any claim or threatened claim with respect to any Environmental Liability other than those which have been fully and finally resolved and for which no obligations remain outstanding; or

(v) possesses knowledge of any facts or circumstances that are reasonably likely to result in any Environmental Liability or could materially interfere with or prevent continued material compliance with Environmental Laws in effect as of the Restatement Date and the date of each Credit Event by the Company or the Subsidiaries.

(b) Since the Restatement Date, there has been no change in the status of the matters disclosed on Schedule 3.17 that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

The representations and warranties in this Section 3.17 are the sole representations and warranties herein with respect to Environmental Law.

SECTION 3.18. Insurance. Schedule 3.18 sets forth a true, complete and correct description of all insurance maintained by or on behalf of the Company and the Subsidiaries as of the Restatement Date. As of the Restatement Date, such insurance is in full force and effect and all premiums that are due and owed have been duly paid. The Company and the Subsidiaries are insured by financially sound and responsible insurers and such insurance is in such amounts and covering such risks and liabilities (and with such deductibles, retentions and exclusions) as are maintained by companies of a similar size operating in the same or similar businesses. None of the Company or any of the Subsidiaries (a) has received notice from any insurer under any such insurance (or any agent thereof) that substantial capital improvements or other substantial expenditures will have to be made in order to continue such insurance (i) as of the Restatement Date or (ii) at any time thereafter, which in the case of clause (ii) has had, or could reasonably be expected to have, a Material Adverse Effect or (b) has any reason to believe that it will not be able to renew its existing coverage as and when such coverage expires or to obtain similar coverage from similar insurers at a substantially similar cost as available to companies of a similar size operating in the same or similar businesses.

SECTION 3.19. Security Documents. (a) The Guarantee and Collateral Agreement is effective to create in favor of the Collateral Trustee, for the ratable benefit of the Secured Parties, a legal, valid, binding and enforceable security interest in the Collateral described therein and proceeds thereof and (i) in the case of the Pledged Securities, upon the earlier of (A) when such Pledged Securities are delivered to the Collateral Trustee and (B) when financing statements in appropriate form are filed in the offices specified on Schedule 3.19(a) and (ii) in the case of all other Collateral described therein (other than Intellectual Property Collateral), when financing statements in appropriate form are filed in the offices specified on Schedule 3.19(a), the Guarantee and Collateral Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Secured Parties in such Collateral and proceeds thereof, as security for the Secured Obligations hereunder, in each case prior and superior to the rights of any other Person (except, in the case of all Collateral other than Pledged Securities, with respect to Liens expressly permitted by Section 6.02).

(b) Each Intellectual Property Security Agreement is effective to create in favor of the Collateral Trustee, for the ratable benefit of the Secured Parties, a legal, valid, binding and enforceable security interest in the Intellectual Property Collateral described therein and proceeds thereof. When each Intellectual Property Security Agreement is filed in the United States Patent and Trademark Office and the United States Copyright Office, respectively, together with financing statements in appropriate form filed in the offices specified in Schedule 3.19(a), such Intellectual Property Security Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the grantors thereunder in the Intellectual Property Collateral and proceeds thereof, as security for the Secured Obligations hereunder, in each case prior and superior in right to any other Person (except with respect to Liens expressly permitted by Section 6.02) (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office may be necessary to perfect a lien on registered trademarks, trademark applications and copyrights acquired by the grantors after the Restatement Date).

(c) Each of the Mortgages is effective to create in favor of the Collateral Trustee, for the ratable benefit of the Secured Parties, a legal, valid, binding, subsisting and enforceable Lien on, and security interest in, all of the Loan Parties' right, title and interest in and to the Mortgaged Property thereunder and proceeds thereof, and when the Mortgages are filed in the offices specified on Schedule 3.19(c), each such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the grantors thereof in such Mortgaged Property and proceeds thereof, as security for the Secured Obligations hereunder, in each case prior and superior in right to any other Person (except Liens expressly permitted by clauses (f), (h), (i) (j), (k) (solely to the extent that such Lien relating to such Permitted Refinancing Indebtedness was permitted prior to such refinancing by clause (f), (h), (i), (j), (n), (p) or (q)), (n), (p) or (q) of the definition of "Permitted Liens").

SECTION 3.20. Location of Real Property. Schedule 3.20 lists completely and correctly as of the Restatement Date all real property owned or leased by the Company and the other Loan Parties and all real property to which the Company and the other Loan Parties have an interest via easement, license or permit and, in each case, the addresses thereof, indicating for each parcel whether it is owned or leased. As of the Restatement Date, the Company and the other

Loan Parties own in fee or have valid leasehold or easement interests in, as the case may be, all the real property set forth on Schedule 3.20.

SECTION 3.21. Labor Matters. As of the Restatement Date, there are no strikes, lockouts or slowdowns against the Company or any Subsidiary pending or, to the knowledge of any Borrower, threatened. The hours worked by and payments made to employees of the Company and the Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law dealing with such matters. All payments due from the Company or any Subsidiary, or for which any claim may be made against the Company or any Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of the Company or such Subsidiary. The consummation of the Transactions will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which the Company or any Subsidiary is bound.

SECTION 3.22. Intellectual Property. Each of the Company and each of the Subsidiaries owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property material to its business, and the use thereof by the Company and the Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.23. Energy Regulation. (a) Neither the Company nor any "subsidiary company" of the Company is, or by virtue of the Transactions, will become, subject to regulation as (i) a "holding company" or a "public utility company" or, to the best of the knowledge of the Company after due inquiry, (ii) a "subsidiary company" of a "holding company," in each case as such terms are defined in PUHCA. To the best of the knowledge of the Company after due inquiry, as of the Restatement Date, none of the Company or any "subsidiary company" of the Company shall be a "subsidiary company" of a "holding company," in each case as such terms are defined in PUHCA.

(b) None of the Company or any of the Subsidiaries is subject to regulation as a "public utility" as such term is defined in the FPA, other than entities that have market-based rate authority under Section 205 of the FPA. Each Subsidiary that is subject to regulation as a "public utility" as such term is defined in the FPA has validly issued orders from the FERC that, to the best of the knowledge of the Company after due inquiry, are not subject to any pending challenge, investigation or proceeding (other than the FERC's generic proceeding initiated in Docket No. EL01-118-000) (x) authorizing such Subsidiary to engage in wholesale sales of electricity and, to the extent permitted under its market-based rate tariff, other transactions at market-based rates and (y) granting such waivers and blanket authorizations as are customarily granted to entities with market-based rate authority, including blanket authorizations to issue securities and assume liabilities pursuant to Section 204 of the FPA. Devon Power LLC, Middleton Power LLC and Montville Power LLC also have "reliability must run" agreements with ISO New England, which impose certain limitations on these companies in exchange for a guarantee of fixed cost recovery. The FERC has issued an order stating that it grants to the Company authority to issue certain securities under Section 204 of the FPA, but it has not issued an order stating that it grants to the Company blanket authorizations to issue securities and

assume liabilities pursuant to Section 204 of the FPA. With respect to each Person described in the preceding sentence, FERC has not imposed any rate caps or mitigation measures other than rate caps and mitigation measures generally applicable to similarly situated marketers or generators selling electricity, ancillary services or other services at wholesale at market-based rates in the geographic market where such Person conducts its business.

(c) None of the Company or any of the Subsidiaries is subject to any state laws or regulations respecting rates or the financial or organizational regulation of utilities, other than, with respect to those Subsidiaries that are QF's, such state regulations contemplated by 18 C.F.R. Section 292.602(c), "lightened regulation" by the New York State Public Service Commission (the "NYPSC") of the type described in the NYPSC's order issued on September 23, 2004 in Case 04-E-0884 and the assertion of jurisdiction by the State of California over maintenance and operating standards of all generating facilities pursuant to SB 39XX.

SECTION 3.24. Solvency. Immediately after the consummation of the Transactions to occur on the Restatement Date and immediately following the making of each Loan (or other extension of credit hereunder) and after giving effect to the application of the proceeds of each Loan (or other extension of credit hereunder), (a) the fair value of the assets of each Loan Party, at a fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the property of each Loan Party will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) each Loan Party will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (d) no Loan Party will have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted following the Restatement Date.

ARTICLE IV.

Conditions of Lending

Without affecting the rights of any Loan Party hereunder at all times prior to the Restatement Date, the amendment and restatement of the Original Credit Agreement in the form hereof and the obligations of the Lenders to make Loans, the obligations of the Issuing Bank to issue Letters of Credit and the obligations of the Funded L/C Lenders to fund their Credit-Linked Deposits hereunder are subject to the satisfaction (or waiver in accordance with Section 9.08) of the following conditions:

SECTION 4.01. All Credit Events. On the date of each Borrowing on or after the Restatement Date, including each Borrowing of a Swingline Loan, and on the date of each issuance, amendment, extension or renewal of a Letter of Credit on or after the Restatement Date (each such event being called a "Credit Event"):

(a) The Administrative Agent shall have received a notice of such Borrowing as required by Section 2.03 (or such notice shall have been deemed given in accordance with Section 2.03) or, in the case of the issuance, amendment, extension or renewal of a

Letter of Credit, the Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance, amendment, extension or renewal of such Letter of Credit as required by Section 2.23(b) or, in the case of the Borrowing of a Swingline Loan, the Swingline Lender and the Administrative Agent shall have received a notice requesting such Swingline Loan as required by Section 2.22(b).

(b) The representations and warranties set forth in each Loan Document shall be true and correct in all material respects on and as of the date of such Credit Event with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects on and as of such earlier date.

(c) Each Borrower and each other Loan Party shall be in compliance with all the terms and provisions set forth in each Loan Document on its part to be observed or performed, and, at the time of and immediately after such Credit Event, no Event of Default or Default shall have occurred and be continuing.

(d) After giving effect to such Credit Event, the Aggregate Revolving Credit Exposure shall not exceed the Total Revolving Credit Commitment.

Each Credit Event shall be deemed to constitute a joint and several representation and warranty by the Borrowers on the date of such Credit Event as to the matters specified in paragraphs (b), (c) and (d) of this Section 4.01.

SECTION 4.02. Conditions Precedent to Restatement Date. On the Restatement Date:

(a) The Administrative Agent shall have received, on behalf of itself, the Lenders and the Issuing Bank, a favorable written opinion of (i) Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Borrowers and the Subsidiaries, substantially to the effect set forth in Exhibit N, and (ii) each special and local counsel to the Borrowers and the Subsidiaries (including special regulatory counsel) as the Arrangers may reasonably request, in each case (A) dated the Restatement Date, (B) addressed to the Administrative Agent, the Issuing Bank and the Lenders and (C) covering such matters relating to the Loan Documents and the Transactions as the Arrangers shall reasonably request and which are customary for transactions of the type contemplated herein, and the Borrowers and the Subsidiaries hereby request such counsel to deliver such opinions.

(b) The Administrative Agent shall have received (i) a copy of the certificate or articles of incorporation or other formation documents, including all amendments thereto, of each Loan Party, certified as of a recent date by the Secretary of State of the state of its organization, and a certificate as to the good standing of each Loan Party as of a recent date, from such Secretary of State; (ii) a certificate of the Secretary or Assistant Secretary of each Loan Party dated the Restatement Date and certifying (A) that attached thereto is a true and complete copy of the by-laws of such Loan Party as in effect on the Restatement Date and at all times since a date prior to the date of the resolutions described in clause (B) below, (B) that attached thereto is a true and complete copy of

resolutions duly adopted by the Board of Directors of such Loan Party authorizing the execution, delivery and performance of the Loan Documents to which such Person is a party, and in the case of the Borrowers, the borrowings hereunder, and that such resolutions have not been modified, rescinded or amended and are in full force and effect; (C) that the certificate or articles of incorporation or other formation documents of such Loan Party have not been amended since the date of the last amendment thereto shown on the certificate of good standing furnished pursuant to clause (i) above and (D) as to the incumbency and specimen signature of each officer executing any Loan Document or any other document delivered in connection herewith on behalf of such Loan Party; (iii) a certificate of another officer as to the incumbency and specimen signature of the Secretary or Assistant Secretary executing the certificate pursuant to (ii) above; and (iv) such other documents as the Administrative Agent, the Arrangers, the Issuing Bank or the Lenders may reasonably request (including, if requested, documentation and other information required by bank regulatory authorities under applicable "know your customer" and Anti-Money Laundering rules and regulations, including the Patriot Act).

(c) The Administrative Agent shall have received a certificate, dated the Restatement Date and signed by a Financial Officer of the Company, confirming compliance with the conditions precedent set forth in paragraphs (b), (c) and (d) of Section 4.01.

(d) The Administrative Agent shall have received (i) this Agreement, executed and delivered by a duly authorized officer of each Borrower, (ii) the Guarantee and Collateral Agreement, executed and delivered by a duly authorized officer of the Company and each Subsidiary Guarantor, (iii) a Mortgage covering each of the Mortgaged Properties, executed and delivered by a duly authorized officer of each Loan Party thereto, (iv) the Control Agreements, executed and delivered by a duly authorized officer of each Loan Party thereto, (v) the Intellectual Property Security Agreements, executed and delivered by a duly authorized officer of each Loan Party thereto, (vi) the Collateral Trust Agreement, executed and delivered by a duly authorized officer of the Company and each Subsidiary Guarantor, (vii) the Omnibus Assignment, executed and delivered by a duly authorized officer of each party thereto, (viii) if requested by any Lender pursuant to Section 2.04, a promissory note or notes conforming to the requirements of such Section and executed and delivered by a duly authorized officer of each Borrower and (ix) a Lender Addendum executed and delivered by each Lender and accepted by the Borrowers.

(e) There shall not exist (on a pro forma basis after giving effect to the Transactions) any Default or Event of Default hereunder or any default or event of default under the Senior Note Documents or related documents or under any other material indebtedness or agreement of the Company or any Significant Subsidiary, or group of Subsidiaries that, taken together, would constitute a Significant Subsidiary (excluding in each case the Peakers Entities).

(f) The capital structure (including outstanding Indebtedness) of the Company and the Subsidiaries after the Transactions and the sources and uses of funds in connection with the Transactions shall be reasonably satisfactory to the Arrangers.

(g) The Company shall have complied with all of its obligations under and agreements in the Engagement Letter relating to the payment in full of all fees and reimbursable expenses payable thereunder on or prior to the Restatement Date pursuant to the terms and conditions of the Engagement Letter, and complied with all other obligations in the Engagement Letter in all material respects.

(h) The Collateral Trustee, for the ratable benefit of the Secured Parties, shall have been granted on each of the Closing Date and the Restatement Date first priority perfected Liens on the Collateral (other than any Excluded Perfection Assets) (subject, in the case of all Collateral other than Pledged Securities, only to Liens expressly permitted by Section 6.02) and customary Guarantees from the Subsidiary Guarantors and shall have received such other reports, documents and agreements as the Collateral Trustee or the Collateral Agent shall reasonably request and which are customarily delivered in connection with security interests in real property assets, including title insurance that is consistent with the title insurance that was obtained on the Closing Date. The Pledged Securities shall have been duly and validly pledged under the Guarantee and Collateral Agreement to the Collateral Trustee, for the ratable benefit of the Secured Parties, and certificates representing such Pledged Securities, accompanied by instruments of transfer and stock powers endorsed in blank, shall be in the actual possession of the Collateral Trustee.

(i) Each of the facilities contemplated by this Agreement shall have received a rating by S&P and by Moody's.

(j) All material governmental and third party approvals (including landlords' and other consents) and consents, including approvals of FERC under the FPA and consents and approvals of the Securities and Exchange Commission under PUHCA, and other regulatory approvals necessary in connection with the Transactions and the continuing operations of the Company and the Subsidiaries, taken as a whole, shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose material adverse conditions on the Transactions.

(k) The Arrangers shall have received the financial statements and other information required on or prior to the Restatement Date pursuant to Section 3.05 all in form and substance satisfactory to the Arrangers.

(l) The Collateral Trustee and the Collateral Agent shall have received a duly executed Perfection Certificate dated on or prior to the Restatement Date. The Arrangers shall have received the results of a recent Lien and judgment search in each relevant jurisdiction with respect to the Company and those of the Subsidiaries that shall be Subsidiary Guarantors or shall otherwise have assets that are included in the Collateral, and such search shall reveal no Liens on any of the assets of the Company or any of such Subsidiaries except, in the case of Collateral other than Pledged Securities, for Liens expressly permitted by Section 6.02 and except for Liens to be discharged on or prior to the Restatement Date pursuant to documentation reasonably satisfactory to the Arrangers.

(m) The Arrangers shall have received and be reasonably satisfied with (i) an updated appraisal from BearingPoint, Inc. of certain material assets to be specified by the Arrangers in consultation with the Company and that are to be included in the Collateral, (ii) an updated report from Black & Veatch Corporation on certain environmental, engineering and related matters with respect to material real property owned or leased by, or principal facilities owned by, the Company and the Subsidiaries, as the case may be, in each case to be specified by the Arrangers in consultation with the Company and (iii) an updated insurance report from Marsh USA Inc. with respect to material assets to be included in the Collateral.

(n) The Arrangers shall have received a solvency certificate from either the chief financial officer or both the chief accountant and treasurer of the Company, which certificate shall confirm the solvency of the Company and each of the Subsidiary Guarantors after giving effect to the Transactions, all in form and substance reasonably satisfactory to the Arrangers.

(o) The Arrangers shall have received evidence reasonably satisfactory to them that the Lenders shall have assigned (or be simultaneously assigning) all loans and the Borrower shall have repaid (or be simultaneously repaying) all other amounts outstanding under the Original Credit Agreement on the Restatement Date (other than Existing Letters of Credit), and that any breakage or indemnity payments in connection with such assignment or repayment, to the extent invoiced pursuant to the terms of the Original Credit Agreement, shall have been (or are simultaneously being) paid.

The obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective unless each of the foregoing conditions is satisfied (or waived pursuant to Section 9.08). It is understood and agreed that no term of the amendment and restatement contemplated hereby shall be effective until the Restatement Date occurs, and that this Agreement and the Predecessor Security Documents shall continue in full force and effect in the form applicable prior to the amendment and restatement contemplated hereby until the Restatement Date.

ARTICLE V.

Affirmative Covenants

Each Borrower covenants and agrees with each Lender that so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts payable under any Loan Document (other than indemnification and other contingent obligations in each case not then due and payable) shall have been paid in full and all Letters of Credit have been canceled or have expired and all amounts drawn thereunder have been reimbursed in full and all Credit-Linked Deposits have been returned to the Funded L/C Lenders (or used to reimburse Funded L/C Disbursements or converted to Term Loans), each Borrower will, and will cause each of the Subsidiaries to:

SECTION 5.01. Corporate Existence. Subject to Section 6.04 hereof, do or cause to be done all things necessary to preserve and keep in full force and effect (a) its corporate existence, and the corporate, partnership or other existence of each of its subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of such Borrower or any such subsidiary; and (b) the rights (charter and statutory), licenses and franchises of such Borrower and its subsidiaries; provided, however, that the Borrowers shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its subsidiaries, if the Board of Directors of the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Lenders.

SECTION 5.02. Insurance. Keep its properties that are of an insurable character adequately insured at all times by financially sound and responsible insurers, which, in the case of any insurance on any Mortgaged Property, are licensed to do business in the States where the applicable Mortgaged Property is located; maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, in each case as is customary with companies of a similar size operating in the same or similar businesses, including public liability insurance against claims for personal injury or death or property damage; maintain such other insurance as may be required by law; and maintain such other insurance as otherwise required by the Security Documents (and comply with all covenants in the Security Documents with respect thereto).

SECTION 5.03. Taxes. Pay, and cause each of its subsidiaries to pay, prior to delinquency, all material Taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Lenders.

SECTION 5.04. Financial Statements, Reports, etc. In the case of the Company, furnish to the Administrative Agent for distribution to each Lender:

(a) within 90 days after the end of each fiscal year, its consolidated balance sheet and related statements of income, stockholders' equity and cash flows showing the financial condition of the Company and its consolidated Subsidiaries as of the close of such fiscal year and the results of its operations and the operations of such Subsidiaries during such year, together with comparative figures for the immediately preceding fiscal year (or, in the case of the fiscal year ending December 31, 2005, the comparable period of more than twelve months ending December 31, 2004), all audited by PricewaterhouseCoopers LLP or KPMG LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants reasonably satisfactory to the Administrative Agent (which shall not be qualified in any material respect, except for qualifications relating to accounting changes (with which such independent public accountants shall concur) in response to FASB releases or other authoritative pronouncements) to the effect that such consolidated financial statements fairly present the financial condition and results of operations of the Company and its

consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year, its unaudited consolidated balance sheet and related statements of income, stockholders' equity and cash flows showing the financial condition of the Company and its consolidated Subsidiaries as of the close of such fiscal quarter and the results of its operations and the operations of such Subsidiaries during such fiscal quarter and the then elapsed portion of the fiscal year, and comparative figures for the same periods in the immediately preceding fiscal year, all certified by one of its Financial Officers to the effect that such financial statements, while not examined by independent public accountants, reflect in the opinion of the Company all adjustments necessary to present fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis as of the end of and for such periods in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) (i) concurrently with any delivery of financial statements under paragraph (a) above, a letter from the accounting firm rendering the opinion on such statements (which letter may be limited to accounting matters and disclaim responsibility for legal interpretations) stating whether, in connection with their audit examination, anything has come to their attention which would cause them to believe that any Default or Event of Default existed on the date of such financial statements and if such a condition or event has come to their attention and (ii) concurrently with any delivery of financial statements under paragraph (a) or (b) above, a certificate of a Financial Officer of the Company (A) certifying that no Event of Default or Default has occurred or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto and (B) setting forth computations in reasonable detail satisfactory to the Administrative Agent demonstrating compliance with the covenants contained in Sections 6.10 and 6.11 and, in the case of a certificate delivered with the financial statements required by paragraph (a) above, setting forth the Company's calculation of Excess Cash Flow, Adjusted Excess Cash Flow and Consolidated EBITDA;

(d) at least 30 days following the commencement of each fiscal year of the Company, a detailed consolidated budget for such fiscal year (including a projected consolidated balance sheet and related statements of projected operations and cash flows as of the end of and for such fiscal year and setting forth the assumptions used for purposes of preparing such budget) and, promptly when available, any significant revisions of such budget;

(e) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Company or any Subsidiary with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any domestic national securities exchange, or distributed to its shareholders generally, as the case may be;

(f) promptly after the receipt thereof by the Company or any of the Subsidiaries, a copy of any "management letter" received by any such Person from its certified public accountants and the management's response thereto; and

(g) promptly, from time to time, such other information regarding the operations, business affairs and financial condition of the Company or any Subsidiary, or compliance with the terms of any Loan Document, as the Administrative Agent or any Lender (acting through the Administrative Agent) may reasonably request.

SECTION 5.05. Litigation and Other Notices. Furnish to the Administrative Agent written notice of the following promptly after the Company obtains knowledge thereof:

(a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) taken or proposed to be taken with respect thereto;

(b) the filing or commencement of any action, suit or proceeding, whether at law or in equity or by or before any arbitrator or Governmental Authority, against the Company or any Subsidiary that could reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any ERISA Event; and

(d) any development that has resulted in, or could reasonably be expected to result in, a Material Adverse Effect.

SECTION 5.06. Information Regarding Collateral. (a) Furnish, and will cause each Loan Party to furnish, to each of the Administrative Agent, the Collateral Agent and the Collateral Trustee prompt written notice of (i) any change (A) in any Loan Party's corporate name or in any trade name used to identify it in the conduct of its business or in the ownership of its properties, (B) in the location of any Loan Party's chief executive office, its principal place of business, any office in which it maintains books or records relating to Collateral owned by it or any office or facility at which Collateral owned by it is located (including the establishment of any such new office or facility), (C) in any Loan Party's identity or corporate structure or (D) in any Loan Party's Federal Taxpayer Identification Number; (ii) any formation or acquisition after the Restatement Date of any Subsidiary; (iii) any sale, transfer, lease, issuance or other disposition (by way of merger, consolidation, operation of law or otherwise) after the Restatement Date of any Equity Interests of any Subsidiary to any Person other than the Company or another Subsidiary; (iv) any liquidation or dissolution after the Restatement Date of any Subsidiary; and (v) any Subsidiary that is an Excluded Subsidiary as of the Restatement Date or at any time thereafter ceasing to be an Excluded Subsidiary. Each Borrower agrees not to effect or permit any change referred to in the preceding sentence unless a reasonable period has been provided (such period to be at least 10 days) for making all filings under the UCC or otherwise and taking all other actions, in each case that are required in order for the Collateral Trustee to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral (other than any Excluded Perfection Assets). Each Borrower also agrees promptly to notify each of the Administrative Agent, the Collateral Agent and the Collateral Trustee if any material portion of the Collateral is damaged or destroyed.

(b) In the case of the Company, each year, at the time of delivery of the annual financial statements with respect to the preceding fiscal year pursuant to Section 5.04(a), deliver to the Administrative Agent a certificate of a Financial Officer of the Company setting forth the information required pursuant to Section I of the Perfection Certificate or confirming that there has been no change in such information since the date of the Perfection Certificate delivered on the Restatement Date or the date of the most recent certificate delivered pursuant to this Section.

SECTION 5.07. Maintaining Records; Access to Properties and Inspections; Environmental Assessments. (a) Keep, and cause each Subsidiary to keep, proper books of record and account in which full, true and correct entries in conformity with GAAP and all requirements of law are made of all financial operations. Each Borrower will, and will cause each of its subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender to visit and inspect the financial records and the properties of such Borrower or any of its subsidiaries at reasonable times and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any representatives designated by the Administrative Agent or any Lender to discuss the affairs, finances and condition of such Borrower or any of its subsidiaries with the officers thereof and independent accountants therefor.

(b) At its election, the Administrative Agent may retain an independent engineer or environmental consultant to conduct an environmental assessment of any Mortgaged Property or facility of the Company or any Subsidiary. Any such environmental assessments conducted pursuant to this paragraph (b) shall be at the Company's sole cost and expense only if conducted following the occurrence of (i) an Event of Default or (ii) any event, circumstance or condition that could reasonably be expected to result in an Event of Default, in the case of each of clause (i) and (ii) that concerns or relates to any Environmental Liabilities of the Company or any Subsidiary; provided that the Company shall only be responsible for such costs and expenses to the extent that such environmental assessment is limited to that which is reasonably necessary to assess the subject matter of such Event of Default or such event, circumstance or condition that could reasonably be expected to result in an Event of Default. In addition, environmental assessments conducted pursuant to this paragraph (b) shall not be conducted more than once every twelve months with respect to any parcel of Mortgaged Property or any single facility of the Company or any Subsidiary unless such environmental assessments are conducted following the occurrence of (i) an Event of Default or (ii) any event, circumstance or condition that could reasonably be expected to result in an Event of Default, in the case of each of clause (i) and (ii) that concerns or relates to any Environmental Liabilities of the Company or any Subsidiary. The Company shall, and shall cause each of the Subsidiaries to, reasonably cooperate in the performance of any such environmental assessment and permit any such engineer or consultant designated by the Administrative Agent to have reasonable access to each property or facility at reasonable times and after reasonable notice to the Company of the plans to conduct such an environmental assessment. Environmental assessments conducted under this paragraph (b) shall be limited to visual inspections of the Mortgaged Property or facility, interviews with representatives of the Company or facility personnel, and review of applicable records and documents pertaining to the property or facility.

(c) In the event that the Administrative Agent shall have reason to believe that Hazardous Materials have been Released or are threatened to be Released on any Mortgaged

Property or other facility of the Company or any Subsidiary or that any such property or facility is not being operated in compliance with applicable Environmental Law, in each case where the Release, threatened Release or failure to comply has resulted in, or could reasonably be expected to result in, a material Environmental Liability of the Company or any of the Subsidiaries, the Administrative Agent may, at its election and after reasonable notice to the Company, retain an independent engineer or other qualified environmental consultant to evaluate whether Hazardous Materials are present in the soil, groundwater, or surface water at such Mortgaged Property or facility in violation of Environmental Law or in excess of applicable remedial action standards or whether the facilities or properties are being operated and maintained in material compliance with applicable Environmental Laws. Such environmental assessments may include detailed visual inspections of the Mortgaged Property or facility, including any and all storage areas, storage tanks, drains, dry wells and leaching areas, and the taking of soil samples, surface water samples and groundwater samples as well as such other reasonable investigations or analyses as are reasonable and necessary to assess the subject matter of the Release, threatened Release or non–compliance. The scope of any such environmental assessments under this paragraph shall be determined in the reasonable discretion of the Administrative Agent, but shall be limited to that reasonably necessary to assess the subject matter of the Release, threatened Release or non–compliance. The Company shall, and shall cause each of the Subsidiaries to, reasonably cooperate in the performance of any such environmental assessment and permit any such engineer or consultant designated by the Administrative Agent to have reasonable access to each property or facility at reasonable times and after reasonable notice to the Company of the plans to conduct such an environmental assessment. All environmental assessments conducted pursuant to this paragraph (c) shall be at the Company's sole cost and expense.

SECTION 5.08. Use of Proceeds. Use the proceeds of the Loans and request the issuance of Letters of Credit only for the purposes set forth in Section 3.13.

SECTION 5.09. Additional Collateral, etc. (a) With respect to any Collateral acquired after the Restatement Date or with respect to any property or asset which becomes Collateral pursuant to the definition thereof after the Restatement Date or, in the case of inventory or equipment, any material Collateral moved after the Restatement Date by the Company or any other Loan Party (other than any Collateral described in paragraphs (b), (c) or (d) of this Section) as to which the Collateral Trustee, for the benefit of the Secured Parties, does not have a perfected security interest, promptly (and, in any event, within 20 days following the date of such acquisition or designation) (i) execute and deliver to the Administrative Agent, the Collateral Agent and the Collateral Trustee such amendments to the Guarantee and Collateral Agreement or such other Security Documents as the Collateral Agent or the Collateral Trustee, as the case may be, deems necessary or advisable to grant to the Collateral Trustee, for the benefit of the Secured Parties, a security interest in such Collateral and (ii) take all actions necessary or advisable to grant, to the Collateral Trustee, for the benefit of the Secured Parties, a perfected first priority security interest in such Collateral (other than any Excluded Perfection Assets), including the filing of UCC financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent, the Collateral Agent or the Collateral Trustee.

(b) With respect to any fee interest in any Collateral consisting of real property or any lease of Collateral consisting of real property acquired or leased after the Restatement Date by

the Company or any other Loan Party or which becomes Collateral pursuant to the definition thereof, promptly (and, in any event, within 60 days following the date of such acquisition) (i) execute and deliver a first priority Mortgage in favor of the Collateral Trustee, for the benefit of the Secured Parties, covering such real property and complying with the provisions herein and in the Security Documents, (ii) provide the Secured Parties with (A) title and extended coverage insurance covering such real property in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably specified by the Administrative Agent, the Collateral Agent or the Collateral Trustee, which may be the value of the generation assets, if applicable, situated thereon), together with such endorsements as are reasonably required by the Administrative Agent, the Collateral Agent or the Collateral Trustee and are obtainable in the State in which such Mortgaged Property is located, as well as a current ALTA survey thereof complying with the requirements set forth in Schedule 5.09(b) and all of the other provisions herein and in the Security Documents, together with a surveyor's certificate and (B) any consents or estoppels reasonably deemed necessary or advisable by the Administrative Agent, the Collateral Agent or the Collateral Trustee in connection with such Mortgage, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent, the Collateral Agent and the Collateral Trustee, (iii) deliver to the Administrative Agent, the Collateral Agent and the Collateral Trustee legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent, the Collateral Agent and the Collateral Trustee and (iv) deliver to the Administrative Agent a notice identifying the consultant's reports, environmental site assessments or other documents relied upon by the Company or any other Loan Party to determine that any such real property included in such Collateral does not contain Hazardous Materials of a form or type or in a quantity or location that could reasonably be expected to result in a material Environmental Liability.

(c) With respect to any new Subsidiary (other than an Excluded Foreign Subsidiary or an Excluded Project Subsidiary, except for an Excluded Project Subsidiary the pledge of whose Equity Interests pursuant to the Security Documents would not cause a default under the applicable Non-Recourse Indebtedness in respect of which it is an obligor) created or acquired after the Restatement Date (which, for the purposes of this paragraph, shall include any existing Subsidiary that ceases to be an Excluded Foreign Subsidiary or an Excluded Project Subsidiary and any Equity Interests in an Excluded Project Subsidiary the pledge of which would no longer cause a default under the applicable Non-Recourse Indebtedness in respect of which it is an obligor) by the Company or any of the Subsidiaries, promptly (and, in any event, within 10 days following such creation or the date of such acquisition), (i) execute and deliver to the Administrative Agent, the Collateral Agent and the Collateral Trustee such amendments to the Guarantee and Collateral Agreement as the Administrative Agent, the Collateral Agent or the Collateral Trustee deems necessary or advisable to grant to the Collateral Trustee, for the benefit of the Secured Parties, a valid, perfected first priority security interest in the Equity Interests in such new Subsidiary that are owned by the Company or any of the Subsidiaries, (ii) deliver to the Collateral Trustee the certificates, if any, representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the Company or such Subsidiary, as the case may be, (iii) cause such new Subsidiary that is not an Excluded Subsidiary (A) to become a party to the Guarantee and Collateral Agreement (and provide Guarantees of the Secured Obligations hereunder), the Collateral Trust Agreement and the Intellectual Property Security Agreements and (B) to take such actions necessary or advisable

to grant to the Collateral Trustee, for the benefit of the Secured Parties, a perfected first priority security interest in the Collateral described in the Guarantee and Collateral Agreement and the Intellectual Property Security Agreement with respect to such new Subsidiary that is not an Excluded Subsidiary, including the recording of instruments in the United States Patent and Trademark Office and the United States Copyright Office, the execution and delivery by all necessary Persons of Control Agreements and the filing of UCC financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement, the Intellectual Property Security Agreement or by law or as may be requested by the Administrative Agent, the Collateral Agent or the Collateral Trustee and (iv) deliver to the Administrative Agent, the Collateral Agent and the Collateral Trustee, if requested, legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent, the Collateral Agent and the Collateral Trustee.

(d) With respect to any new Excluded Foreign Subsidiary created or acquired after the Restatement Date by the Company or any of its Subsidiaries, promptly (and, in any event, within 10 days following such creation or the date of such acquisition) (i) execute and deliver to the Administrative Agent, the Collateral Agent and the Collateral Trustee such amendments to the Guarantee and Collateral Agreement as the Administrative Agent, the Collateral Agent or the Collateral Trustee deems necessary or advisable in order to grant to the Collateral Trustee, for the benefit of the Secured Parties, a perfected first priority security interest in the Equity Interests in such new Excluded Foreign Subsidiary that is owned by the Company or any of its Domestic Subsidiaries (provided that in no event shall more than 66% of the total outstanding voting Equity Interests in any such new Excluded Foreign Subsidiary be required to be so pledged), (ii) deliver to the Collateral Trustee the certificates representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the Company or such Domestic Subsidiary, as the case may be, and take such other action as may be necessary or, in the opinion of the Administrative Agent, the Collateral Agent or the Collateral Trustee, desirable to perfect the security interest of the Collateral Trustee thereon and (iii) deliver to the Administrative Agent, the Collateral Agent and the Collateral Trustee, if requested, legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent, the Collateral Agent and the Collateral Trustee.

SECTION 5.10. Further Assurances. From time to time duly authorize, execute and deliver, or cause to be duly authorized, executed and delivered, such additional instruments, certificates, financing statements, agreements or documents, and take all such actions (including filing UCC and other financing statements), as the Administrative Agent, the Collateral Agent or the Collateral Trustee may reasonably request, for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of more fully perfecting or renewing the rights of the Administrative Agent, the Collateral Agent, the Collateral Trustee and the Secured Parties with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds or products thereof or with respect to any other property or assets hereafter acquired by the Company or any Subsidiary which may be deemed to be part of the Collateral) pursuant hereto or thereto. Upon the exercise by the Administrative Agent, the Collateral Agent, the Collateral Trustee or any Lender of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents which requires any consent, approval, recording, qualification or authorization of any Governmental Authority, the Borrowers will

execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that the Administrative Agent, the Collateral Agent, the Collateral Trustee or such Lender may be required to obtain from the Company or any of the Subsidiaries for such governmental consent, approval, recording, qualification or authorization.

ARTICLE VI.

Negative Covenants

Each Borrower covenants and agrees with each Lender that, so long as this Agreement shall remain in effect and until the Commitments have been terminated and the principal of and interest on each Loan, all Fees and all other expenses or amounts payable under any Loan Document (other than indemnification and other contingent obligations in each case not then due and payable) shall have been paid in full and all Letters of Credit have been cancelled or have expired and all amounts drawn thereunder have been reimbursed in full and all Credit-Linked Deposits have been returned to the Funded L/C Lenders (or used to reimburse Funded L/C Disbursements or converted to Term Loans), no Borrower will, nor will it cause or permit any of its Restricted Subsidiaries to:

SECTION 6.01. Indebtedness and Preferred Stock.

(a) Directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Company will not issue any Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; provided, however, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and the Subsidiary Guarantors may incur Indebtedness or issue preferred stock, if the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which financial statements are publicly available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued would have been at least 2.0 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or Disqualified Stock or the preferred stock had been issued, as the case may be, at the beginning of such four-quarter period.

(b) The provisions of Section 6.01(a) will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

(i) the incurrence by the Borrowers (and the Guarantee thereof by the Subsidiary Guarantors) of the Indebtedness created (and the reimbursement obligations with respect to Letters of Credit issued) hereunder and any Revolver Refinancing Indebtedness;

(ii) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness;

(iii) the incurrence by the Company and the Subsidiary Guarantors of Indebtedness represented by the Senior Notes and the related Guarantees thereof, in each case, issued on or prior to the Restatement Date;

(iv) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement or lease of property (real or personal), plant or equipment used in the business of the Company or any of its Restricted Subsidiaries, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (iv), not to exceed $150,000,000 at any time outstanding;

(v) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance, replace, defease or discharge Indebtedness (other than intercompany Indebtedness) that was permitted by this Agreement to be incurred under Section 6.01(a) or clauses (ii), (iii), (iv), (v), (xi), (xiii) or (xvi) of this Section 6.01(b);

(vi) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; provided, however, that (A) if the Company or any Subsidiary Guarantor is the obligor on such Indebtedness and the payee is not the Company or a Subsidiary Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Secured Obligations hereunder (which subordination may be pursuant to an Affiliate Subordination Agreement or any other agreement containing terms with respect to the subordination of the obligations thereunder that are substantially the same as the Affiliate Subordination Agreement, in each case, executed and delivered by both the applicable borrower and lender); and (B) (x) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary and (y) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vi);

(vii) the issuance by any of the Company's Restricted Subsidiaries to the Company or to any of its Restricted Subsidiaries of shares of preferred stock; provided, however, that (A) any subsequent issuance or transfer of Equity Interests that results in any such preferred stock being held by a Person other than the Company or a Restricted Subsidiary and (B) any sale or other transfer of any such preferred stock to a Person that is not either the Company or a Restricted Subsidiary will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (vii);

(viii) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes;

(ix) the Guarantee by (A) the Company or any of the Subsidiary Guarantors of Indebtedness of the Company or a Restricted Subsidiary that was permitted to be incurred by another provision of this covenant; (B) any of the Excluded Project Subsidiaries of Indebtedness of any other Excluded Project Subsidiary; and (C) any of the Excluded Foreign Subsidiaries of Indebtedness of any other Excluded Foreign Subsidiary; provided that, in each such case, if the

Indebtedness being guaranteed is subordinated to the Secured Obligations hereunder, then the guarantee shall be subordinated to the same extent as the Indebtedness guaranteed;

(x) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument (except in the case of daylight overdrafts) inadvertently drawn against insufficient funds in the ordinary course of business, so long as such Indebtedness is covered within five Business Days;

(xi) the Xcel Note;

(xii) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in respect of workers' compensation claims, self-insurance obligations, bankers' acceptance and performance and surety bonds provided by the Company or a Restricted Subsidiary in the ordinary course of business;

(xiii) the incurrence of Additional Non-Recourse Indebtedness by any Excluded Subsidiary if, immediately after giving effect to the incurrence of such Additional Non-Recourse Indebtedness and the application of the proceeds therefrom, the Company's pro forma Secured Leverage Ratio would not exceed 2.75 to 1.0;

(xiv) the incurrence of Indebtedness that may be deemed to arise as a result of agreements of the Company or any Restricted Subsidiary providing for indemnification, adjustment of purchase price or any similar obligations, in each case, incurred in connection with the disposition of any business, assets or Equity Interests of any Subsidiary; provided that the aggregate maximum liability associated with such provisions may not exceed the gross proceeds (including non-cash proceeds) of such disposition;

(xv) the incurrence by the Company or any Restricted Subsidiary of Indebtedness represented by letters of credit, guarantees of Indebtedness or other similar instruments to the extent (A) such instruments are cash collateralized and (B) the Company or such Restricted Subsidiary would have been permitted to expend the funds used to cash collateralize such instrument directly under the terms of this Agreement;

(xvi) the incurrence by the Company and/or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (xvi), not to exceed $250,000,000; and

(xvii) the incurrence by the Company and/or any of its Restricted Subsidiaries of unsecured Indebtedness or Permitted Second Priority Secured Indebtedness in each case (A) that does not mature, and is not subject to mandatory repurchase, redemption or amortization (other than pursuant to customary asset sale or change of control provision requiring redemption or repurchase only if and to the extent permitted by this Agreement) prior to the date that is six months after the Term Loan Maturity Date, (B) that is not exchangeable or convertible into Indebtedness of the Company (other than other Indebtedness permitted by this clause) or any Restricted Subsidiary or any preferred stock or other Equity Interest and (C) solely to the extent

the Net Cash Proceeds thereof are used to refinance Term Loans or refinance and permanently reduce commitments in respect of Revolving Loans or Credit-Linked Deposits.

The Company will not incur, and will not permit any Subsidiary Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Company or such Subsidiary Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Secured Obligations hereunder and the applicable guarantees thereof on substantially identical terms; provided, however, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company solely by virtue of being unsecured or by virtue of being secured on a first or junior Lien basis. For purposes of determining compliance with this Section 6.01, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xvi) above, or is entitled to be incurred pursuant to Section 6.01(a), the Company will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 6.01. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 6.01; provided, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency will be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-dominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-dominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of the Indebtedness being refinanced. The amount of any Indebtedness outstanding as of any date will be (a) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; (b) the principal amount of the Indebtedness, in the case of any other Indebtedness; and (c) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of (i) the Fair Market Value of such asset at the date of determination, and (ii) the amount of the Indebtedness of the other Person; provided that any changes in any of the above shall not give rise to a default under this Section 6.01.

SECTION 6.02. Liens. Directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind on any asset now owned or hereafter acquired, except Permitted Liens.

SECTION 6.03. Limitation on Sale and Leaseback Transactions. Enter into any sale and leaseback transaction; provided that the Company or any Subsidiary Guarantor may enter into a sale and leaseback transaction if (a) the Company or that Subsidiary Guarantor, as applicable, could have (i) incurred Indebtedness in an amount equal to the Attributable Debt relating to such sale and leaseback transaction under the Fixed Charge Coverage Ratio test in Section 6.01(a)

hereof and (ii) incurred a Lien to secure such Indebtedness pursuant to the provisions of Section 6.02 hereof; (b) the gross cash proceeds of that sale and leaseback transaction are at least equal to the Fair Market Value of the property that is subject of that sale and leaseback transaction, as determined in good faith by the Board of Directors of the Company; and (c) if such sale and leaseback transaction constitutes an Asset Sale, the transfer of assets in that sale and leaseback transaction is permitted by Section 6.04, and the Company applies the proceeds of such transaction in compliance with Section 2.13.

SECTION 6.04. Mergers, Consolidations and Sales of Assets. (a) Merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, or sell, transfer, lease, issue or otherwise dispose of (in one transaction or in a series of transactions) all or substantially all of the assets (whether now owned or hereafter acquired) of any Borrower, except that if at the time thereof and immediately after giving effect thereto no Event of Default or Default shall have occurred and be continuing (i) any Restricted Subsidiary may merge into the Company in a transaction in which the Company is the surviving corporation, (ii) any Restricted Subsidiary may merge into or consolidate with any other Restricted Subsidiary in a transaction in which the surviving entity is a Restricted Subsidiary and no Person other than the Company or a Restricted Subsidiary receives any consideration (provided that if any party to any such transaction is (A) a Loan Party, the surviving entity of such transaction shall be a Loan Party and (B) a Domestic Subsidiary, the surviving entity of such transaction shall be a Domestic Subsidiary) and (iii) any Restricted Subsidiary may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Borrowers and is not materially disadvantageous to the Lenders.

(b) Liquidate, dissolve, sell, transfer, lease, issue or otherwise dispose of (in one transaction or in a series of transactions and whether by merger or consolidation or otherwise) any of the Equity Interests of NRG Mid-Atlantic, NRG Northeast or NRG South Central or all or any significant portion of the assets, including assets consisting of Equity Interests (whether now owned or hereafter acquired), of NRG Mid-Atlantic and its subsidiaries as of the Restatement Date, taken as a whole, NRG Northeast and its subsidiaries as of the Restatement Date, taken as a whole, or NRG South Central and its subsidiaries as of the Restatement Date (other than NRG Sterlington Power LLC, Bayou Cove Peaking Power LLC and Big Cajun I Peaking Power LLC for so long as such entities shall constitute Excluded Project Subsidiaries), taken as a whole, except that the foregoing restrictions shall not apply to (i) any such sale, transfer, lease, issuance or other disposition to any Loan Party or Loan Parties (including any transfer to a Loan Party or Loan Parties as a result of a liquidation or dissolution of any Subsidiary holding the Equity Interests of NRG Mid-Atlantic, NRG Northeast or NRG South Central) or (ii) any liquidation or dissolution of any of NRG Mid-Atlantic, NRG Northeast or NRG South Central so long as, in the case of each of clause (i) and (ii), (A) immediately following such liquidation, dissolution, sale, transfer, lease, issuance or other disposition, all of the subsidiaries of NRG Mid-Atlantic, NRG Northeast and NRG South Central shall continue to be Restricted Subsidiaries, (B) the Company's direct or indirect ownership in such subsidiaries shall be at least equal to that which was outstanding immediately prior to such liquidation, dissolution, sale, transfer, lease, issuance or other disposition and (C) all subsidiaries of NRG Mid-Atlantic, NRG Northeast or NRG South Central that were Subsidiary Guarantors immediately prior to such liquidation, dissolution sale, transfer, lease, issuance or other disposition shall continue to be Subsidiary Guarantors

immediately following such liquidation, dissolution, sale, transfer, lease, issuance or other disposition.

(c) Engage in any Asset Sale (notwithstanding that it may be otherwise permitted under clause (iii) of paragraph (a) above) (including a Sale of Collateral) unless (i) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of or, in the case of Specified Joint Venture Sales, receives consideration at least equal to the value prescribed by the agreements relating to such specified joint ventures as in effect on the Closing Date; (ii) at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary is in the form of cash (for purposes of this provision, each of the following will be deemed to be cash: (A) any liabilities, as shown on the Company's most recent consolidated balance sheet, of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Secured Obligations hereunder) that are assumed by the transferee of any such assets pursuant to a customary novation agreement that releases the Company or such Restricted Subsidiary from further liability; (B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash within 180 days of the receipt of such securities, notes or other obligations, to the extent of the cash received in that conversion; and (C) except in the case of a Sale of Collateral, (x) any assets of, or any Capital Stock of, another Person engaged primarily in a Permitted Business, if, after giving effect to any such acquisition of Capital Stock, such Person is or becomes a wholly owned Subsidiary and (y) any other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business); and (iii) in the case of a Sale of Collateral, the Company (or the Restricted Subsidiary, as the case may be) will (x) deposit the Net Cash Proceeds (other than Excluded Proceeds) as cash collateral in a segregated account held by the Collateral Trustee or its agent to secure the Secured Obligations hereunder or (y) apply such Net Cash Proceeds (other than Excluded Proceeds) in accordance with Section 2.13.

SECTION 6.05. Restricted Payments; Restrictive Agreements. (a) Directly or indirectly (i) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or to the Company or a Restricted Subsidiary); (ii) purchase, redeem or otherwise acquire or retire for value (including in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent of the Company (other than any such Equity Interests owned by the Company or any Restricted Subsidiary); (iii) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Company or any Subsidiary Guarantor (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except (v) a payment, purchase, redemption, defeasance, acquisition or retirement of any subordinated Indebtedness (excluding the Senior Notes, any Additional Notes and any Permitted Second Priority Secured Indebtedness) in anticipation of satisfying a sinking fund obligation, principal

installment or payment at final maturity, in each case due within one year of the date of payment, purchase, redemption, defeasance, acquisition or retirement, (w) a payment of interest, fees or principal at the Stated Maturity thereof, (x) a payment of the Indebtedness created hereunder, (y) refinancings of Indebtedness permitted by Section 6.01 and (z) the payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of, or a Recovery Event with respect to, the property or assets securing such Indebtedness; or (iv) make any Restricted Investment (all such payments and other actions set forth in these clauses (i) through (iv) above being collectively referred to as "Restricted Payments"), unless, at the time of and after giving effect to such Restricted Payment (A) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment; and (B) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 6.01(a); and (C) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries since the Closing Date (excluding (1) Restricted Payments permitted by clauses (ii), (iii), (iv), (vi), (vii), (viii), (ix) and (x) of paragraph (b) below and (2) the repurchase or redemption of Senior Notes in an amount not to exceed $375,000,000 with the proceeds of the issuance of the Preferred Stock), is less than the sum, without duplication, of (w) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the Closing Date to the end of the Company's most recently ended fiscal quarter for which financial statements are publicly available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), plus (x) 100% of the aggregate net cash proceeds received by the Company since the Closing Date as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary), plus (y) 100% of the aggregate net cash proceeds received upon the sale or other disposition of any Investment (other than a Permitted Investment) made since the Closing Date; plus the net reduction in Investments (other than Permitted Investments) in any Person resulting from dividends, repayments of loans or advances or other transfers of assets subsequent to the Closing Date, in each case to the Company or any Restricted Subsidiary from such Person; plus to the extent that the ability to make Restricted Payments was reduced as the result of the designation of an Unrestricted Subsidiary, the portion (proportionate to the Company's Equity Interest in such Subsidiary) of the Fair Market Value of the net assets of such Unrestricted Subsidiary at the time such Unrestricted Subsidiary is redesignated, or liquidated or merged into, a Restricted Subsidiary; provided, in each case under this clause (y), that the foregoing may not exceed, in the aggregate, the amount of all Investments which previously reduced the ability to make Restricted Payments, plus (z) 50% of any dividends received by the C ompany or a Restricted Subsidiary that is a Subsidiary Guarantor after the Closing Date from an Unrestricted Subsidiary, to the extent that such dividends were not otherwise included in Consolidated Net Income of the Company for such period.

(b) The provisions of Section 6.05(a) will not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration of the dividend, if at the date of declaration the dividend payment would have complied with the provisions of this Agreement;

(ii) so long as no Default has occurred and is continuing or would be caused thereby, the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary) of, Equity Interests of the Company (other than Disqualified Stock) or from the contribution of common equity capital to the Company; provided that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (C) (x) of Section 6.05(a);

(iii) so long as no Default has occurred and is continuing or would be caused thereby, the defeasance, redemption, repurchase or other acquisition of Indebtedness of the Company or any Subsidiary Guarantor with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(iv) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary to the holders of its Equity Interests on a pro rata basis;

(v) so long as no Default has occurred and is continuing or would be caused thereby, (A) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary held by any current or former officer, director or employee of the Company or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, severance agreement, shareholders' agreement or similar agreement, employee benefit plan or (B) the cancellation of Indebtedness owing to the Company or any of its Restricted Subsidiaries from any current or former officer, director or employee of the Company or any of its Restricted Subsidiaries in connection with a repurchase of Equity Interests of the Company or any of its Restricted Subsidiaries; provided that the aggregate price paid for the actions in clause (A) may not exceed $1,000,000 in any twelve-month period and $5,000,000 in the aggregate since the Closing Date; provided, further that (x) such amount in any calendar year may be increased by the cash proceeds of "key man" life insurance policies received by the Company and its Restricted Subsidiaries after the Closing Date less any amount previously applied to the making of Restricted Payments pursuant to this clause (v) and (y) cancellation of the Indebtedness owing to the Company from employees, officers, directors and consultants of the Company or any of its Restricted Subsidiaries in connection with a repurchase of Equity Interests of the Company from such Persons shall be permitted under this clause (v) as if it were a repurchase, redemption, acquisition or retirement for value subject hereto;

(vi) the repurchase of Equity Interests in connection with the exercise of stock options to the extent such Equity Interests represent a portion of the exercise price of those stock options;

(vii) so long as no Default has occurred and is continuing or would be caused thereby, the declaration and payment of regularly scheduled or accrued dividends to holders of

any class or series of Disqualified Stock of the Company or any Restricted Subsidiary issued on or after the Closing Date in accordance with the terms of this Agreement;

(viii) payments, not to exceed $2,000,000 in the aggregate since the Closing Date, to holders of the Company's Capital Stock in lieu of the issuance of fractional shares of its Capital Stock;

(ix) the consummation of the Refinancing Transactions and the transactions specifically provided for in the NRG Plan as in effect on the Closing Date;

(x) the purchase, redemption, acquisition, cancellation or other retirement for a nominal value per right of any rights granted to all the holders of Capital Stock of the Company pursuant to any shareholders' rights plan adopted for the purpose of protecting shareholders from unfair takeover tactics; provided that any such purchase, redemption, acquisition, cancellation or other retirement of such rights is not for the purpose of evading the limitations of this covenant (all as determined in good faith by the Board of Directors of the Company); and

(xi) so long as no Default has occurred and is continuing or would be caused thereby, other Restricted Payments in an aggregate amount not to exceed $50,000,000 since the Closing Date.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this Section 6.05 will be determined by the Board of Directors of the Company whose resolution with respect thereto shall be delivered to the Administrative Agent. The Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the Fair Market Value exceeds $35,000,000.

(c) Enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon the ability of the Company or any Restricted Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets; provided that the foregoing shall not apply to (i) restrictions and conditions imposed by law or by any Loan Document, (ii) restrictions or conditions imposed by (A) the Senior Note Documents as in effect on the Closing Date and (B) the loan documentation with respect to any Revolver Refinancing Indebtedness (provided that such restrictions and conditions are substantially the same as those contained herein), (iii) customary restrictions and conditions contained in agreements relating to the sale of a Restricted Subsidiary or asset pending such sale, provided such restrictions and conditions apply only to the Restricted Subsidiary or asset that is to be sold and such sale is permitted hereunder, (iv) restrictions and conditions imposed on any Restricted Subsidiary that is not a Loan Party by the terms of any Indebtedness of such Restricted Subsidiary permitted to be incurred hereunder, (v) restrictions or conditions existing on the Closing Date, but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition in any material respect, (vi) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this

Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (vii) restrictions or conditions imposed by any agreement relating to any Indebtedness incurred by a Restricted Subsidiary prior to the date on which such Restricted Subsidiary was acquired by the Company or another Restricted Subsidiary (provided that such restriction or condition is not created in contemplation of or in connection with such Person becoming a Restricted Subsidiary), but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition in any material respect, (viii) customary provisions in joint venture, stockholder or partnership agreements or organizational documents relating to joint ventures or partnerships (provided that such restrictions shall not apply to any assets that are, or but for such restrictions would be, Collateral) and (ix) customary provisions in leases and other contracts (other than any such lease or contract that is a Material Contract) restricting the assignment thereof (whether for collateral purposes or otherwise).

(d) Directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (i) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of its Restricted Subsidiaries; (ii) make loans or advances to the Company or any of its Restricted Subsidiaries; or (iii) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries. The restrictions in this Section 6.05(d) will not apply to encumbrances or restrictions existing under or by reason of:

(A) agreements governing Existing Indebtedness and the Senior Notes as in effect on the Closing Date and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Closing Date;

(B) any Loan Document and the loan documentation with respect to any Revolver Refinancing Indebtedness (provided that such restrictions and conditions are substantially the same as those contained herein);

(C) applicable law, rule, regulation or order;

(D) customary non-assignment provisions in contracts, agreements, leases, permits and licenses entered into in the ordinary course of business;

(E) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (iii) of this Section 6.05(d) above;

(F) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;

(G) Permitted Refinancing Indebtedness; provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(H) Liens permitted to be incurred under the provisions of Section 6.02 that limit the right of the debtor to dispose of the assets subject to such Liens;

(I) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale–leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Company's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(J) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(K) restrictions or conditions contained in any trading, netting, operating, construction, service, supply, purchase, sale or similar agreement to which the Company or any Restricted Subsidiary is a party entered into in the ordinary course of business; provided that such agreement prohibits the encumbrance of solely the property or assets of the Company or such Restricted Subsidiary that are the subject of that agreement, the payment rights arising thereunder and/or the proceeds thereof and not to any other asset or property of the Company or such Restricted Subsidiary or the assets or property of any other Restricted Subsidiary;

(L) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Agreement to be incurred;

(M) Indebtedness of a Restricted Subsidiary existing at the time it became a Restricted Subsidiary if such restriction was not created in connection with or in anticipation of the transaction or series of transactions pursuant to which such Restricted Subsidiary became a Restricted Subsidiary or was acquired by the Company;

(N) with respect to clause (iii) of this Section 6.05(d) above only, restrictions encumbering property at the time such property was acquired by the Company or any of its Restricted Subsidiaries, so long as such restriction relates solely to the property so acquired and was not created in connection with or in anticipation of such acquisition; and

(O) any encumbrance or restrictions of the type referred to in clauses (i), (ii) and (iii) of this Section 6.05(d) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (A) through (N) of this Section 6.05(d); provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company's

Board of Directors, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewals, increase, supplement, refunding, replacement or refinancing.

SECTION 6.06. Transactions with Affiliates. (a) Make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each, an "Affiliate Transaction"), unless (i) the Affiliate Transaction is on terms that are no less favorable to the Company (as reasonably determined by the Company) or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and (ii) the Company delivers to the Administrative Agent (A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10,000,000, a resolution of the Board of Directors of the Company set forth in an officers' certificate certifying that such Affiliate Transaction complies with clause (i) of this Section and that such Affiliate Transaction has been approved by a majority of the disinterested members of such Board of Directors; and (B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $35,000,000, an opinion as to the fairness to the Company or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of this Section:

(i) any employment agreement or director's engagement agreement, employee benefit plan, officer and director indemnification agreement or any similar arrangement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business or approved by the Board of Directors of the Company in good faith;

(ii) transactions between or among the Company and/or its Restricted Subsidiaries;

(iii) transactions with a Person (other than an Unrestricted Subsidiary) that is an Affiliate of the Company solely because the Company owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(iv) payment of reasonable directors' fees to Persons who are not otherwise Affiliates of the Company;

(v) any issuance of Equity Interests (other than Disqualified Stock) of the Company or its Restricted Subsidiaries to Affiliates of the Company;

(vi) Restricted Payments that do not violate Section 6.05(a) or (b) hereof;

(vii) any agreement in effect as of the Closing Date or any amendment thereto or replacement thereof and any transaction contemplated thereby or permitted thereunder, so long

as any such amendment or replacement agreement taken as a whole is not more disadvantageous to the Lenders than the original agreement as in effect on the Closing Date;

(viii) payments or advances to employees or consultants that are incurred in the ordinary course of business or that are approved by the Board of Directors of the Company in good faith;

(ix) the existence of, or the performance by the Company or any of its Restricted Subsidiaries of its obligations under the terms of, any stockholders agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Closing Date and any similar agreements which it may enter into thereafter; provided, however, that the existence of, or the performance by the Company or any of its Restricted Subsidiaries of obligations under, any future amendment to any such existing agreement or under any similar agreement entered into after the Closing Date shall only be permitted by this clause (ix) to the extent that the terms of any such amendment or new agreement are not otherwise more disadvantageous to the Lenders in any material respect;

(x) transactions permitted by, and complying with, the provisions of Section 6.04(a);

(xi) transactions with customers, clients, suppliers, joint venture partners or purchasers or sellers of goods or services, in each case, in the ordinary course of business (including pursuant to joint venture agreements) and otherwise in compliance with the terms of this Agreement that are fair to the Company and its Restricted Subsidiaries, in the reasonable determination of the Board of Directors of the Company or the senior management thereof, or are on terms not materially less favorable taken as a whole as might reasonably have been obtained at such time from an unaffiliated party;

(xii) any repurchase, redemption or other retirement of Capital Stock of the Company held by employees of the Company or any of its Subsidiaries at a price not in excess of the Fair Market Value thereof and, if greater than $1,000,000, approved by the Board of Directors of the Company;

(xiii) loans or advances to employees or consultants in the ordinary course of business not to exceed $2,000,000 in the aggregate at any one time outstanding;

(xiv) the Reorganization Events and the Refinancing Transactions and the payment of all fees and expenses related thereto; and

(xv) any agreement to do any of the foregoing.

SECTION 6.07. Business Activities. (a) Engage in any business other than Permitted Businesses, except to such extent as would not be material to the Company and its Restricted Subsidiaries taken as a whole.

(b) Enter into any forward purchase or sale (or other forward acquisition or disposition) of energy, fuel or transmission rights, or any energy tolling transaction, as a seller of tolling services, in each case other than purchase, sale or other transactions entered into (i) in the

ordinary course of business and reasonable extensions thereof or (ii) in the ordinary course of the merchant power industry.

SECTION 6.08. Other Indebtedness and Agreements. Permit any waiver, supplement, modification, amendment, termination or release of any indenture, instrument or agreement pursuant to which any Material Indebtedness of the Company or any of the Subsidiaries (other than in respect of any Specified Hedging Agreement) is outstanding if the effect of such waiver, supplement, modification, amendment, termination or release would materially increase the obligations of the obligor or confer additional material rights on the holder of such Indebtedness in a manner materially adverse to the Company and the Subsidiaries, taken as a whole, or the Lenders.

SECTION 6.09. Designation of Restricted and Unrestricted Subsidiaries. The Board of Directors of the Company may designate any Restricted Subsidiary (other than NRG Power Marketing) to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 6.05(a) or under one or more clauses of the definition of Permitted Investments, as determined by the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors of the Company may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

SECTION 6.10. Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio at any time on or after December 31, 2004 to be less than 1.40 to 1.00.

SECTION 6.11. Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio at any time on or after December 31, 2004 to be greater than 8.50 to 1:00.

SECTION 6.12. Fiscal Year. With respect to the Company, change its fiscal year–end to a date other than December 31.

ARTICLE VII.

Events of Default

In case of the happening of any of the following events ("Events of Default"):

(a) any representation or warranty made or deemed made in or in connection with any Loan Document or the Borrowings or issuances of Letters of Credit hereunder, or any representation, warranty, statement or information contained in any report, certificate, financial statement or other instrument furnished in connection with or pursuant to any Loan Document, shall prove to have been false or misleading in any material respect when so made, deemed made or furnished;

(b) default shall be made in the payment of any principal of any Loan or the reimbursement with respect to any L/C Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise;

(c) default shall be made in the payment of any interest on any Loan or L/C Disbursement or any Fee or any other amount (other than an amount referred to in (b) above) due under any Loan Document, when and as the same shall become due and payable, and such default shall continue unremedied for a period of five Business Days;

(d) default shall be made in the due observance or performance by the Company or any Subsidiary of any covenant, condition or agreement contained in Section 5.01(a), 5.05 or 5.08 or in Article VI;

(e) default shall be made in the due observance or performance by the Company or any Subsidiary of any covenant, condition or agreement contained in any Loan Document (other than those specified in clauses (b), (c) or (d) above) and such default shall continue unremedied for a period of 45 days after notice thereof from the Administrative Agent, the Collateral Agent, the Collateral Trustee or any Lender to the Company;

(f) The Company or any Restricted Subsidiary shall (i) fail to pay any principal or interest, regardless of amount, due in respect of any Material Indebtedness, when and as the same shall become due and payable (excluding any amounts paid out of the claims reserve established pursuant to the NRG Plan), or (ii) any other event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (ii) shall not apply to (A) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, (B) Designated Non-Recourse Indebtedness and (C) any other Non-Recourse Indebtedness of the Company and the Restricted Subsidiaries (except to the extent that the Company or any of the Restricted Subsidiaries that are not parties to such Non-Recourse Indebtedness becomes directly or indirectly liable, including pursuant to any contingent obligation, for any Indebtedness for borrowed money thereunder and such liability, individually or in the aggregate, exceeds $50,000,000 (excluding any amounts paid out of the claims reserve established pursuant to the NRG Plan));

(g) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (i) is for relief against the Company or any of its Restricted Subsidiaries (other than the Exempt Subsidiaries) that is a Significant Subsidiary or any group of Restricted Subsidiaries (other than the Exempt Subsidiaries) that, taken together, would constitute a Significant Subsidiary in an involuntary case; (ii) appoints a custodian of the Company or any of its Restricted Subsidiaries (other than the Exempt Subsidiaries) that is a

Significant Subsidiary or any group of Restricted Subsidiaries (other than the Exempt Subsidiaries) that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any of its Restricted Subsidiaries (other than the Exempt Subsidiaries) that is a Significant Subsidiary or any group of Restricted Subsidiaries (other than the Exempt Subsidiaries) that, taken together, would constitute a Significant Subsidiary; or (iii) orders the liquidation of the Company or any of its Restricted Subsidiaries (other than the Exempt Subsidiaries) that is a Significant Subsidiary or any group of Restricted Subsidiaries (other than the Exempt Subsidiaries) that, taken together, would constitute a Significant Subsidiary; and, in each of clauses (i), (ii) or (iii), the order or decree remains unstayed and in effect for 60 consecutive days;

(h) the Company or any of its Restricted Subsidiaries (other than the Exempt Subsidiaries) that is a Significant Subsidiary or any group of Restricted Subsidiaries (other than the Exempt Subsidiaries) that, taken together, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law (i) commences a voluntary case; (ii) consents to the entry of an order for relief against it in an involuntary case; (iii) consents to the appointment of a custodian of it or for all or substantially all of its property; (iv) makes a general assignment for the benefit of its creditors; or (v) generally is not paying its debts as they become due;

(i) one or more judgments for the payment of money in an aggregate amount in excess of $50,000,000 (excluding therefrom any amount covered by insurance as to which the insurer has acknowledged in writing its coverage obligation) or other judgments that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect shall be rendered against the Company or any Restricted Subsidiary or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to levy upon assets or properties of the Company or any of its Restricted Subsidiaries to enforce any such judgment;

(j) an ERISA Event shall have occurred that, when taken together with all other such ERISA Events, could reasonably be expected to result in liability of the Company and its ERISA Affiliates in an aggregate amount exceeding $50,000,000;

(k) except as permitted by this Agreement or as a result of the discharge of such Subsidiary Guarantor in accordance with the terms of the Loan Documents, any Guarantee under the Guarantee and Collateral Agreement shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Subsidiary Guarantor (or any group of Subsidiary Guarantors) that constitutes a Significant Subsidiary, or any Person acting on behalf of any Subsidiary Guarantor (or any group of Subsidiary Guarantors) that constitutes a Significant Subsidiary, shall deny or disaffirm its or their obligations under its or their Guarantee(s) under the Guarantee and Collateral Agreement;

(l) material breach by the Company or any of its Restricted Subsidiaries of any material representation or warranty or agreement in the Security Documents, the repudiation by the Company or any of its Restricted Subsidiaries of any of its material obligations under any of the Security Documents or the unenforceability of any of the Security Documents against the Company or any of its Restricted Subsidiaries for any reason with respect to Collateral having an aggregate Fair Market Value of $25,000,000 or more; or

(m) there shall have occurred a Change in Control;

then, and in every such event (other than an event with respect to any of the Borrowers described in paragraph (g) or (h) above), and at any time thereafter during the continuance of such event either or both of the following actions may be taken: (i) the Administrative Agent may with the consent of the Majority Revolving Credit Lenders, and at the request of the Majority Revolving Credit Lenders shall, by notice to the Company, terminate forthwith the Revolving Credit Commitments and the Swingline Commitment and (ii) the Administrative Agent may with the consent of the Majority Lenders, and at the request of the Majority Lenders shall, by notice to the Company, declare the Loans then outstanding to be forthwith due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrowers accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrowers, anything contained herein or in any other Loan Document to the contrary notwithstanding, and the Administrative Agent and the Collateral Agent shall have the right to take all or any actions and exercise any remedies available to a secured party under the Security Documents or applicable law or in equity; and in any event with respect to any of the Borrowers described in paragraph (g) or (h) above, the Revolving Credit Commitments and the Swingline Commitment shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of the Borrowers accrued hereunder and under any other Loan Document, shall automatically become due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Borrowers, anything contained herein or in any other Loan Document to the contrary notwithstanding, and the Administrative Agent and the Collateral Agent shall have the right to take all or any actions and exercise any remedies available to a secured party under the Security Documents or applicable law or in equity.

Without limitation of, and after giving effect to, Section 6.7 of the Guarantee and Collateral Agreement and Section 3.4 of the Collateral Trust Agreement, all proceeds received by the Administrative Agent or the Collateral Agent, as the case may be, either from the Collateral Trustee or any other Person in respect of any sale of, collection from, or other realization upon all or any part of the Collateral under any Security Document shall be held by the Administrative Agent or the Collateral Agent as Collateral for, and applied in full or in part by the Administrative Agent or the Collateral Agent against, the applicable Secured Obligations hereunder then due and owing in the following order of priority: first, to the ratable payment of (a) all costs and expenses of such sale, collection or other realization, including compensation to the Agents and their agents and counsel, and all other expenses, liabilities and advances made or incurred by the Agents in connection therewith, and all amounts in each case for which such Agents are entitled to payment, reimbursement or indemnification under the Loan Documents, and to the payment of all costs and expenses paid or incurred by the Agents in connection with the exercise of any right or remedy under the Loan Documents, all in accordance with the terms of the Loan Documents, (b) any principal and interest owed to the Administrative Agent in respect of outstanding Revolving Loans advanced on behalf of any Lender by the Administrative Agent for which the Administrative Agent has not then been reimbursed by such Lender or the Company, (c) any principal and interest owed to the Swingline Lender in respect of outstanding Swingline Loans that have not been repaid and (d) any amounts owed to any Issuing Bank under a Letter of Credit issued by it for which it has not then been reimbursed by any Lender or the

Company; second, to the extent of any excess proceeds, to the payment of all other Secured Obligations hereunder for the ratable benefit of the holders thereof; and third, to the extent of any excess proceeds, to the payment to or upon the order of the applicable Loan Party or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

ARTICLE VIII.

The Agents and the Arrangers

Each of the Lenders and the Issuing Bank hereby irrevocably appoints each of the Administrative Agent and the Collateral Agent (for purposes of this Article VIII, the Administrative Agent and the Collateral Agent are referred to collectively as the "Agents") its agent and authorizes the Agents to take such actions on its behalf and to exercise such powers as are delegated to such Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. Without limiting the generality of the foregoing, the Agents are hereby expressly authorized by the Lenders to execute any and all documents (including releases and the Collateral Trust Agreement) with respect to the Collateral and the rights of the Secured Parties with respect thereto, and to appoint the Collateral Trustee as their agent in respect of the Collateral Trust Agreement and the other Security Documents, in each case as contemplated by and in accordance with the provisions of this Agreement and the Security Documents. The Collateral Trustee is hereby expressly authorized and directed by the Lenders to execute the Collateral Trust Agreement and the other Security Documents (and any other documents contemplated thereby), in each case, on the Restatement Date. Each of the Lenders and the Issuing Bank hereby agrees to be bound by the priority of the security interests and allocation of the benefits of the Collateral and proceeds thereof set forth in the Security Documents. In addition, each of the Lenders acknowledges the Credit Agreement Parallel Debt (as defined in the Collateral Trust Agreement) that has been created in the Collateral Trust Agreement in favor of the Collateral Trustee.

Each bank serving as an Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Company or any Subsidiary or any Affiliate thereof as if it were not an Agent hereunder.

No Agent shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) no Agent shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) no Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that the Administrative Agent or the Collateral Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.08), and (c) except as expressly set forth in the Loan Documents, no Agent shall have any duty to disclose, nor shall it be liable for the failure to disclose, any information relating to the Company or any of the Subsidiaries that is communicated to or obtained by the bank serving as any Agent or any of its Affiliates in any

capacity. The Administrative Agent and the Collateral Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.08), in each case, in the absence of its own gross negligence or willful misconduct. No Agent shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by the Company or a Lender, and no Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to such Agent.

Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. Each Agent may also rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. Each Agent may consult with legal counsel (who may be counsel for any Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Each Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub–agents appointed by it. Each Agent and any such sub–agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub–agent and to the Related Parties of each Agent and any such sub–agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent.

Subject to the appointment and acceptance of a successor Agent as provided below, each Agent may resign at any time by notifying the Lenders, the Issuing Bank and the Company. Upon any such resignation of the Administrative Agent or the Collateral Agent, the Required Lenders shall have the right to appoint a successor, subject to the Company's approval (not to be unreasonably withheld or delayed) so long as no Default or Event of Default shall have occurred and be continuing. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders and the Issuing Bank, appoint a successor Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrowers to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After an Agent's resignation hereunder, the provisions of this Article and

Section 9.05 shall continue in effect for the benefit of such retiring Agent, its sub–agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while acting as Agent.

Each of the Syndication Agent, each Co–Documentation Agent and each Arranger, in its capacity as such, shall have no duties or responsibilities, and shall incur no liability, under this Agreement or any other Loan Document. It is understood and agreed that, as of the Restatement Date, (a) General Electric Capital Corporation's role as Revolver Agent under the Original Credit Agreement shall be terminated and (b) General Electric Capital Corporation shall no longer have any duties (or liabilities) as an agent under this Agreement.

Each Lender acknowledges that it has, independently and without reliance upon the Agents, the Arrangers, the Syndication Agent, the Co–Documentation Agents or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Agents, the Arrangers, the Syndication Agent, the Co–Documentation Agents or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement or any other Loan Document, any related agreement or any document furnished hereunder or thereunder.

To the extent required by any applicable law, the Administrative Agent may withhold from any interest payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding tax ineffective or for any other reason, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out–of–pocket expenses) incurred.

ARTICLE IX.

Miscellaneous

SECTION 9.01. Notices. Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax, as follows:

(a) if to a Borrower, to it at NRG Energy, Inc., 211 Carnegie Center, Princeton, NJ 08540, Attention of Treasurer, Chief Financial Officer and General Counsel (Fax No. (609) 524–4501);

(b) if to the Administrative Agent or the Collateral Agent, to Credit Suisse First Boston, Eleven Madison Avenue, New York, NY 10010, Attention of Julia Kingsbury (Fax No. (212) 325–8304); and

(c) if to a Lender, to it at its address (or fax number) set forth in the Lender Addendum or the Assignment and Acceptance pursuant to which such Lender shall have become a party hereto.

All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by fax or on the date five Business Days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01.

SECTION 9.02. Survival of Agreement. All covenants, agreements, representations and warranties made by the Borrowers herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the Lenders and the Issuing Bank and shall survive the making by the Lenders of the Loans and the Credit–Linked Deposits and the issuance of Letters of Credit by the Issuing Bank, regardless of any investigation made by the Lenders or the Issuing Bank or on their behalf, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any Fee or any other amount payable (other than indemnification and other contingent obligations that are not then due and payable) under this Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit or Credit–Linked Deposit is outstanding and so long as the Commitments have not been terminated. The provisions of Sections 2.14, 2.16, 2.20 and 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the expiration of the Commitments, the expiration of any Letter of Credit, the return, application or conversion of the Credit–Linked Deposits, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, the Collateral Agent, any Lender or the Issuing Bank.

SECTION 9.03. Binding Effect. This Agreement shall become effective when it shall have been executed by each of the parties hereto and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto.

SECTION 9.04. Successors and Assigns. (a) Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and assigns of such party; and all covenants, promises and agreements by or on behalf of each Borrower, the Administrative Agent, the Collateral Agent, the Issuing Bank or the Lenders that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns.

(b) Each Lender may assign to one or more assignees all or a portion of its interests, rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans or Credit-Linked Deposits at the time owing to it); provided, however, that (i) (x) except in the case of an assignment of a Term Loan or a Credit-Linked Deposit to an Affiliate or Related Fund of a Lender, the Administrative Agent (and, in the case of any assignment of a Revolving Credit Commitment, the Issuing Bank and the Swingline Lender) must give its prior written consent to such assignment (which consent shall not be unreasonably withheld or delayed) and (y) except in the case of an assignment to a Lender or an Affiliate or Related Fund of a Lender, the amount of the Commitment of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than $1,000,000 (or, if less, the entire remaining amount of such Lender's Commitment), (ii) the parties to each such assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance (such Assignment and Acceptance to be (x) electronically executed and delivered to the Administrative Agent via an electronic settlement system then acceptable to the Administrative Agent, which shall initially be the settlement system of ClearPar, LLC, or (y) manually executed and delivered with a processing and recordation fee of $3,500 paid by the assignor or assignee) and (iii) the assignee, if it shall not be a Lender immediately prior to the assignment, shall deliver to the Administrative Agent an Administrative Questionnaire. No Lender is permitted to assign all or any portion of its interests, rights or obligations under this Agreement (including all or a portion of its Commitment and the Loans or Credit-Linked Deposits at any time owing to it) except as specifically set forth in the immediately preceding sentence and any purported assignment not in conformity therewith shall be null and void. Upon acceptance and recording pursuant to paragraph (e) of this Section 9.04, from and after the effective date specified in each Assignment and Acceptance, (A) the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement and (B) the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.16, 2.20 and 9.05, as well as to any Fees accrued for its account and not yet paid). Without the consent of the Company (which consent shall not be unreasonably withheld) and the Administrative Agent, the Credit-Linked Deposit of any Funded L/C Lender shall not be released in connection with any assignment by such Funded L/C Lender, but shall instead be purchased by the relevant assignee and continue to be held for application (to the extent not already applied) in accordance with Section 2.23(d) to satisfy such assignee's obligations in respect of Funded L/C Disbursements. Notwithstanding the foregoing, an assignment by a Lender to one of its Affiliates or Related Funds will be effective, valid, legal and binding without regard to whether the assignor has delivered an Assignment and Acceptance or Administrative Questionnaire to the Administrative Agent (and the acceptance and recordation thereof under paragraph (e) of this Section shall not be required); provided that the Administrative Agent and the Borrowers shall be entitled to deal solely with the assignor unless and until the date that an Assignment and Acceptance and Administrative Questionnaire have been delivered to the Administrative Agent with respect to the applicable assignee.

(c) By executing and delivering (to the Administrative Agent or the assigning Lender in the case of an assignment by a Lender to one of its Affiliates or Related Funds pursuant to the last sentence of paragraph (b) of this Section) an Assignment and Acceptance, the assigning Lender thereunder and the assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (i) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that its Term Loan Commitment and Revolving Credit Commitment, and the outstanding balances of its Term Loans and Revolving Loans and Credit-Linked Deposits and participations in Funded Letters of Credit, in each case without giving effect to assignments thereof which have not become effective, are as set forth in such Assignment and Acceptance, (ii) except as set forth in (i) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of any Borrower or any Subsidiary or the performance or observance by any Borrower or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (iii) such assignee represents and warrants that it is legally authorized to enter into such Assignment and Acceptance; (iv) such assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements referred to in Section 3.05(a) or delivered pursuant to Section 5.04 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (v) such assignee will independently and without reliance upon the Administrative Agent, the Collateral Agent, the Arrangers, the Syndication Agent, either Co-Documentation Agent, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (vi) such assignee appoints and authorizes the Administrative Agent and the Collateral Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent and the Collateral Agent, respectively, by the terms hereof, together with such powers as are reasonably incidental thereto; and (vii) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) The Administrative Agent, acting for this purpose as an agent of each Borrower, shall maintain at one of its offices in the City of New York a copy of each Assignment and Acceptance delivered to it and one or more registers for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive and each Borrower, the Administrative Agent, the Issuing Bank, the Collateral Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by each Borrower, the Issuing Bank, the Collateral Agent and any Lender, at any reasonable time and from time to time upon reasonable prior notice. In the case of any assignment made in accordance with the last sentence of paragraph (b) of this Section that is not reflected in the Register, the assigning Lender shall maintain a comparable register reflecting such assignment.

(e) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, an Administrative Questionnaire completed in respect of the assignee (unless the assignee shall already be a Lender hereunder) and, if required, the written consent of the Swingline Lender, the Issuing Bank and the Administrative Agent to such assignment, the Administrative Agent shall (i) accept such Assignment and Acceptance, (ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the Lenders, the Issuing Bank, the Swingline Lender and the Company. No assignment shall be effective unless it has been recorded in the Register as provided in this paragraph (e). Notwithstanding the foregoing, an assignment by a Lender to an Affiliate or Related Fund pursuant to the last sentence of paragraph (b) of this Section shall not be required to be recorded in the Register to be effective; provided that (i) such assignment is recorded in a comparable register maintained by the assignor as provided in paragraph (b) of this Section and (ii) the Administrative Agent and the Borrowers shall be entitled to deal solely and directly with the assignor unless and until the date that an Assignment and Acceptance and Administrative Questionnaire have been delivered to the Administrative Agent with respect to the applicable assignee.

(f) Each Lender may without the consent of any Borrower, the Swingline Lender, the Issuing Bank or the Administrative Agent sell participations to one or more banks or other entities in all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans and Credit-Linked Deposits and participations in Funded Letters of Credit owing to it); provided, however, that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the participating banks or other entities shall be entitled to the benefit of the cost protection provisions contained in Sections 2.14, 2.16 and 2.20 to the same extent as if they were Lenders (but, with respect to any particular participant, to no greater extent than the Lender that sold the participation to such participant) and (iv) each Borrower, the Administrative Agent, the Issuing Bank and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, and such Lender shall retain the sole right to enforce the obligations of each Borrower relating to the Loans or L/C Disbursements and to approve any amendment, modification or waiver of any provision of this Agreement (other than amendments, modifications or waivers decreasing any fees payable hereunder or the amount of principal of or the rate at which interest is payable on the Loans, extending any scheduled principal payment date or date fixed for the payment of interest on the Loans or the Credit-Linked Deposits, increasing or extending the Commitments or releasing any Subsidiary Guarantor or all or any substantial part of the Collateral).

(g) Any Lender or participant may, in connection with any assignment, pledge or participation or proposed assignment, pledge or participation pursuant to this Section 9.04, disclose to the assignee or participant or proposed assignee or participant any information relating to any Borrower furnished to such Lender by or on behalf of the Borrowers; provided that, prior to any such disclosure of information designated by any Borrower as confidential, each such assignee or participant or proposed assignee or participant shall execute an agreement whereby such assignee or participant shall agree (subject to customary exceptions) to preserve the confidentiality of such confidential information on terms no less restrictive than those applicable to the Lenders pursuant to Section 9.16.

(h) Any Lender may at any time assign all or any portion of its rights under this Agreement to secure extensions of credit to such Lender or in support of obligations owed by such Lender, and, in the case of any Lender that is a fund that invests in bank loans, such Lender may collaterally assign all or any portion of its rights under this Agreement to any holder of, trustee for, or other representative of any holders of, obligations owed or securities issued by such fund as security for such obligations or securities; provided that no such assignment described in this clause (h) shall release a Lender from any of its obligations hereunder or substitute any such assignee for such Lender as a party hereto.

(i) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPC"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Company, the option to provide to any Borrower all or any part of any Loan that such Granting Lender would otherwise be obligated to make to such Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof. In addition, notwithstanding anything to the contrary contained in this Section 9.04, any SPC may (i) with notice to, but without the prior written consent of, the Company and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by the Company and Administrative Agent) providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC.

(j) No Borrower shall assign or delegate any of its rights or duties hereunder without the prior written consent of the Administrative Agent, the Issuing Bank and each Lender, and any attempted assignment without such consent shall be null and void.

SECTION 9.05. Expenses; Indemnity. (a) The Borrowers agree, jointly and severally, to pay all reasonable out-of-pocket expenses incurred by the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, the Issuing Bank and the Swingline Lender, including the reasonable fees, charges and disbursements of Latham & Watkins LLP, counsel for the Administrative Agent and the Collateral Agent, in connection with the syndication of the credit facilities provided for herein and the preparation and administration of this Agreement and the other Loan Documents or in connection with any

amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions hereby or thereby contemplated shall be consummated); provided that the Borrowers shall not be responsible for the reasonable fees, charges and disbursements of more than one separate law firm (in addition to local or special counsel, including special workout counsel) pursuant to its obligations under this sentence only. The Borrowers also agree, jointly and severally, to pay all out-of-pocket expenses incurred by the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, the Issuing Bank or any Lender in connection with the enforcement or protection of its rights in connection with this Agreement and the other Loan Documents or in connection with the Loans or Credit-Linked Deposits made or Letters of Credit issued hereunder, including the fees, charges and disbursements of Latham & Watkins LLP, counsel for the Administrative Agent and the Collateral Agent, and, in connection with any such enforcement or protection, the fees, charges and disbursements of any other counsel (including special workout counsel) for the Administrative Agent, the Collateral Agent, the Syndication Agent, the Arrangers, the Issuing Bank or any Lender.

(b) The Borrowers agree, jointly and severally, to indemnify the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, each Lender, the Issuing Bank and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and to hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including reasonable counsel fees, charges and disbursements, incurred by or asserted against any Indemnitee arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated thereby, the performance by the parties thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated thereby, (ii) the use of the proceeds of the Loans or Credit-Linked Deposits or issuance of Letters of Credit, (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto, or (iv) any actual or alleged presence or Release of Hazardous Materials on any property owned or operated by the Company or any of the Subsidiaries, or any Environmental Liability related in any way to the Company or any of the Subsidiaries; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(c) To the extent that the Borrowers fail to pay any amount required to be paid by them to the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, the Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, the Issuing Bank or the Swingline Lender, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, the Issuing Bank or the Swingline Lender in its capacity

as such. For purposes hereof, a Lender's "pro rata share" shall be determined based upon its share of the sum of the Aggregate Revolving Credit Exposure, outstanding Term Loans and Credit-Linked Deposits and unused Commitments at the time.

(d) To the extent permitted by applicable law, no Borrower shall assert, and each hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan, Credit-Linked Deposit or Letter of Credit or the use of the proceeds thereof.

(e) The provisions of this Section 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Loans, the return, application or conversion of any of the Credit-Linked Deposits, the expiration of the Commitments, the expiration of any Letter of Credit, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, any Lender or the Issuing Bank. All amounts due under this Section 9.05 shall be payable on written demand therefor.

SECTION 9.06. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender is hereby authorized at any time and from time to time, except to the extent prohibited by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender to or for the credit or the account of any Borrower against any of and all the obligations of any Borrower now or hereafter existing under this Agreement and other Loan Documents held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or such other Loan Document and although such obligations may be unmatured. The rights of each Lender under this Section 9.06 are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.07. Applicable Law. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN LETTERS OF CREDIT AND AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. EACH LETTER OF CREDIT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OR RULES DESIGNATED IN SUCH LETTER OF CREDIT, OR IF NO SUCH LAWS OR RULES ARE DESIGNATED, THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS MOST RECENTLY PUBLISHED AND IN EFFECT, ON THE DATE SUCH LETTER OF CREDIT WAS ISSUED, BY THE INTERNATIONAL CHAMBER OF COMMERCE (THE "UNIFORM CUSTOMS") AND, AS TO MATTERS NOT GOVERNED BY THE UNIFORM CUSTOMS, THE LAWS OF THE STATE OF NEW YORK.

SECTION 9.08. Waivers; Amendment; Replacement of Non-Consenting Lenders. (a) No failure or delay of the Administrative Agent, the Collateral Agent, any Lender or the

Issuing Bank in exercising any power or right hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Collateral Agent, the Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by any Borrower or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any Borrower in any case shall entitle such Borrower to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by each Borrower and the Required Lenders; provided, however, that no such agreement shall (i) decrease the principal amount of, or extend the maturity of or any scheduled principal payment date or date for the payment of any interest on any Loan or any date for reimbursement of an L/C Disbursement or extend the date on which the Credit-Linked Deposits are required to be returned in full, or waive or excuse any such payment or any part thereof, or decrease the rate of interest on any Loan, Credit-Linked Deposit or L/C Disbursement, without the prior written consent of each Lender affected thereby, (ii) increase or extend the Commitment or decrease or extend the date for payment of any Fees of any Lender without the prior written consent of such Lender, (iii) amend or modify the pro rata requirements of Section 2.17, the provisions of Section 9.04(j), the provisions of this Section or the definition of the term "Required Lenders" or "Majority Lenders," or release any Subsidiary Guarantor, without the prior written consent of each Lender, (iv) amend or modify the definition of the term "Majority Term Lenders" without the prior written consent of each Term Lender and Funded L/C Lender, (v) amend or modify the definition of the term "Majority Revolving Credit Lenders" without the prior written consent of each Revolving Credit Lender, (vi) release all or any substantial part of the Collateral without the prior written consent of each Lender, (vii) change the provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of one Class differently from the rights of Lenders holding Loans of any other Class without the prior written consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each adversely affected Class or (viii) modify the protections afforded to an SPC pursuant to the provisions of Section 9.04(i) without the written consent of such SPC; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Collateral Agent, the Issuing Bank or the Swingline Lender hereunder or under any other Loan Document without the prior written consent of the Administrative Agent, the Collateral Agent, the Issuing Bank or the Swingline Lender, as applicable.

(c) Each Lender grants (i) to the Administrative Agent the right (with the prior written consent of the Borrower) to purchase all (but not less than all) of such Lender's Commitments and Loans owing to it and any related promissory notes held by it and all its rights and obligations hereunder and under the other Loan Documents and (ii) to the Term Loan

Borrower the right to cause an assignment of all (but not less than all) of such Lender's Commitments and Loans owing to it and any related promissory notes held by it and all its rights and obligations hereunder and under the other Loan Documents to one or more eligible assignees pursuant to Section 9.04, which right may be exercised by the Administrative Agent or the Term Loan Borrower, as the case may be, if such Lender (a "Non-Consenting Lender") refuses to execute any amendment, modification, termination, waiver or consent which requires the written consent of Lenders other than the Required Lenders and to which the Required Lenders and the Borrower have otherwise agreed, provided that such Non-Consenting Lender shall receive in connection with such purchase or assignment (A) payment equal to the aggregate amount of outstanding Loans owed to such Lender, together with all accrued and unpaid interest, fees and other amounts (other than indemnities and other contingent amounts not then due) owed to such Lender under the Loan Documents at such time and (B) from the Term Loan Borrower, any Prepayment Fee that would be payable to such Non-Consenting Lender if such assignment were deemed to be a voluntary prepayment of the Term Loans or an optional reduction of the Credit-Linked Deposit of such Lender for purposes of Section 2.05(e). Each Lender agrees that if the Administrative Agent or the Term Loan Borrower, as the case may be, exercises its option under this paragraph it shall promptly execute and deliver all agreements and documentation necessary to effectuate such assignment as set forth in Section 9.04. The Term Loan Borrower shall be entitled (but not obligated) to execute and deliver such agreements and documentation on behalf of such Non-Consenting Lender and any such agreements or documentation so executed by the Term Loan Borrower shall be effective for all purposes of documenting an assignment pursuant to Section 9.04.

SECTION 9.09. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan or Credit-Linked Deposit or participation in any L/C Disbursement, together with all fees, charges and other amounts which are treated as interest on such Loan or participation in such L/C Disbursement under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan or participation in accordance with applicable law, the rate of interest payable in respect of such Loan or participation hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan or participation but were not payable as a result of the operation of this Section 9.09 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or participations or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.10. Entire Agreement. This Agreement, the Engagement Letter and the other Loan Documents constitute the entire contract between the parties relative to the subject matter hereof. Any other previous agreement among the parties with respect to the subject matter hereof is superseded by this Agreement and the other Loan Documents. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any Person (other than the parties hereto and thereto, their respective successors and assigns permitted hereunder (including any Affiliate of the Issuing Bank that issues any Letter of Credit) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation

Agents, the Arrangers, the Issuing Bank and the Lenders) any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

SECTION 9.11. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.11.

SECTION 9.12. Severability. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 9.13. Counterparts. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract, and shall become effective as provided in Section 9.03. Delivery of an executed signature page to this Agreement or of a Lender Addendum by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

SECTION 9.14. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

SECTION 9.15. Jurisdiction; Consent to Service of Process. (a) Each Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or Federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other

manner provided by law. Nothing in this Agreement shall affect any right that the Administrative Agent, the Collateral Agent, the Syndication Agent, the Co-Documentation Agents, the Arrangers, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or the other Loan Documents against any Borrower or its properties in the courts of any jurisdiction.

(b) Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in any New York State or Federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.16. Confidentiality. Each of the Administrative Agent, the Collateral Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) to its and its Affiliates' officers, directors, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority or quasi-regulatory authority (such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) in connection with the exercise of any remedies hereunder or under the other Loan Documents or any suit, action or proceeding relating to the enforcement of its rights hereunder or thereunder, (e) subject to an agreement containing provisions substantially the same as those of this Section 9.16, to (i) any actual or prospective assignee of or participant in any of its rights or obligations under this Agreement and the other Loan Documents or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Company or any Subsidiary or any of their respective obligations, (f) with the consent of the Company or (g) to the extent such Information becomes publicly available other than as a result of a breach of this Section 9.16. For the purposes of this Section, "Information" shall mean all financial statements, certificates, reports, agreements and other information received from the Company or its Subsidiaries and related to the Company or its business, other than any such financial statements, certificates, reports, agreements and other information that was available to the Administrative Agent, the Collateral Agent, the Issuing Bank or any Lender on a nonconfidential basis prior to its disclosure by the Company; provided that, in the case of Information received from the Company after the Restatement Date, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 9.16 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord its own confidential information. Notwithstanding any other express or implied agreement, arrangement or understanding to the contrary, each of the parties hereto agrees that each other party hereto (and each of its employees, representatives or agents) are

permitted to disclose to any Persons, without limitation, the tax treatment and tax structure of the Loans and the other transactions contemplated by the Loan Documents and all materials of any kind (including opinions and tax analyses) that are provided to the Loan Parties, the Lenders, the Arrangers or any Agent related to such tax treatment and tax aspects. To the extent not inconsistent with the immediately preceding sentence, this authorization does not extend to disclosure of any other information or any other term or detail not related to the tax treatment or tax aspects of the Loans or the transactions contemplated by the Loan Documents.

SECTION 9.17. Joint and Several Liability; Postponement of Subrogation. (a) The obligations of the Revolving Loan Borrowers hereunder and under the other Loan Documents shall be joint and several and, as such, each Revolving Loan Borrower shall be liable for all of the Secured Obligations of the other Revolving Loan Borrower under this Agreement and the other Loan Documents. The liability of each Revolving Loan Borrower for the Secured Obligations of the other Revolving Loan Borrower under this Agreement and the other Loan Documents shall be absolute, unconditional and irrevocable, without regard to (a) the validity or enforceability of this Agreement or any other Loan Document, any of the Secured Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by any Secured Party, (b) any defense, set-off or counterclaim (other than a defense of payment or performance hereunder) which may at any time be available to or be asserted by such other Revolving Loan Borrower or any other Person against any Secured Party or (c) any other circumstance whatsoever (with or without notice to or knowledge of such other Revolving Loan Borrower or such Revolving Loan Borrower) which constitutes, or might be construed to constitute, an equitable or legal discharge of such other Revolving Loan Borrower for the Secured Obligations, or of such Revolving Loan Borrower under this Section, in bankruptcy or in any other instance.

(b) Each Revolving Loan Borrower agrees that it will not exercise any rights which it may acquire by way of rights of subrogation under this Agreement, by any payments made hereunder or otherwise, until the prior payment in full in cash of all of the Secured Obligations, the termination or expiration of all Revolving Letters of Credit and the permanent termination of all Revolving Credit Commitments. Any amount paid to any Revolving Loan Borrower on account of any such subrogation rights prior to the payment in full in cash of all of the Secured Obligations, the termination or expiration of all Revolving Letters of Credit and the permanent termination of all Revolving Credit Commitments shall be held in trust for the benefit of the Secured Parties and shall immediately be paid to the Administrative Agent for the benefit of the Secured Parties and credited and applied against the Secured Obligations of the Revolving Loan Borrowers, whether matured or unmatured, in such order as the Administrative Agent shall elect. In furtherance of the foregoing, for so long as any Secured Obligations, Revolving Letters of Credit or Revolving Credit Commitments remain outstanding, each Revolving Loan Borrower shall refrain from taking any action or commencing any proceeding against the other Revolving Loan Borrower (or any of its successors or assigns, whether in connection with a bankruptcy proceeding or otherwise) to recover any amounts in respect of payments made in respect of the Secured Obligations of the other Revolving Loan Borrower to any Secured Party.

SECTION 9.18. Delivery of Lender Addenda. Each initial Lender shall become a party to this Agreement by delivering to the Administrative Agent a Lender Addendum duly executed by such Lender, the Borrowers and the Administrative Agent.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

NRG ENERGY, INC.

By: /s/ David W. Crane
Name: David W. Crane
Title: Chief Executive Officer

NRG POWER MARKETING INC.

By: /s/ George Schaefer
Name: George Schaefer
Title: Treasurer

CREDIT SUISSE FIRST BOSTON, acting through its Cayman Islands Branch, as Administrative Agent, Collateral Agent, Swingline Lender, Issuing Bank, Co–Documentation Agent and Arranger,

By: /s Jay Chall
Name: Jay Chall
Title: Director

By: /s/ Denise L. Alvarez
Name: Denise L. Alvarez
Title: Associate

GOLDMAN SACHS CREDIT PARTNERS L.P., as Syndication Agent, Co–Documentation Agent and Arranger,

By: /s/ William W. Archer
Name: William W. Archer
Title: Managing Director

EXHIBIT 10.26

EXECUTION COPY

GUARANTEE AND COLLATERAL AGREEMENT

dated as of December 23, 2003

as amended and restated as of December 24, 2004

made by

NRG ENERGY, INC.,

NRG POWER MARKETING INC.

and certain of the Subsidiaries of NRG Energy, Inc.

in favor of

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Priority Collateral Trustee, Parity Collateral Trustee
and Account Collateral Trustee

CREDIT SUISSE FIRST BOSTON,
as Administrative Agent

and

LAW DEBENTURE TRUST COMPANY OF NEW YORK,
as Trustee

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Exhibits:

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GUARANTEE AND COLLATERAL AGREEMENT, dated as of December 23, 2003, as amended and restated as of December 24, 2004, made by each of the signatories hereto, in favor of Deutsche Bank Trust Company Americas, (i) in its capacity as Priority Collateral Trustee for Credit Suisse First Boston, as administrative agent (in such capacity and together with its successors, the "Administrative Agent") and as collateral agent (in such capacity and together with its successors, the "Collateral Agent") and for the banks and other financial institutions or entities (the "Lenders") from time to time parties to the Credit Agreement dated as of December 23, 2003, as amended and restated on December 24, 2004 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among NRG Energy, Inc., a Delaware corporation (the "Company"), NRG Power Marketing Inc., a Delaware corporation ("NRG Power Marketing" and, together with the Company, the "Credit Agreement Borrowers"), the Lenders, Credit Suisse First Boston, and Goldman Sachs Credit Partners L.P., as joint lead book runners and joint lead arrangers (in such capacity, the "Arrangers") and as co-documentation agents, Goldman Sachs Credit Partners L.P., as syndication agent (in such capacity, the "Syndication Agent") and the other Priority Lien Secured Parties thereunder, (ii) in its capacity as Parity Collateral Trustee for Law Debenture Trust Company of New York, as trustee (in such capacity and together with its successors, the "Trustee") under the Indenture, dated as of December 23, 2003 (as amended, restated, supplemented, or otherwise modified from time to time, the "Indenture"), among the Company, certain of its subsidiaries, the Trustee and the other Parity Lien Secured Parties thereunder, (iii) in its capacity as Account Collateral Trustee, for the Priority Lien Secured Parties and the Parity Lien Secured Parties and (iv) in its capacity as Priority Collateral Trustee, Parity Collateral Trustee and/or Account Collateral Trustee, as applicable, for any other Secured Parties (as hereinafter defined) from time to time entitled to the benefits of the Collateral Trust Agreement, dated as of December 23, 2003, as amended and restated as of December 24, 2004 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Collateral Trust Agreement"), among the Company, the other Grantors, the Administrative Agent, the Trustee, the Collateral Trustee and the other parties from time to time party thereto; and, for purposes of Section 2, in favor of the Administrative Agent and the Trustee and any other future Guaranteed Secured Debt Representative (as hereinafter defined) with respect to any Series of Guaranteed Secured Debt (as hereinafter defined) that becomes entitled to the benefits of the Collateral Trust Agreement.

WITNESSETH:

WHEREAS, on the Closing Date, the parties thereto entered into the Original Guarantee and Collateral Agreement and on the Restatement Date, this Agreement will be amended and restated in the form hereof;

WHEREAS, pursuant to the Credit Agreement, the Lenders have severally agreed to make extensions of credit to the Credit Agreement Borrowers upon the terms and subject to the conditions set forth therein, and, pursuant to the Indenture, the Company has issued $1,725,000,000 in aggregate principal amount of Second Priority Senior Secured Notes due 2013 (the "Notes");

WHEREAS, the Credit Agreement Borrowers are members of an affiliated group of companies that includes each other Grantor;

WHEREAS, the proceeds of the extensions of credit under the Credit Agreement will be used, and the proceeds of the offering of the Notes have been used, in part to enable the Credit Agreement Borrowers or the Company, as the case may be, to make valuable transfers to one or more of the other Grantors in connection with the operation of their respective businesses;

WHEREAS, the Credit Agreement Borrowers and the other Grantors are engaged in related businesses, and each Grantor will derive (or has derived) substantial direct and indirect benefit from the making of the extensions of credit under the Credit Agreement and the offering of the Notes;

WHEREAS, it is a condition precedent to the obligation of the Lenders to make their respective extensions of credit to the Credit Agreement Borrowers under the Credit Agreement and it was a condition precedent to the obligation of the initial purchasers to purchase the Notes that the Grantors shall have executed and delivered, with respect to the Credit Agreement, this Agreement, and the Notes, the Original Guarantee and Collateral Agreement to the Collateral Trustee for the benefit of the applicable Secured Parties; and

WHEREAS, the Credit Agreement Borrowers and the other Grantors have entered into the Collateral Trust Agreement which sets forth the terms on which each Secured Party has appointed the Collateral Trustee as trustee for the present and future holders of the Secured Obligations (as hereinafter defined) to receive, hold, maintain, administer and distribute the Collateral at any time delivered to the Collateral Trustee and to enforce the Security Documents, including this Agreement, and all interests, rights, powers and remedies of the Collateral Trustee in respect thereto or thereunder and the proceeds thereof;

NOW, THEREFORE, in consideration of the premises and to induce the Secured Parties to enter into the Secured Debt Documents and to induce such Secured Parties to make their respective extensions of credit to the applicable Grantors thereunder, each Grantor hereby agrees with the Collateral Trustee, for the benefit of the applicable Secured Parties, as follows:

SECTION 1. DEFINED TERMS

1.1. Definitions. (a) Unless otherwise defined herein, terms defined in the Collateral Trust Agreement and used herein shall have the meanings given to them in the Collateral Trust Agreement, and the following terms are used herein as defined in the New York UCC (and if defined in more than one Article of the New York UCC shall have the meanings given in Article 9 thereof): Accounts, Account Debtor, Certificated Security, Chattel Paper, Commercial Tort Claim, Commodity Account, Commodity Contract, Commodity Intermediary, Documents, Electronic Chattel Paper, Equipment, Farm Products, Financial Asset, Fixtures, General Intangibles, Goods, Instruments, Inventory, Letter of Credit, Letter of Credit Rights, Money, Payment Intangibles, Securities Account, Securities Intermediary, Security, Security Entitlement, Supporting Obligations, Tangible Chattel Paper and Uncertificated Security.

(b) The following terms shall have the following meanings:

"Administrative Agent" shall have the meaning assigned to such term in the preamble.

"After-Acquired Intellectual Property" shall have the meaning assigned to such term in Section 5.11(k).

"Agreement" shall mean this Guarantee and Collateral Agreement, as the same may be amended, supplemented, replaced or otherwise modified from time to time.

"Arrangers" shall have the meaning assigned to such term in the preamble.

"Borrower" shall mean (i) in the case of the Revolving Loans, Revolving Credit Commitments and Revolving Letters of Credit (each as defined in the Credit Agreement) and all related obligations under the Credit Agreement, the Credit Agreement Borrowers, (ii) in the case of the Term Loans, Credit-Linked Deposits, Term Loan Commitments and Funded Letters of Credit (as defined in the Credit Agreement) and all related obligations under the Credit Agreement, the Company, (iii) in the case of the Notes issued under the Indenture and all related obligations under the Indenture, the Company and (iv) in the case of the obligations in respect of any future Series of Guaranteed Secured Debt, the Company and any other applicable Grantor who shall act as the borrower or issuer under the applicable Secured Debt Documents with respect to such Series of Guaranteed Secured Debt.

"Borrower Obligations" shall mean, without duplication, the collective reference to the unpaid principal of and interest on the loans (or other extensions of credit), notes (or other debt securities), credit-linked deposits (or other similar deposits) and all other obligations and liabilities of any Borrower in each case with respect to any Series of Guaranteed Secured Debt (including interest accruing at the then applicable rate provided in any applicable Secured Debt Document after the maturity of such loans (or other extensions of credit), notes (or other debt securities) or credit-linked deposits (or other similar deposits) and interest accruing at the then applicable rate provided in any applicable Secured Debt Document after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the applicable Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) to any applicable Secured Party (including, in the case of any Specified Hedging Agreement, any Lender, the Administrative Agent, the Collateral Agent, any Arranger or the Syndication Agent or, in each case, any Affiliate thereof, regardless of whether or not such Lender thereafter continues to be a Lender or such Person continues to have such capacity with respect to the Credit Agreement), whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with this Agreement, the Credit Agreement (if applicable), the Indenture (or the Notes) (if applicable) or any other applicable Secured Debt Documents (including any letters of credit, any Specified Hedging Agreement or any other document made, delivered or given in connection with any of the foregoing), in each case whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including all fees and disbursements of counsel to the Secured Parties that are required to be paid by the applicable Borrower pursuant to the terms of any of the foregoing agreements).

"Business Day" shall mean any day other than a Saturday, Sunday or day on which commercial banks in New York City are authorized or required by law to close.

"Capital Stock" shall mean (a) in the case of a corporation, corporate stock; (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

" Closing Date" shall mean December 23, 2003.

"Collateral" shall mean have the meaning assigned to such term in Section 3.

"Collateral Account" shall mean any collateral account established by the Collateral Trustee as provided in Section 6.1 or 6.6.

"Collateral Account Funds" shall mean, collectively, the following from time to time on deposit in a Collateral Account: all funds (including all trust monies), investments (including all cash equivalents) credited to, or purchased with funds from, any Collateral Account and all certificates and instruments from time to time representing or evidencing such investments; all notes, certificates of deposit, checks and other instruments from time to time hereafter delivered to or otherwise possessed by the Collateral Trustee for or on behalf of any Grantor in substitution for, or in addition to, any or all of the Collateral; and all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the items constituting Collateral.

"Collateral Trust Agreement" shall have the meaning assigned to such term in the preamble.

"Company" shall have the meaning assigned to such term in the preamble.

"Contracts" shall mean all contracts and agreements (in each case, whether written or oral, or third party or intercompany) between any Grantor and other Person, as the same may be amended, assigned, extended, restated, supplemented, replaced or otherwise modified from time to time, including (i) all rights of any Grantor to receive moneys due and to become due to it thereunder or in connection therewith, (ii) all rights of any Grantor to receive proceeds of any insurance, indemnity, warranty or guaranty with respect thereto, (iii) all rights of any Grantor to damages arising thereunder and (iv) all rights of any Grantor to terminate, and to perform and compel performance of, such Contracts and to exercise all remedies thereunder.

"control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and

"controlled" shall have meanings correlative thereto; provided that when used in connection with the Collateral Trustee's rights with respect to, or security interest in, any Collateral, "control" shall have the meaning specified in the UCC with respect to that type of Collateral.

"Control Agreement (Deposit and Securities Accounts)" shall mean a Control Agreement in the form of Exhibit A, to be executed and delivered by the applicable Grantor and the other party or parties thereto with respect to each Deposit Account or Securities Account of such Grantor except to the extent that the same constitutes an Excluded Perfection Asset at any time.

"Control Agreement (Commodities Contracts)" shall mean a Control Agreement in the form of Exhibit B, to be executed and delivered by the applicable Grantor and the other party or parties thereto with respect to each Commodity Contract of such Grantor as required by Section 5.2(e).

"Copyright Licenses" shall mean any agreement, whether written or oral, naming any Grantor as licensor or licensee (including those listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time)), granting any right in, to or under any Copyright, including the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.

" Copyrights" shall mean (i) all copyrights arising under the laws of the United States, any other country, or union of countries, or any political subdivision of any of the foregoing, whether registered or unregistered and whether published or unpublished (including those listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time)), all registrations and recordings thereof, and all applications in connection therewith and rights corresponding thereto throughout the world, including all registrations, recordings and applications in the United States Copyright Office, (ii) the right to, and to obtain, all extensions and renewals thereof, and the right to sue for past, present and future infringements of any of the foregoing, (iii) all proceeds of the foregoing, including licenses, royalties, income, payments, claims, damages, and proceeds of suit and (v) all other rights of any kind whatsoever accruing thereunder or pertaining thereto.

" Core Collateral" shall mean all Equity Interests in, and property and assets of, NRG Mid-Atlantic, NRG Northeast and NRG South Central and their respective subsidiaries (other than NRG Sterlington Power LLC, Bayou Cove Peaking Power LLC and Big Cajun I Peaking Power LLC for so long as such entities shall constitute Excluded Project Subsidiaries), whether now owned or hereafter acquired.

"Credit Agreement" shall have the meaning assigned to such term in the preamble.

"Credit Agreement Borrowers" shall have the meaning assigned to such term in the preamble.

"Credit Agreement Guarantors" shall mean the Revolving Loan Guarantors and the Term Loan Guarantors.

"Deposit Account" shall mean (i) all "deposit accounts" as defined in Article 9 of the New York UCC, (ii) all other accounts maintained with any financial institution (other than Securities Accounts or Commodity Accounts) and (iii) shall include all of the accounts listed on Schedule 4.8(c) under the heading "Deposit Accounts" (as such schedule may be amended or supplemented from time to time) together, in each case, with all funds held therein and all certificates or instruments representing any of the foregoing.

"Depositary Bank" shall mean a financial institution that has delivered to the Collateral Trustee an executed Control Agreement (Deposit and Securities Accounts).

" Domestic Subsidiaries" shall mean all Subsidiaries incorporated, formed or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"dollars" or "$" shall mean lawful money of the United States of America.

"Equity Interests" shall mean Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Excluded Assets" shall mean (i) any lease, license, contract, property right or agreement to which any Grantor is a party or any of such Grantor's rights or interests thereunder if and only for so long as the grant of a security interest therein under the Security Documents shall constitute or result in a breach, termination or default or invalidity under any such lease, license, contract, property right or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Sections 9–406, 9–407, 9–408 or 9–409 of the UCC of any relevant jurisdiction or any other applicable law or principles of equity); provided that such lease, license, contract, property right or agreement shall be an Excluded Asset only to the extent and for so long as the consequences specified above shall result and shall cease to be an Excluded Asset and shall become subject to the security interest granted under the Security Documents, immediately and automatically, at such time as such consequences shall no longer result; (ii) any interests in real property owned or leased by any Grantor only for so long as such interest represents an Excluded Perfection Asset; (iii) any Equity Interests in any Excluded Project Subsidiary the pledge of which pursuant to the Security Documents would constitute a default under the applicable Non–Recourse Indebtedness in respect of which it is an obligor and any voting Equity Interests in excess of 66% (or, in the case of NRG International Holdings GmbH, NRG International Holdings (No.2) GmbH and NRGenerating International BV, 65%) of the total outstanding voting Equity Interests in any Excluded Foreign Subsidiary; (iv) any Deposit Account, Securities Account or Commodities Account (and all cash, cash equivalents permitted by the terms of the Secured Debt Documents and Commodity Contracts held therein) if and only for so long as such Deposit Account, Securities Account or Commodities Account is subject to a

Lien under clause (r) of the definition of "Permitted Liens" set forth in the Credit Agreement and the other parallel exceptions provided for in the Secured Debt Documents; (v) the Equity Interests in, and all properties and assets of, NRG Energy Insurance Ltd. (Cayman Islands); (vi) the Equity Interests in, and all properties and assets of, NRGenerating III (Gibraltar), NRGenerating IV Gibraltar, NRG Pacific Corporate Services Pty Ltd., Coniti Holding BV (only for so long as such entity shall own no assets other than the Equity Interests in Tosli (Gibraltar) BV) and Tosli (Gibraltar) BV (only for so long as such entity shall own no assets); (vii) the Equity Interests in, and all properties and assets of, NRG Latin America Inc., Sterling Luxembourg (No. 4) S.a.r.l, NRGenerating Luxembourg (No. 6) and S.a.r.l., NRGenerating Holdings (No. 21) BV (only for so long as such entity shall own no assets other than the stock of its subsidiaries owned on the Closing Date); (viii) any Equity Interest of a Person (other than a Subsidiary) held by any Grantor if and for so long as the pledge thereof under the Security Documents shall constitute or result in a breach, termination or default under any joint venture, stockholder or partnership agreement between such Grantor and one or more other holders of Equity Interests of such Person; provided that (A) such Grantor shall have used reasonable efforts to obtain the consent or waiver of such other holders of Equity Interests of such Person to such a pledge and such consent or waiver shall not have been obtained and (B) such Equity Interest shall be an Excluded Asset only to the extent and for so long as the consequences specified above shall result and shall cease to be an Excluded Asset and shall become subject to the security interest granted under the Security Documents, immediately and automatically, at such time as such consequences shall no longer result; (ix) all properties and assets of the Company's resource recovery facility located at North Newport, MN and all properties and assets of the Company's resource recovery facility located at Elk River, MN if and for so long as the grant of a security interest therein under the Security Documents shall constitute or result in a breach, termination or default under any service agreement with the applicable municipalities in which such facilities reside; provided that (A) the Company shall have used reasonable efforts to obtain the consent or waiver of such municipalities to the grant of such security interests and such consent or waiver shall not have been obtained and (B) such properties and assets shall be an Excluded Asset only to the extent and for so long as the consequences specified above shall result and shall cease to be an Excluded Asset and shall become subject to the security interest granted under the Security Documents, immediately and automatically, at such time as such consequences shall no longer result; (x) any Account of NRG Power Marketing solely to the extent that (x) such Account relates to the sale by NRG Power Marketing of power or capacity that was purchased by NRG Power Marketing from a Subsidiary that is an Excluded Project Subsidiary and (y) the grant of a security interest in such Account under the Security Documents shall constitute or result in a breach, termination or default under any agreement or instrument governing the applicable Existing Non-Recourse Indebtedness of such Subsidiary (as such agreement or instrument was in effect on the Closing Date); (xi) the Equity Interests in either of the NEO Companies to the extent that a grant of a security interest in such Equity Interests under the Security Documents shall constitute or result in a breach, termination or default under any agreement or instrument governing the applicable Existing Non-Recourse Indebtedness of their subsidiaries (as such agreement or instrument was in effect on the Closing Date); and (xii) the Deposit Account established

by the Company pursuant to the NRG Plan in respect of the Consolidated Edison dispute and all cash held therein not to exceed (x) $11,700,000 as of the Closing Date plus (y) any amounts required by the NRG Plan to be deposited therein in respect of invoices owing to Consolidated Edison; provided that such Deposit Account (and all cash therein) shall automatically cease to be an Excluded Asset from and after the date that such dispute is resolved.

"Excluded Foreign Subsidiaries" shall mean, at any time, any Foreign Subsidiary that is (or is treated as) for United States federal income tax purposes either (a) a corporation or (b) a pass-through entity owned directly or indirectly by another Foreign Subsidiary that is (or is treated as) a corporation; provided that (i) none of NRG Mid-Atlantic, NRG Northeast or NRG South Central or any of their respective subsidiaries may at any time be an Excluded Foreign Subsidiary and (ii) notwithstanding the foregoing, the following entities will be deemed to be "Excluded Foreign Subsidiaries": Sterling Luxembourg (No. 4) S.a.r.l., Tosli Acquisition BV, NRGenerating Luxembourg (No. 6) S.a.r.l., NRGenerating Holdings (No. 4) GmbH (only for so long as such entity shall remain a direct subsidiary of NRG International LLC and shall have no assets other than those owned on the Closing Date), NRGenerating Holdings (No. 3) Gibraltar, NRGenerating Holdings (No. 23) BV, NRG Pacific Corporate Services Pty Ltd., NRGenerating III (Gibraltar), NRGenerating IV (Gibraltar), Coniti Holding BV (only for so long as such entity shall own no assets other than the Equity Interests in Tosli (Gibraltar) BV) and Tosli (Gibraltar) BV (only for so long as such entity shall own no assets). The Excluded Foreign Subsidiaries on the Restatement Date are set forth on Schedule 1.1(a).

"Excluded Foreign Subsidiary Voting Stock" shall mean the voting Equity Interests in any Excluded Foreign Subsidiary.

"Excluded Neo Companies" shall mean any of the Neo Companies to the extent that the guarantee of the Note Borrower Obligations by such company would constitute or result in a breach, termination or default under any agreement or instrument governing the applicable Existing Non-Recourse Indebtedness of such Neo Company (as such agreement or instrument is in effect on the Closing Date); provided that such company shall cease to be an Excluded Neo Company and shall automatically be subject to the guarantee in Section 2 to the extent that such guarantee shall not constitute or result in such a breach, termination or default.

"Excluded Perfection Assets" shall mean any property or assets (other than any Core Collateral except (a) the lease of Dunkirk Power LLC relating to 347 Seneca Street, Buffalo, NY, (b) the lease of Astoria Gas Turbine Power LLC relating to the Consolidated Edison site located at 31-02 20th Avenue, Astoria, NY, (c) the lease of Astoria Gas Turbine Power LLC relating to the A-11 dock located at 31-02 20th Avenue, Astoria, NY, (d) the lease of NRG New Roads Holding LLC relating to the turbine storage facilities located at GTS Duratek, 1790 Dock Street, Memphis, TN, (e) the lease of NRG New Roads Holding LLC relating to the turbine storage facilities located at Liebherr American Inc., 4100 Chestnut, Newport News, VA and (f) the lease of NRG New Roads Holding LLC relating to the warehouse facilities for turbine storage located

at Tidewater Warehouses, Bay 3, 814 Childs Avenue, Hampton, VA) in which a security interest cannot be perfected by the filing of a financing statement under the UCC of the relevant jurisdiction or, in the case of Equity Interests, either the filing of a financing statement under the UCC of the relevant jurisdiction or the possession of certificates representing such Equity Interests; provided that such property or assets shall not have a fair market value at any time exceeding $2,000,000 (or, if such property or asset is a Deposit Account or Securities Account, $250,000) individually or $20,000,000 in the aggregate and, to the extent that the fair market value of any such property or asset shall exceed $2,000,000 (or, if such property or asset is a Deposit Account or Securities Account, $250,000) individually, such property or asset shall cease to be an Excluded Perfection Asset and, to the extent that the fair market value of such property or assets shall exceed $20,000,000 in the aggregate at any time, such property or assets shall cease to be Excluded Perfection Assets to the extent of such excess fair market value.

"Excluded Project Subsidiaries" shall mean, at any time, (a) any Subsidiary existing as of the Restatement Date that is an obligor with respect to Existing Non-Recourse Indebtedness outstanding at such time and (b) any Subsidiary that is set forth on Schedule 1.1(b) as of the Restatement Date (so long as such Subsidiary does not become (and remain for a period of 365 days or more) a Guarantor after the Restatement Date) or any Subsidiary that becomes a Subsidiary after the Restatement Date that is an obligor with respect to Additional Non-Recourse Indebtedness outstanding at such time, in each case if and for so long as the grant of a security interest in the property or assets of such Subsidiary or the pledge of the Equity Interests of such Subsidiary, in each case in favor of the Collateral Trustee for the benefit of the Secured Parties, shall constitute or result in a breach, termination or default under the agreement or instrument governing the applicable Non-Recourse Indebtedness; provided that such Subsidiary shall be an Excluded Project Subsidiary only to the extent that and for so long as the requirements and consequences above shall exist; provided further that none of NRG Mid-Atlantic, NRG Northeast or NRG South Central or any of their respective subsidiaries (other than NRG Sterlington Power LLC, Bayou Cove Peaking Power LLC and Big Cajun I Peaking Power LLC for so long as such entities shall constitute Excluded Project Subsidiaries) may at any time be an Excluded Project Subsidiary. The Excluded Project Subsidiaries on the Restatement Date are set forth on Schedule 1.1(b).

"Excluded Project Subsidiary Stock" shall mean the Equity Interests in any Excluded Project Subsidiary.

"Existing Non-Recourse Indebtedness" shall mean secured indebtedness for borrowed money outstanding as of the Closing Date of a Subsidiary (or of Cadillac Renewable Energy LLC) existing as of the Closing Date and any refinancing indebtedness in respect of such indebtedness that is permitted by each of the Secured Debt Documents that was incurred to finance the development, construction or acquisition of or by, or repairs, improvements or additions to, fixed or capital assets of such Subsidiary (including power generation facilities); provided that, except as set forth on Schedule 1.01(d) to the Credit Agreement, (a) such indebtedness is without recourse to the Company or any other Subsidiary or to any property or assets of the Company or any other Subsidiary (other than, in each such case, another Subsidiary (x) which is the

direct parent or a direct or indirect Subsidiary of the Subsidiary that incurred or issued such indebtedness (other than any such indebtedness constituting a guarantee) or (y) that is a Subsidiary that itself has Non–Recourse Indebtedness (as defined in the Credit Agreement) (other than any such indebtedness constituting a guarantee) or is the direct parent or a direct or indirect Subsidiary of a Subsidiary that itself has Non–Recourse Indebtedness (as defined in the Credit Agreement) (other than any such indebtedness constituting a guarantee)), (b) neither the Company nor any other Subsidiary (other than another Subsidiary (x) which is the direct parent or a direct or indirect Subsidiary of the Subsidiary that incurred or issued such indebtedness (other than any such indebtedness constituting a guarantee) or (y) that is a Subsidiary that itself has Non–Recourse Indebtedness (as defined in the Credit Agreement) (other than any such indebtedness constituting a guarantee) or is the direct parent or a direct or indirect Subsidiary of a Subsidiary that itself has Non–Recourse Indebtedness (as defined in the Credit Agreement) (other than any such indebtedness constituting a guarantee)) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute indebtedness) or is directly or indirectly liable as a guarantor or otherwise in respect of such indebtedness or in respect of the business or operations of the applicable Subsidiary that is the obligor on such indebtedness or any of its subsidiaries (other than (i) any such credit support or liability consisting of reimbursement obligations in respect of letters of credit issued under, and subject to the terms of, the Credit Agreement to support obligations of such applicable subsidiary and (ii) any investments in such applicable subsidiary made in accordance with each of the Secured Debt Documents), (c) neither the Company nor any other Subsidiary or Affiliate of any thereof constitutes the lender of such indebtedness, (d) no default with respect to such Indebtedness (including any rights that the holders of such Indebtedness may have to take enforcement action against a Subsidiary that is not a Credit Agreement Guarantor) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company or any Credit Agreement Guarantor (other than indebtedness permitted pursuant to Section 6.01(b)(i), (ii), (iii) or (xi) of the Credit Agreement) to declare a default on such other indebtedness or cause the payment of the indebtedness to be accelerated or payable prior to its stated maturity and (e) the Liens securing such indebtedness shall exist only on (i) the property and assets of any Subsidiary that is not a Credit Agreement Guarantor and (ii) the Equity Interests in any Subsidiary that is not a Credit Agreement Guarantor (and shall not apply to any other property or assets of the Company or any other Subsidiary that is a Credit Agreement Guarantor), except, in the case of each of clauses (a) and (b) for (x) agreements of the Company or any other Subsidiary to provide corporate or management services or operation and maintenance services to such Subsidiary, (y) guarantees of the Company or any other Subsidiary with respect to debt service reserves established with respect to such Subsidiary to the extent that such guarantee shall result in the immediate payment of funds, pursuant to dividends or otherwise, in the amount of such guarantee to the Company or such other Subsidiary and (z) contingent obligations of the Company or any other Subsidiary to make capital contributions to such Subsidiary, in the case of each of clauses (x), (y) and (z), which are otherwise permitted under each of the Secured Debt Documents.

"Foreign Subsidiary" shall mean any Subsidiary that is not a Domestic Subsidiary.

"Future Debt Borrower Obligations" shall mean the Borrower Obligations of the applicable Borrower under, and in respect of, the applicable Secured Debt Documents governing such future Series of Guaranteed Secured Debt.

"Future Debt Guarantors" shall mean the collective reference to each Subsidiary that is or becomes a party hereto as provided herein, except to the extent that any such Subsidiary is not required to guarantee the Future Debt Borrower Obligations under such future Series of Guaranteed Secured Debt pursuant to the terms of the Secured Debt Documents that govern such Series of Guaranteed Secured Debt.

"Good Utility Practices" shall mean any of those practices, methods, standards and acts (including the practices, methods, standards and acts engaged in or approved by a significant portion of the electric power generation industry in the United States) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should have reasonably been expected to have been known at the time a decision was made, could have reasonably been expected to accomplish the desired result consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts conform in all material respects to applicable law, permits and other governmental approvals.

"Governmental Authority" shall mean the government of the United States of America or any other nation, any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Grantors" shall mean (i) in the case of the Secured Obligations under, or in respect of, the Credit Agreement, any Specified Hedging Agreement permitted thereunder and the other Secured Debt Documents relating thereto, the Company and the Credit Agreement Guarantors, (ii) in the case of the Secured Obligations under, or in respect of, the Indenture and the Notes and the other Secured Debt Documents relating thereto, the Company and the Note Guarantors and (iii) in the case of the Secured Obligations under, or in respect of, the Secured Debt Documents governing any future Series of Guaranteed Secured Debt, the Company and the applicable Future Debt Guarantors.

"Guaranteed Secured Debt Representative" shall mean each Secured Debt Representative with respect to each Series of Guaranteed Secured Debt.

"Guaranteed Secured Parties" shall mean any Secured Party who is holding a Secured Obligation with respect to a Series of Guaranteed Secured Debt (including any Guaranteed Secured Debt Representative and the Collateral Trustee), at any time.

"Guarantor Obligations" shall mean with respect to any Guarantor, all obligations and liabilities of such Guarantor which may arise under or in connection with this Agreement (including Section 2) or any other Secured Debt Document to which such Guarantor is a party, in each case whether on account of guarantee obligations,

reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including all fees and disbursements of counsel to any Secured Party that are required to be paid by such Guarantor pursuant to the terms of this Agreement or any other Secured Debt Document).

"Guarantors" shall mean, as applicable, the Future Debt Guarantors, the Note Guarantors, the Revolving Loan Guarantors and the Term Loan Guarantors.

"Immaterial Subsidiary" shall mean, at any time, any Restricted Subsidiary that is designated by the Company as an "Immaterial Subsidiary" if and for so long as such Restricted Subsidiary, together with all other Immaterial Subsidiaries, has (a) total assets at such time not exceeding 5% of the Company's consolidated assets as of the most recent fiscal quarter for which balance sheet information is available and (b) total revenues and operating income for the most recent 12–month period for which income statement information is available not exceeding 5% of the Company's consolidated revenues and operating income, respectively; provided that (i) such Restricted Subsidiary shall be an Immaterial Subsidiary only to the extent that and for so long as all of the above requirements are satisfied and (ii) none of NRG Mid–Atlantic or its subsidiaries, NRG Northeast or its subsidiaries or NRG South Central or its subsidiaries may at any time be an Immaterial Subsidiary hereunder. The Immaterial Subsidiaries on the Restatement Date are set forth on Schedule 1.1(c).

"Indenture" shall have the meaning assigned to such term in the preamble.

"Intellectual Property" shall mean the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including the Copyrights, the Copyright Licenses, the Patents, the Patent Licenses, the Trademarks, the Trademark Licenses, the Trade Secrets and the Trade Secret Licenses, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Intercompany Note" shall mean any promissory note evidencing loans made by any Grantor to the Company or any of the Subsidiaries.

"Insurance" shall mean (i) all insurance policies covering any or all of the Collateral (regardless of whether the Collateral Trustee is the loss payee thereof) and (ii) any key man life insurance policies.

"Investment Property" shall mean the collective reference to (i) all "investment property" as such term is defined in Section 9–102(a)(49) of the New York UCC (other than any Excluded Foreign Subsidiary Voting Stock and any Excluded Project Subsidiary Stock, in each case excluded from the definition of "Pledged Equity Interests") including all Certificated Securities and Uncertificated Securities, all Security Entitlements, all Securities Accounts, all Commodity Contracts and all Commodity Accounts, (ii) security entitlements, in the case of any United States Treasury book–entry securities, as defined in 31 C.F.R. section 357.2, or, in the case of any United States federal agency book–entry

securities, as defined in the corresponding United States federal regulations governing such book–entry securities and (iii) whether or not otherwise constituting "investment property", all Pledged Notes, all Pledged Equity Interests, all Pledged Security Entitlements and all Pledged Commodity Contracts.

"Issuers" shall mean the collective reference to each issuer of a Pledged Security.

"Lenders" shall have the meaning assigned to such term in the preamble.

"Licensed Intellectual Property" shall have the meaning assigned to such term in Section 4.11.

"Material Adverse Effect" shall mean a material adverse change in or material adverse effect on (a) the condition (financial or otherwise), results of operations, assets, liabilities or prospects of the Company and the Subsidiaries, taken as a whole, or (b) the validity or enforceability of any of the Secured Debt Documents or the rights and remedies of the Collateral Trustee or any of the other Secured Parties thereunder.

" Material Contract" shall mean any agreement, contract or license or other arrangement (other than an agreement, contract or arrangement representing indebtedness for borrowed money) to which any Grantor is a party that is material to the Grantors and their subsidiaries, taken as a whole, and for which breach, nonperformance, cancellation or failure to renew could reasonably be expected to have a Material Adverse Effect.

"Material Intellectual Property" shall have the meaning assigned to such term in Section 4.11.

"Neo Companies" shall mean NEO Hackensack, LLC and NEO Prima Deshecha LLC.

"New York UCC" shall mean the Uniform Commercial Code as from time to time in effect in the State of New York.

"Non–Assignable Contract" shall mean any Contract that by its terms purports to restrict or prevent the assignment thereof or granting of a security interest therein (either by its terms or by any federal or state statutory prohibition or otherwise, irrespective of whether such prohibition or restriction is enforceable under Sections 9–407 through 409 of the New York UCC).

"Note Borrower Obligations" shall mean the Borrower Obligations of the Company under, or in respect of, the Notes and the Indenture, any Specified Hedging Agreements permitted thereunder and each other Secured Debt Document relating thereto or in respect thereof.

"Note Guarantors" shall mean the collective reference to each Subsidiary (other than the Immaterial Subsidiaries and the Excluded Neo Companies) that is or becomes a party hereto as provided herein.

"Notes" shall have the meaning assigned to such term in the recitals.

"NRG Mid–Atlantic" shall mean NRG Mid–Atlantic Generating LLC, a Delaware limited liability company that is a wholly owned Subsidiary.

"NRG Northeast" shall mean NRG Northeast Generating LLC, a Delaware limited liability company that is a wholly owned Subsidiary.

"NRG Power Marketing" shall have the meaning assigned to such term in the preamble.

"NRG South Central" shall mean NRG South Central Generating LLC, a Delaware limited liability company that is a wholly owned Subsidiary.

"Original Credit Agreement" shall mean the Credit Agreement, including all amendments thereto and waivers thereof effective prior to the Restatement Date.

"Original Guarantee and Collateral Agreement" shall mean this Agreement as in effect immediately prior to the Restatement Date.

"Owned Intellectual Property" shall have the meaning assigned to such term in Section 4.11.

"Patent License" shall mean all agreements, whether written or oral, providing for the grant by or to any Grantor of any right to manufacture, use or sell any invention covered in whole or in part by a Patent, including any of the foregoing listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time).

"Patents" shall mean (i) all letters patent of the United States, any other country, union of countries or any political subdivision of any of the foregoing, all reissues and extensions thereof and all goodwill associated therewith, including any of the foregoing listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time), (ii) all applications for letters patent of the United States or any other country or union of countries or any political subdivision of any of the foregoing and all divisions, continuations and continuations–in–part thereof, including any of the foregoing listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time), (iii) all rights to, and to obtain, any reissues or extensions of the foregoing and (iv) all proceeds of the foregoing, including licenses, royalties, income, payments, claims, damages and proceeds of suit.

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint–stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Pledged Accounts" shall have the meaning assigned to such term in Section 5.13.

"Pledged Alternative Equity Interests" shall mean all interests of any Grantor in participation or other interests in any equity or profits of any business entity and the

certificates, if any, representing such interests and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such interests and any other warrant, right or option to acquire any of the foregoing; provided, however, that Pledged Alternative Equity Interests shall not include any Pledged Stock, Pledged Partnership Interests, Pledged LLC Interests or Pledged Trust Interests.

"Pledged Commodity Contracts" shall mean all commodity contracts listed on Schedule 4.8(c) (as such schedule may be amended or supplemented from time to time) and all other commodity contracts to which any Grantor is party from time to time.

"Pledged Debt Securities" shall mean all debt securities now owned or hereafter acquired by any Grantor, including the debt securities listed on Schedule 4.8(b) (as such schedule may be amended or supplemented from time to time), together with any other certificates, options, rights or security entitlements of any nature whatsoever in respect of the debt securities of any Person that may be issued or granted to, or held by, any Grantor while this Agreement is in effect.

"Pledged Equity Interests" shall mean all Pledged Stock, Pledged LLC Interests, Pledged Partnership Interests, Pledged Trust Interests and Pledged Alternative Equity Interests.

"Pledged LLC Interests" shall mean all interests of any Grantor now owned or hereafter acquired in any limited liability company (other than those interests described in clauses (iii), (v), (vi), (vii), (viii) and (ix) of the definition of "Excluded Assets"), including all limited liability company interests listed on Schedule 4.8(a) under the heading "Pledged LLC Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such limited liability company interests and any interest of such Grantor on the books and records of such limited liability company and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such limited liability company interests and any other warrant, right or option to acquire any of the foregoing.

"Pledged NEO Notes" shall mean the promissory notes listed under subsection VI of Schedule 4.8(b) hereto as in effect on the Closing Date.

"Pledged Notes" shall mean all promissory notes now owned or hereafter acquired by any Grantor including those listed on Schedule 4.8(b) (as such schedule may be amended or supplemented from time to time) and all Intercompany Notes at any time issued to or held by any Grantor (other than promissory notes in an aggregate principal amount not to exceed $250,000 at any time outstanding issued in connection with extensions of trade credit by any Grantor in the ordinary course of business).

"Pledged Partnership Interests" shall mean all interests of any Grantor now owned or hereafter acquired in any general partnership, limited partnership, limited liability partnership or other partnership (other than those interests described in clauses (iii), (v), (vi), (vii), (viii) and (ix) of the definition of "Excluded Assets"), including all partnership interests listed on Schedule 4.8(a) under the heading "Pledged Partnership Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such partnership interests and any interest of such Grantor on the books and records of such partnership and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such partnership interests and any other warrant, right or option to acquire any of the foregoing.

"Pledged Securities" shall mean the collective reference to the Pledged Debt Securities, the Pledged Notes and the Pledged Equity Interests.

"Pledged Security Entitlements" shall mean all security entitlements with respect to the financial assets listed on Schedule 4.8(c) (as such schedule may be amended or supplemented from time to time) and all other security entitlements of any Grantor.

"Pledged Stock" shall mean all shares of capital stock now owned or hereafter acquired by any Grantor (other than those shares of capital stock described in clauses (iii), (v), (vi), (vii), (viii) and (ix) of the definition of "Excluded Assets"), including all shares of capital stock listed on Schedule 4.8(a) under the heading "Pledged Stock" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such shares and any interest of such Grantor in the entries on the books of the issuer of such shares and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares and any other warrant, right or option to acquire any of the foregoing; provided, however, that in no event shall more than 66% of the total outstanding Excluded Foreign Subsidiary Voting Stock or any Excluded Project Subsidiary Stock be required to be pledged hereunder.

"Pledged Trust Interests" shall mean all interests of any Grantor now owned or hereafter acquired in a Delaware business trust or other trust (other than those interests described in clauses (iii), (v), (vi), (vii), (viii) and (ix) of the definition of "Excluded Assets"), including all trust interests listed on Schedule 4.8(a) under the heading "Pledged Trust Interests" (as such schedule may be amended or supplemented from time to time) and the certificates, if any, representing such trust interests and any interest of such Grantor on the books and records of such trust or on the books and records of any securities intermediary pertaining to such interest and all dividends, distributions, cash, warrants, rights, options, instruments, securities and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such trust interests and any other warrant, right or option to acquire any of the foregoing.

"Proceeds" shall mean all "proceeds" as such term is defined in Section 9-102(a)(64) of the New York UCC and, in any event, shall include all dividends or other income from the Investment Property, collections thereon or distributions or payments with respect thereto.

"Receivable" shall mean all Accounts and any other any right to payment for goods or other property sold, leased, licensed or otherwise disposed of or for services rendered, whether or not such right is evidenced by an Instrument or Chattel Paper or classified as a Payment Intangible and whether or not it has been earned by performance. References herein to Receivables shall include any Supporting Obligation or collateral securing such Receivable.

"Requirement of Law" shall mean as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, or which pertains to or governs the legality, validity, perfection, performance or enforcement of the Secured Debt Documents or the Liens thereunder.

"Restatement Date" shall mean December 24, 2004.

"Revolving Loan Borrower Obligations" shall mean the Borrower Obligations of the Credit Agreement Borrowers under, or in respect of, the Credit Agreement, any Specified Hedging Agreements permitted thereunder and each other Secured Debt Document relating thereto, including in respect of the Revolving Loans, Revolving Credit Commitments and Revolving Letters of Credit (each as defined in the Credit Agreement).

"Revolving Loan Guarantors" shall mean the collective reference to each Subsidiary (other than NRG Power Marketing) that is or becomes a party hereto as provided herein.

"Secured Obligations" shall mean (i) in the case of any Borrower, the applicable Borrower Obligations and (ii) in the case of each Guarantor, the applicable Borrower Obligations and its Guarantor Obligations.

"Secured Parties" shall mean any Person who is holding a Secured Obligation (including any Secured Debt Representative and the Collateral Trustee) at any time.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Series of Guaranteed Secured Debt" shall mean each Series of Secured Debt that pursuant to the terms of the Secured Debt Documents governing such Series of Secured Debt is guaranteed by the Guarantors pursuant to Section 2 hereof and shall include, in the case of the Credit Agreement and any other Credit Facility the Indebtedness under which constitutes Priority Lien Debt, any obligations in respect of Specified Hedging Agreements that are permitted by the terms of the Priority Lien Documents relating to the

Credit Agreement or such other Credit Facilities to be secured equally and ratably with the Priority Lien Obligations thereunder.

"Specified Hedging Agreement" shall have the meaning assigned to such term in the Credit Agreement.

"Subsidiary" shall mean any subsidiary of the Company.

"subsidiary" shall mean, with respect to any Person (herein referred to as the "parent"), any corporation, partnership, limited liability company, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, controlled or held, or (b) that is, at the time any determination is made, otherwise controlled by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Term Loan Borrower Obligations" shall mean the Borrower Obligations of the Company under, or in respect of, the Credit Agreement, and Specified Hedging Agreements permitted thereunder and each other Secured Debt Document relating thereto, including in respect of the Term Loans, Credit-Linked Deposits, Term Loan Commitments and Funded Letters of Credit (each as defined in the Credit Agreement).

"Term Loan Guarantors" shall mean the collective reference to each Subsidiary that is or becomes a party hereto as provided herein.

"Trademark License" shall mean any agreement, whether written or oral, providing for the grant by or to any Grantor of any right in, to or under any Trademark, including any of the foregoing listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time).

"Trademarks" shall mean (i) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers, and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country, union of countries, or any political subdivision of any of the foregoing, or otherwise, and all common-law rights related thereto, including any of the foregoing listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time), (ii) the right to, and to obtain, all renewals thereof, (iii) the goodwill of the business symbolized by the foregoing, (iv) other source or business identifiers, designs and general intangibles of a like nature and (v) the right to sue for past, present and future infringements or dilution of any of the foregoing or for any injury to goodwill, and all proceeds of the foregoing, including royalties, income, payments, claims, damages and proceeds of suit.

"Trade Secret License" shall mean any agreement, whether written or oral, providing for the grant by or to any Grantor of any right in, to or under any Trade Secret, including any of the foregoing listed in Schedule 4.11 (as such schedule may be amended or supplemented from time to time).

"Trade Secrets" shall mean all trade secrets and all other confidential or proprietary information and know-how (all of the foregoing being collectively called a "Trade Secret"), whether or not reduced to a writing or other tangible form, including all documents and things embodying, incorporating, or describing such Trade Secret, the right to sue for past, present and future infringements of any Trade Secret and all proceeds of the foregoing, including royalties, income, payments, claims, damages and proceeds of suit.

"Trustee" shall have the meaning assigned to such term in the preamble.

1.2. Other Definitional Provisions. (a) The words "hereof", "herein", "hereto" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section and Schedule references are to the specific provisions of this Agreement unless otherwise specified.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(c) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to the property or assets such Grantor has granted as Collateral or the relevant part thereof.

(d) The words "include", "includes" and "including", and words of similar import, shall not be limiting and shall be deemed to be followed by the phrase "without limitation".

(e) All references to the Lenders herein shall, where appropriate, include any Lender, the Administrative Agent, the Collateral Agent, any Arranger or the Syndication Agent or, in each case, any Affiliate thereof that is party to a Specified Hedging Agreement.

SECTION 2. GUARANTEE

2.1. Guarantee.

(a) Each of the Revolving Loan Guarantors, jointly and severally, unconditionally and irrevocably, affirms that it has guaranteed with respect to the Original Credit Agreement, and hereby guarantees to the Administrative Agent, for the ratable benefit of the Secured Parties identified (and defined in) in the Credit Agreement and their respective successors, indorsees, transferees and assigns, the prompt and complete payment and performance by each Credit Agreement Borrower when due (whether at the stated maturity, by acceleration or otherwise) of the Revolving Loan Borrower Obligations. Each of the Term Loan Guarantors, jointly and severally, unconditionally and irrevocably, affirms that it has guaranteed

with respect to the Original Credit Agreement, and hereby guarantees to the Administrative Agent, for the ratable benefit of the Secured Parties identified (and defined in) in the Credit Agreement and their respective successors, indorsees, transferees and assigns, the prompt and complete payment and performance by each Credit Agreement Borrower when due (whether at the stated maturity, by acceleration or otherwise) of the Revolving Loan Borrower Obligations. Each of the Term Loan Guarantors, jointly and severally, unconditionally and irrevocably, affirms that it has guaranteed with respect to the Original Credit Agreement, and hereby guarantees to the Administrative Agent, for the ratable benefit of the Secured Parties identified (and defined in) in the Credit Agreement and their respective successors, indorsees, transferees and assigns, the prompt and complete payment and performance by the Company when due (whether at the stated maturity, by acceleration or otherwise) of the Term Loan Borrower Obligations. Each of the Note Guarantors, jointly and severally, unconditionally and irrevocably, affirms that it has guaranteed with respect to the Notes, and hereby guarantees to the Trustee, for the ratable benefit of each holder of Notes (and the Trustee) and their respective successors, indorsees, transferees and assigns, the prompt and complete payment and performance by the Company when due (whether at the stated maturity, by acceleration or otherwise) of the Note Borrower Obligations. Each of the Future Debt Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees to the applicable future Guaranteed Secured Debt Representative, for the ratable benefit of the holders of the applicable obligations (and the applicable future Guaranteed Secured Debt Representatives) thereunder and their respective successors, indorsees, transferees and assigns, the prompt and complete payment and performance by the applicable Borrower when due (whether at the stated maturity, by acceleration or otherwise) of the applicable Future Debt Borrower Obligations. Notwithstanding anything to the contrary contained herein, the guarantee by any of the Neo Companies of the Revolving Loan Borrower Obligations and the Term Loan Borrower Obligations and, if applicable, any Future Debt Borrower Obligations shall be limited to the extent that such guarantee does not constitute or result in a breach, termination or default under any agreement or instrument governing the applicable Existing Non–Recourse Indebtedness of such Neo Company (as such agreement or instrument is in effect on the Closing Date).

(b) If and to the extent required in order for the Guarantor Obligations of any Guarantor to be enforceable under applicable federal, state and other laws relating to the insolvency of debtors, the maximum liability of such Guarantor hereunder shall be limited to the greatest amount which can lawfully be guaranteed by such Guarantor under such laws, after giving effect to any rights of contribution, reimbursement and subrogation arising under Section 2.2. Each Guarantor acknowledges and agrees that, to the extent not prohibited by applicable law, (i) such Guarantor (as opposed to its creditors, representatives of creditors or bankruptcy trustee, including such Guarantor in its capacity as debtor in possession exercising any powers of a bankruptcy trustee) has no personal right under such laws to reduce, or request any judicial relief that has the effect of reducing, the amount of its liability under this Agreement, (ii) such Guarantor (as opposed to its creditors, representatives of creditors or bankruptcy trustee, including such Guarantor in its capacity as debtor in possession exercising any powers of a bankruptcy trustee) has no personal right to enforce the limitation set forth in this Section 2.1(b) or to reduce, or request judicial relief reducing, the amount of its liability under this Agreement and (iii) the limitation set forth in this Section 2.1(b) may be enforced only to the extent required under such laws in order for the obligations of such Guarantor under this Agreement to be enforceable under such laws and only by or for the benefit of a creditor, representative of creditors or bankruptcy trustee of such Guarantor or other Person entitled, under such laws, to enforce the provisions thereof.

(c) Each Guarantor agrees that the applicable Borrower Obligations may at any time and from time to time be incurred or permitted in an amount exceeding the maximum

liability of such Guarantor under Section 2.1(b) without impairing the guarantee contained in this Section 2 or affecting the rights and remedies of any Secured Party hereunder.

(d) The guarantee contained in this Section 2 shall remain in full force and effect until all the Borrower Obligations and the obligations of each Guarantor under the guarantee contained in this Section 2 shall have been satisfied by payment in full in cash (other than indemnification and other contingent obligations not then due and payable), no letter of credit shall be outstanding and all commitments to extend credit under any Secured Debt Documents shall have been terminated or expired, notwithstanding that from time to time during the term of the Secured Debt Documents any Borrower may be free from any or all of its Borrower Obligations.

(e) No payment made by any applicable Borrower, any of the Guarantors, any other guarantor or any other Person or received or collected by any Secured Party from any applicable Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Borrower Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder which shall, notwithstanding any such payment (other than any payment made by such Guarantor in respect of the Borrower Obligations or any payment received or collected from such Guarantor in respect of the Borrower Obligations), remain liable for the Borrower Obligations up to the maximum liability of such Guarantor hereunder until the Borrower Obligations are paid in full (other than indemnification and other contingent obligations not then due and payable), no letter of credit shall be outstanding and all commitments to extend credit under any Secured Debt Documents shall have been terminated or expired.

2.2. Rights of Reimbursement, Contribution and Subrogation. In case any payment is made on account of the Secured Obligations by any Grantor or is received or collected on account of the Secured Obligations from any Grantor or its property:

(a) If such payment is made by the applicable Borrower or from its respective property, then, if and to the extent such payment is made on account of Secured Obligations arising from or relating to a loan or other extension of credit made to such Borrower or a letter of credit issued for the account of such Borrower, such Borrower shall not be entitled (i) to demand or enforce reimbursement or contribution in respect of such payment from any other Grantor or (ii) to be subrogated to any claim, interest, right or remedy of any Secured Party against any other Person, including any other Grantor or its property; and

(b) If such payment is made by a Guarantor or from its property, such Guarantor shall be entitled, subject to and upon payment in full of the Secured Obligations (other than indemnification and other contingent obligations not then due and payable), (i) to demand and enforce reimbursement for the full amount of such payment from the applicable Borrower and (ii) to demand and enforce contribution in respect of such payment from each other applicable Guarantor that has not paid its fair share of such payment, as necessary to ensure that (after giving effect to any enforcement of reimbursement rights provided hereby) each applicable Guarantor pays its fair share of the unreimbursed portion of such payment. For this purpose, the fair share of each Guarantor as to any unreimbursed payment shall be determined based on an

equitable apportionment of such unreimbursed payment among all applicable Guarantors based on the relative value of their assets and any other equitable considerations deemed appropriate by a court of competent jurisdiction.

(c) If and whenever (after payment in full of the Secured Obligations (other than indemnification and other contingent obligations not then due and payable) and delivery of notification thereof to the Collateral Trustee in accordance with Article 4 of the Collateral Trust Agreement) any right of reimbursement or contribution becomes enforceable by any Grantor against any other Grantor under Sections 2.2(a) or 2.2(b), such Grantor shall be entitled, subject to and upon payment in full of the Secured Obligations (other than indemnification and other contingent obligations not then due and payable), to be subrogated (equally and ratably with all other Grantors entitled to reimbursement or contribution from any other Grantor as set forth in this Section 2.2) to any security interest that may then be held by the Collateral Trustee upon any Collateral granted to it in this Agreement. Such right of subrogation shall be enforceable solely against the Grantors, and not against the Collateral Trustee or any other Secured Party, and neither the Collateral Trustee nor any other Secured Party shall have any duty whatsoever to warrant, ensure or protect any such right of subrogation or to obtain, perfect, maintain, hold, enforce or retain any Collateral for any purpose related to any such right of subrogation. If subrogation is demanded by any Grantor, then (after payment in full in cash of the Secured Obligations and, if applicable, the termination of all commitments to extend credit thereunder, the discharge or cash collateralization (at 100% of the aggregate undrawn amount) of all outstanding letters of credit issued thereunder and the return of any Credit-Linked Deposit (or similar deposit) made thereunder) the Collateral Trustee shall deliver to the Grantors making such demand, or to a representative of such Grantors or of the Grantors generally, an instrument reasonably satisfactory to the Collateral Trustee transferring, on a quitclaim basis without any recourse, representation, warranty or obligation whatsoever, whatever security interest the Collateral Trustee then may hold in whatever Collateral may then exist that was not previously released or disposed of by the Collateral Trustee (provided that such Grantors shall prepare and deliver the initial draft of such instrument to the Collateral Trustee).

(d) All rights and claims arising under this Section 2.2 or based upon or relating to any other right of reimbursement, indemnification, contribution or subrogation that may at any time arise or exist in favor of any Grantor as to any payment on account of the Secured Obligations made by it or received or collected from its property shall be fully subordinated in all respects to the prior payment in full in cash of all of the Secured Obligations (other than indemnification and other contingent obligations not then due and payable) and, if applicable, the termination of all commitments to extend credit thereunder, the discharge or cash collateralization (at 100% of the aggregate undrawn amount) of all outstanding letters of credit issued thereunder and the return of any Credit-Linked Deposit (or similar deposit) made thereunder. Until payment in full in cash of the Secured Obligations and, if applicable, the termination of all commitments to extend credit thereunder, the discharge or cash collateralization (at 100% of the aggregate undrawn amount) of all outstanding letters of credit issued thereunder and the return of any Credit-Linked Deposit (or similar deposit) made thereunder, no Grantor shall demand or receive any collateral security, payment or distribution whatsoever (whether in cash, property or securities or otherwise) on account of any such right or claim. If any such payment or distribution is made or becomes available to any Grantor in any bankruptcy case or receivership, insolvency or liquidation proceeding, such payment or

distribution shall be delivered by the Person making such payment or distribution directly to the applicable Guaranteed Secured Debt Representative, for application to the payment of the Secured Obligations. If any such payment or distribution is received by any Grantor, it shall be held by such Grantor in trust, as trustee of an express trust for the benefit of the Guaranteed Secured Parties, and shall forthwith be transferred and delivered by such Grantor to the Collateral Trustee, in the exact form received and, if necessary, duly endorsed.

(e) The obligations of the Grantors under the Secured Debt Documents, including their liability for the Secured Obligations and the enforceability of the security interests granted thereby, are not contingent upon the validity, legality, enforceability, collectibility or sufficiency of any right of reimbursement, contribution or subrogation arising under this Section 2.2. The invalidity, insufficiency, unenforceability or uncollectibility of any such right shall not in any respect diminish, affect or impair any such obligation or any other claim, interest, right or remedy at any time held by the Collateral Trustee or any other Secured Party against any Grantor or its property. The Secured Parties make no representations or warranties in respect of any such right and shall have no duty to assure, protect, enforce or ensure any such right or otherwise relating to any such right.

(f) Each Grantor reserves any and all other rights of reimbursement, contribution or subrogation at any time available to it as against any other Grantor, but (i) the exercise and enforcement of such rights shall be subject to Section 2.2(d) and (ii) neither the Collateral Trustee nor any other Secured Party shall ever have any duty or liability whatsoever in respect of any such right, except as provided in Section 2.2(c).

2.3. Amendments, etc. with respect to the Borrower Obligations. Each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, any demand for payment of any of the Borrower Obligations made by any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party may be rescinded by such Guaranteed Secured Debt Representative or such other Guaranteed Secured Party and any of the Borrower Obligations continued, and the Borrower Obligations, or the liability of any other Person upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, increased, extended, amended, modified, accelerated, compromised, waived, surrendered or released by any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party, and the other Secured Debt Documents and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as the requisite parties thereto may deem advisable from time to time, and any collateral security, guarantee or right of offset at any time held by any Secured Party for the payment of the Borrower Obligations may be sold, exchanged, waived, surrendered or released. No Guaranteed Secured Debt Representative or any other Guaranteed Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Borrower Obligations or for the guarantee contained in this Section 2 or any property subject thereto.

2.4. Guarantee Absolute and Unconditional. Each Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Borrower Obligations and

notice of or proof of reliance by any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party upon the guarantee contained in this Section 2 or acceptance of the guarantee contained in this Section 2; the Borrower Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in this Section 2; and all dealings between the applicable Borrower and any of the Guarantors, on the one hand, and the Guaranteed Secured Debt Representative and the other Guaranteed Secured Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in this Section 2. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon the applicable Borrower or any of the Guarantors with respect to the Borrower Obligations. Each Guarantor understands and agrees that the guarantee contained in this Section 2 shall be construed as a continuing, absolute and unconditional guarantee of payment and performance without regard to (a) the validity or enforceability of any Secured Debt Document, any of the Borrower Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party, (b) any defense, set-off or counterclaim (other than a defense of payment or performance hereunder) which may at any time be available to or be asserted by the applicable Borrower or any other Person against any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party, or (c) any other circumstance whatsoever (with or without notice to or knowledge of the applicable Borrower or such Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of the applicable Borrower for the Borrower Obligations, or of such Guarantor under the guarantee contained in this Section 2, in bankruptcy or in any other instance. When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Guarantor, any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party may, but shall be under no obligation to, make a similar demand on or otherwise pursue such rights and remedies as it may have against the applicable Borrower, any other Guarantor or any other Person or against any collateral security or guarantee for the Borrower Obligations or any right of offset with respect thereto, and any failure by any Guaranteed Secured Party to make any such demand, to pursue such other rights or remedies or to collect any payments from the applicable Borrower, any other Guarantor or any other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the applicable Borrower, any other Guarantor or any other Person or any such collateral security, guarantee or right of offset, shall not relieve any Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party against any Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

2.5. Reinstatement. The guarantee contained in this Section 2 shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Borrower Obligations is rescinded or must otherwise be restored or returned by any Guaranteed Secured Debt Representative or any other Guaranteed Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the applicable Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator

of, or trustee or similar officer for, the applicable Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payments had not been made.

2.6. Payments. Each Guarantor hereby guarantees that payments hereunder will be paid to each Guaranteed Secured Debt Representative without set-off or counterclaim in dollars in immediately available funds at the office of such Guaranteed Secured Debt Representative specified in the applicable Secured Debt Documents as the office for payments thereunder.

SECTION 3. GRANT OF SECURITY INTEREST; CONTINUING LIABILITY UNDER COLLATERAL

(a) (x) Each Grantor hereby (i) affirms that is has assigned and transferred to the Priority Collateral Trustee, and has granted to the Priority Collateral Trustee, for the ratable benefit of the Priority Lien Secured Parties, a lien on and, except as set forth in Section 4.2 or 4.3, a first priority security interest in all of the personal property of such Grantor, including, in any event, the property described in items (i) through (xxi) below, in each case, wherever located and now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Priority Lien Obligations and (ii) affirms that it has assigned and transferred to the Parity Collateral Trustee, and has granted to the Parity Collateral Trustee, for the ratable benefit of the Parity Lien Secured Parties, a lien on and, except as set forth in Section 4.2 or 4.3, a second priority security interest in all of the Collateral, as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Parity Lien Obligations, and (y) each Grantor hereby (i) assigns and transfers to the Priority Collateral Trustee, and hereby grants to the Priority Collateral Trustee, for the equal and ratable benefit of the Priority Lien Secured Parties, a lien on and, except as set forth in Section 4.2 or 4.3, a first priority security interest in all of the Collateral, as collateral security for the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Priority Lien Obligations, (ii) assigns and transfers to the Parity Collateral Trustee, and hereby grants to the Parity Collateral Trustee, for the equal and ratable benefit of the Parity Lien Secured Parties, a lien on and, except as set forth in Section 4.2 or 4.3, a second priority security interest in all of the Collateral, as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Parity Lien Obligations, and (iii) assigns and transfers to the Account Collateral Trustee and hereby grants to the Account Collateral Trustee, for the benefit of the Priority Lien Secured Parties and the Parity Lien Secured Parties, a lien on and security interest in all Deposit Accounts and Securities Accounts, in each case as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Priority Lien Obligations and the Parity Lien Obligations, respectively (it being understood that the grants of security interest under the foregoing clause (y)(i), clause (y)(ii) and clause (y)(iii) constitute three separate and distinct grants of security and Liens, one in favor of the Priority Collateral Trustee in its capacity as collateral agent for the equal and ratable benefit of the Priority Lien Secured Parties to secure the Priority Lien Obligations and the second in favor of the Parity Collateral Trustee in its capacity as collateral agent for the equal and ratable benefit of

the Parity Lien Secured Parties to secure the Parity Lien Obligations) and the third in favor of the Account Collateral Trustee for the benefit of the Priority Lien Secured Parties and the Parity Lien Secured Parties to secure the Priority Lien Obligations and the Parity Lien Obligations, respectively:

(i) all Accounts;

(ii) all Chattel Paper;

(iii) all Collateral Accounts and all Collateral Account Funds;

(iv) all Commercial Tort Claims from time to time specifically described on Schedule 4.13;

(v) all Contracts;

(vi) all Deposit Accounts;

(vii) all Documents;

(viii) all Equipment;

(ix) all Fixtures;

(x) all General Intangibles;

(xi) all Goods;

(xii) all Instruments;

(xiii) all Insurance;

(xiv) all Intellectual Property;

(xv) all Inventory;

(xvi) all Investment Property;

(xvii) all Letters of Credit and Letter of Credit Rights;

(xviii) all Money;

(xix) all Securities Accounts;

(xx) all books, records, ledger cards, files, correspondence, customer lists, blueprints, technical specifications, manuals, computer software, computer printouts, tapes, disks and other electronic storage media and related data processing software and similar items that at any time pertain to or evidence or contain information

relating to any of the Collateral or are otherwise necessary or helpful in the collection thereof or realization thereupon; and

(xxi) to the extent not otherwise included, all other property, whether tangible or intangible, of the Grantor and all Proceeds and products accessions, rents and profits of any and all of the foregoing and all collateral security, Supporting Obligations and guarantees given by any Person with respect to any of the foregoing;

provided, however, that notwithstanding any of the other provisions set forth in this Section 3, this Agreement shall not, at any time, constitute a grant of a security interest in any property that is, at such time, an Excluded Asset. The Grantor, the Priority Collateral Trustee, Parity Collateral Trustee and Account Collateral Trustee hereby acknowledge and agree that the security interest created hereby in the Collateral is not, in and of itself, to be construed as a grant of a fee interest in (as opposed to a security interest in) any Copyright, Trademark, Patent, Copyright License, Patent License, Trademark License, Trade Secret or Trade Secret License.

This Agreement, and the security interests and Liens granted and created herein, secures the payment and performance of all Secured Obligations now or hereafter in effect, whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest (including any interest accruing at the then applicable rate provided in any applicable Secured Debt Document after the maturity of the Indebtedness thereunder and reimbursement obligations therein and interest accruing at the then applicable rate provided in any applicable Secured Debt Document after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to any Grantor, whether or not a claim for post–filing or post–petition interest is allowed in such proceeding), fees, premiums, penalties, indemnifications, expenses or otherwise, and including all amounts that constitute part of the Secured Obligations and would be owed by any Grantor but for the fact that they are unenforceable or not allowed due to a pending Bankruptcy Case or Insolvency Proceeding. Without limiting the generality of the foregoing, it is the intent of the parties that (i) the Liens securing the Parity Lien Obligations are subject and subordinate to the Liens securing the Priority Lien Obligations and (ii) this Agreement creates two separate and distinct Liens: the first priority Lien securing the payment and performance of the Priority Lien Obligations and the second priority Lien securing the payment and performance of the Parity Lien Obligations, in each case as may be more particularly set forth in the Collateral Trust Agreement. For purposes of perfecting the security interests hereunder, all property in the possession or control of the Collateral Trustee will be held by the Collateral Trustee in its capacity as Priority Collateral Trustee for the benefit of the Priority Lien Secured Parties and in its capacity as Parity Collateral Trustee for the benefit of the Parity Lien Secured Parties, and in its capacity as Account Collateral Trustee for the benefit of the Priority Lien Secured Parties and the Parity Lien Secured Parties, in each case subject to the terms of the Collateral Trust Agreement.

(b) Notwithstanding anything herein to the contrary, (i) each Grantor shall remain liable for all obligations under and in respect of the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Collateral Trustee or any other Secured Party, (ii) each Grantor shall remain liable under each of the agreements included in the Collateral, including any Receivables, any Contracts and any agreements relating to Pledged Partnership Interests or Pledged LLC Interests, to perform all of the obligations undertaken by it

thereunder all in accordance with and pursuant to the terms and provisions thereof and neither the Collateral Trustee nor any other Secured Party shall have any obligation or liability under any of such agreements by reason of or arising out of this Agreement or any other document related hereto nor shall the Collateral Trustee nor any other Secured Party have any obligation to make any inquiry as to the nature or sufficiency of any payment received by it or have any obligation to take any action to collect or enforce any rights under any agreement included in the Collateral, including any agreements relating to any Receivables, any Contracts, or any agreements relating to Pledged Partnership Interests or Pledged LLC Interests and (iii) the exercise by the Collateral Trustee of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral, including any agreements relating to any Receivables, any Contracts and any agreements relating to Pledged Partnership Interests or Pledged LLC Interests.

SECTION 4. REPRESENTATIONS AND WARRANTIES

To induce the applicable Secured Parties to enter into the Secured Debt Documents and to induce the applicable Secured Parties to make their respective extensions of credit to the applicable Grantor or Grantors thereunder, each Grantor hereby represents and warrants to the Collateral Trustee and each other applicable Secured Party that:

4.1. Representations in Secured Debt Documents. In the case of each Grantor, the representations and warranties set forth in each credit agreement and indenture constituting a Secured Debt Document as they relate to such Grantor or to the Secured Debt Documents to which such Grantor is a party, each of which is hereby incorporated herein by reference, are true and correct in all material respects, except for representations and warranties expressly stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date, and the Collateral Trustee and the other Secured Parties shall be entitled to rely on each of them as if they were fully set forth herein (to the extent that such Secured Parties are parties to or have the benefit of the Secured Debt Document in which such representatives and warranties are contained); provided that each reference in each such representation and warranty to a Person's knowledge shall, for the purposes of this Section 4.1, be deemed to be a reference to such Grantor's knowledge.

4.2. Title; No Other Liens. Such Grantor owns each item of the Collateral in which it purports to grant a Lien hereunder free and clear of any and all Liens or claims, including Liens arising as a result of such Grantor becoming bound (as a result of merger or otherwise) as grantor under a security agreement entered into by another Person, except for Liens expressly permitted to exist on the Collateral by each of the Secured Debt Documents. No financing statement, mortgage or other public notice with respect to all or any part of the Collateral is on file or of record in any public office, except such as have been filed in favor of the Collateral Trustee, for the benefit of the Secured Parties, pursuant to this Agreement or as are expressly permitted by each of the Secured Debt Documents.

4.3. Perfected First Priority Liens. The security interests granted pursuant to this Agreement (a) upon completion of the filings and other actions specified on Schedule 4.3(a) (all of which, in the case of all filings and other documents listed on such schedule, have been delivered to the Collateral Trustee in duly completed and duly executed form, as applicable, and

may be filed by or on behalf of the Collateral Trustee at any time) and payment of all filing fees, will constitute valid, fully-perfected security interests in all of the Collateral (other than the Excluded Perfection Assets) in favor of the Collateral Trustee, for the benefit of the Secured Parties, as collateral security for such Grantor's Secured Obligations, enforceable in accordance with the terms hereof and of the Collateral Trust Agreement, (b) are, to the extent that such Liens have been granted to the Collateral Trustee for the benefit of the Priority Lien Secured Parties, prior to all other Liens on the Collateral except for Liens expressly permitted by each of the Secured Debt Documents and (c) are, to the extent that such Liens have been granted to the Collateral Trustee for the benefit of the Parity Lien Secured Parties, prior to all other Liens on the Collateral except for the prior Liens for the benefit of the Priority Lien Secured Parties and for Liens expressly permitted by each of the Secured Debt Documents. Without limiting the foregoing, each Grantor has taken all actions necessary or desirable, including those specified in Section 5.2, to: (i) establish the Collateral Trustee's "control" (within the meanings of Sections 8-106 and 9-106 of the New York UCC) over any portion of the Investment Property constituting Certificated Securities, Uncertificated Securities, Securities Accounts, Securities Entitlements or Commodity Accounts, (ii) establish the Collateral Trustee's "control" (within the meaning of Section 9-104 of the New York UCC) over all Deposit Accounts, (iii) establish the Collateral Trustee's "control" (within the meaning of Section 9-107 of the New York UCC) over all Letter of Credit Rights, (iv) establish the Collateral Trustee's control (within the meaning of Section 9-105 of the New York UCC) over all Electronic Chattel Paper and (v) establish the Collateral Agent's "control" (within the meaning of Section 16 of the Uniform Electronic Transaction Act as in effect in the applicable jurisdiction (the "UETA")) over all "transferable records" (as defined in UETA).

4.4. Name; Jurisdiction of Organization, etc. On the date hereof, such Grantor's exact legal name (as indicated on the public record of such Grantor's jurisdiction of formation or organization), jurisdiction of organization, organizational identification number, if any, and the location of such Grantor's chief executive office or sole place of business are specified on Schedule 4.4. Each Grantor is organized solely under the law of the jurisdiction so specified and has not filed any certificates of domestication, transfer or continuance in any other jurisdiction. Except as specified on Schedule 4.4, (i) no such Grantor has changed its name, jurisdiction of organization, chief executive office or sole place of business within the past five years, (ii) no such Grantor has within the last five years become bound (whether as a result of merger or otherwise) as a grantor under a security agreement entered into by another Person which has not heretofore been terminated and (iii) no such Grantor has changed its corporate structure in any way (e.g. by merger, consolidation, change in corporate form or otherwise) within the past two years.

4.5. Inventory and Equipment. (a) On the date hereof, the Inventory and the Equipment (other than mobile goods) that is included in the Collateral are kept at the locations listed on Schedule 4.5(a). Within the two years preceding execution of this agreement, such Grantor has not changed the location of a material portion of its Equipment and Inventory that is included in the Collateral except as otherwise disclosed on Schedule 4.5(a).

(b) None of the Inventory or Equipment that is included in the Collateral having a book value (net of depreciation) in excess of $250,000 is in the possession of an issuer

of a negotiable document (as defined in Section 7–104 of the New York UCC) therefor or, except as set forth on Schedule 4.5(b), is otherwise in the possession of any bailee or warehouseman.

4.6. Condition and Maintenance of Equipment. The Equipment of such Grantor that is included in the Collateral is in good repair, working order and condition, reasonable wear and tear excepted. Each Grantor shall cause its Equipment that is included in the Collateral to be maintained and preserved in good repair, working order and condition, reasonable wear and tear excepted, and shall as quickly as commercially practicable make or cause to be made all repairs, replacements and other improvements which are necessary or appropriate in the conduct of such Grantor's business in its prudent business judgment.

4.7. Farm Products. None of the Collateral constitutes, or is the Proceeds of, Farm Products.

4.8. Investment Property. (a) Schedule 4.8(a) (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Pledged Stock," "Pledged LLC Interests," "Pledged Partnership Interests" and "Pledged Trust Interests," respectively, all of the Pledged Stock, Pledged LLC Interests, Pledged Partnership Interests and Pledged Trust Interests owned by any Grantor and such Pledged Equity Interests constitute the percentage of issued and outstanding shares of stock, percentage of membership interests, percentage of partnership interests or percentage of beneficial interest of the respective issuers thereof indicated on such Schedule. Schedule 4.8(b) (as such schedule may be amended or supplemented from time to time) sets forth under the heading "Pledged Debt Securities" or "Pledged Notes" all of the Pledged Debt Securities and Pledged Notes (if any) owned by any Grantor and each of such Pledged Debt Securities and Pledged Notes (if any) has been duly authorized, authenticated or issued and delivered and is the legal, valid and binding obligation of the issuers thereof enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principals of equity, regardless of whether considered in a proceeding in equity or at law, and is not in default and constitutes all of the issued and outstanding inter–company indebtedness evidenced by an instrument or certificated security of the respective issuers thereof owing to such Grantor. Schedule 4.8(c) (as such schedule may be amended or supplemented from time to time) sets forth under the headings "Securities Accounts," "Commodities Accounts," and "Deposit Accounts" respectively, all of the Securities Accounts, Commodities Accounts and Deposit Accounts in which each Grantor has an interest that are included in the Collateral. Each Grantor is the sole entitlement holder or customer of each such account set forth opposite its name on such schedule, and such Grantor has not consented to, and is not otherwise aware of, any Person (other than the Collateral Trustee pursuant hereto) having "control" (within the meanings of Sections 8–106, 9–106 and 9–104 of the New York UCC) over, or any other interest in, any such Securities Account, Commodity Account or Deposit Account or any securities, commodities or other property credited thereto, except for any such account that constitutes an Excluded Asset.

(b) The shares of Pledged Equity Interests pledged by such Grantor hereunder constitute all of the issued and outstanding shares of all classes of the Capital Stock of each Issuer owned by such Grantor or, in the case of Excluded Foreign Subsidiary Voting Stock, if less, 66% of the outstanding Excluded Foreign Subsidiary Voting Stock of each relevant Issuer.

(c) The Pledged Equity Interests have been duly and validly issued and all the shares of the Pledged Stock are fully paid and nonassessable.

(d) As of the Restatement Date, the terms of any uncertificated Pledged LLC Interests and Pledged Partnership Interests do not provide that they are securities governed by Article 8 of the Uniform Commercial Code in effect from time to time in the "issuer's jurisdiction" of each Issuer thereof (as such term is defined in the Uniform Commercial Code in effect in such jurisdiction).

(e) There shall be no certificated Pledged LLC Interests or Pledged Partnership Interests which expressly provide that they are securities governed by Article 8 of the Uniform Commercial Code in effect from time to time in the "issuer's jurisdiction" of each Issuer thereof, except if such certificate has been delivered to the Collateral Trustee pursuant to the terms hereof.

(f) Such Grantor is the record and beneficial owner of, and has good and marketable title to, the Investment Property and Deposit Accounts pledged by it hereunder, free of any and all Liens or options in favor of, or claims of, any other Person, except Liens expressly permitted to exist thereon by each of the Secured Debt Documents, and there are no outstanding warrants, options or other rights to purchase, or shareholder, voting trust or similar agreements outstanding with respect to, or property that is convertible into, or that requires the issuance or sale of, any Pledged Equity Interests.

(g) Each Issuer that is not a Grantor hereunder has executed and delivered to the Collateral Trustee an Acknowledgment and Consent, in substantially the form of Exhibit C, to the pledge of the Pledged Securities pursuant to this Agreement.

4.9. Receivables. (a) No amount payable to such Grantor under or in connection with any Receivable that is included in the Collateral is evidenced by any Instrument or Tangible Chattel Paper which has not been delivered to the Collateral Trustee or constitutes Electronic Chattel Paper that has not been subjected to the control (within the meaning of Section 9-105 of the New York UCC) of the Collateral Trustee.

(b) None of the obligors (other than "independent system operators") on any Receivable that is included in the Collateral in excess of $500,000 individually or $1,000,000 in the aggregate is a Governmental Authority.

(c) Each Receivable that is included in the Collateral (i) is and will be the legal, valid and binding obligation of the Account Debtor in respect thereof, representing an unsatisfied obligation of such Account Debtor, (ii) is and will be enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law, (iii) is not and will not be subject to any defenses or taxes and (iv) is and will be in compliance with all applicable laws and regulations.

4.10. Contracts.

(a) Schedule 4.10(a) (as such schedule may be amended or supplemented form time to time) sets forth all of the Material Contracts in which such Grantor has any right or interest.

(b) Except as set forth on Schedule 4.10(b), no Material Contract prohibits assignment or encumbrance by such Grantor or requires or purports to require consent of, or notice to, any party (other than such Grantor) to any Material Contract in connection with the execution, delivery and performance of this Agreement, including the exercise of remedies by the Collateral Trustee with respect to such Material Contract, except for such consents that have been obtained and such notices that have been given.

(c) Each Material Contract is in full force and effect and constitutes a valid and legally enforceable obligation of the Grantor party thereto and (to the best of such Grantor's knowledge) each other party thereto, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing.

(d) The right, title and interest of such Grantor in, to and under the Material Contracts are not subject to any defenses, rights of recoupment or claims.

(e) Neither such Grantor nor (to the best of such Grantor's knowledge) any of the other parties to the Material Contracts is in default in the performance or observance of any of the terms thereof.

(f) The right, title and interest of such Grantor in, to and under the Material Contracts are not subject to any defenses or claims.

(g) Such Grantor has delivered to the Collateral Trustee a complete and correct copy of each Material Contract, including all amendments, supplements and other modifications thereto.

(h) No amount payable to such Grantor under or in connection with any Contract which has a value in excess of $500,000 individually or $1,000,000 in the aggregate is evidenced by any Instrument or Tangible Chattel Paper which has not been delivered to the Collateral Trustee or constitutes Electronic Chattel Paper that is not under the control (within the meaning of Section 9-105 of the New York UCC) of the Collateral Trustee.

(i) None of the parties to any Contract (other than "independent system operators") which has a value in excess of $500,000 individually or $1,000,000 in the aggregate is a Governmental Authority.

4.11. Intellectual Property. (a) Schedule 4.11(a) lists all Intellectual Property which is registered with a Governmental Authority or is the subject of an application for registration and all material unregistered Intellectual Property forming part of the Core Collateral, in each case which is owned by such Grantor in its own name on the date hereof (collectively, the "Owned Intellectual Property"). Except as set forth in Schedule 4.11, such Grantor is the exclusive owner of the entire and unencumbered right, title and interest in and to

all Owned Intellectual Property and is otherwise entitled to use, and grant to others the right to use, all Owned Intellectual Property, subject only to the license terms of the licensing or franchise agreements referred to in paragraph (c) below. Such Grantor has a valid and enforceable right to use all Intellectual Property which it uses in its business, but does not own (collectively, the "Licensed Intellectual Property").

(b) On the date hereof, all Owned Intellectual Property and, to such Grantor's knowledge, all Licensed Intellectual Property, in each case, which is material to such Grantor's business (collectively, and subject to the foregoing knowledge qualifier in the case of Licensed Intellectual Property, the "Material Intellectual Property"), is valid, subsisting, unexpired and enforceable, has not been abandoned. Neither the operation of such Grantor's business as currently conducted or as contemplated to be conducted nor the use of the Intellectual Property in connection therewith conflicts with, infringes, misappropriates, dilutes, misuses or otherwise violates the intellectual property rights of any other Person, in each case, which conflict, infringement, misappropriation, dilution, misuse or violation could reasonably be expected to have a Material Adverse Effect, and no claim has been so asserted by any other Person.

(c) Except as set forth in Schedule 4.11(c), on the date hereof (i) none of the Material Intellectual Property is the subject of any licensing or franchise agreement pursuant to which such Grantor is the licensor or franchisor and (ii) there are no other agreements, obligations, orders or judgments which affect the use of any Material Intellectual Property.

(d) To such Grantor's knowledge, no holding, decision or judgment has been rendered by any Governmental Authority or arbitrator in the United States or outside the United States which would limit, cancel or question the validity or enforceability of, or such Grantor's rights in, any Material Intellectual Property. Such Grantor is not aware of any uses of any item of Material Intellectual Property that could reasonably be expected to lead to such item becoming invalid or unenforceable, including unauthorized uses by third parties and uses which were not supported by the goodwill of the business connected with Trademarks and Trademark Licenses.

(e) No action or proceeding is pending, or, to such Grantor's knowledge, threatened, on the date hereof (i) seeking to limit, cancel or question the validity of any Owned Intellectual Property, (ii) alleging that any services provided by, processes used by, or products manufactured or sold by such Grantor infringe any patent, trademark, copyright, or any other right of any other Person, (iii) alleging that any Material Intellectual Property is being licensed, sublicensed or used in violation of any intellectual property or any other right of any other Person or (iv) which, if adversely determined, would have a material adverse effect on the value of any Material Intellectual Property. To such Grantor's knowledge, no Person is engaging in any activity that infringes upon, or is otherwise an unauthorized use of, any Material Intellectual Property or upon the rights of such Grantor therein. Except as set forth in Schedule 4.11(e), such Grantor has not granted any license, release, covenant not to sue, non-assertion assurance, or other right to any Person with respect to any part of the Material Intellectual Property. The consummation of the transactions contemplated by this Agreement (including the enforcement of remedies) will not result in the termination or impairment of any of the Material Intellectual Property.

(f) With respect to each Copyright License, Trademark License, Trade Secret Licenses and Patent License which relates to Material Intellectual Property or the loss of which could otherwise have a Material Adverse Effect: (i) such license is valid and binding and in full force and effect and represents the entire agreement between the respective licensor and licensee with respect to the subject matter of such license; (ii) such license will not cease to be valid and binding and in full force and effect on terms identical to those currently in effect as a result of the rights and interests granted herein, nor will the grant of such rights and interests constitute a breach or default under such license or otherwise give the licensor or licensee a right to terminate such license; (iii) such Grantor has not received any notice of termination or cancellation under such license; (iv) such Grantor has not received any notice of a breach or default under such license, which breach or default has not been cured; (v) such Grantor has not granted to any other Person any rights, adverse or otherwise, under such license; and (vi) such Grantor is not in breach or default in any material respect, and no event has occurred that, with notice and/or lapse of time, would constitute such a breach or default or permit termination, modification or acceleration under such license.

(g) Except as set forth in Schedule 4.11, such Grantor has performed all acts and has paid all required fees and taxes to maintain each and every item of registered owned Intellectual Property that is material to its business in full force and effect and to protect and maintain its interest therein. Such Grantor has used proper statutory notice in connection with its use of each Patent, Trademark and Copyright that is material to its business included in the Intellectual Property.

(h) (i) None of the Trade Secrets of such Grantor that are material to its business has been used, divulged, disclosed or appropriated to the detriment of such Grantor for the benefit of any other Person; (ii) no employee, independent contractor or agent of such Grantor has misappropriated any trade secrets of any other Person in the course of the performance of his or her duties as an employee, independent contractor or agent of such Grantor; and (iii) no employee, independent contractor or agent of such Grantor is in default or breach of any term of any employment agreement, non-disclosure agreement, assignment of inventions agreement or similar agreement or contract relating in any way to the protection, ownership, development, use or transfer of such Grantor's Intellectual Property.

(i) Such Grantor has taken all commercially reasonable steps to use consistent standards of quality in the manufacture, distribution and sale of all products sold and provision of all services provided under or in connection with any item of Intellectual Property and has taken all steps to ensure that all licensed users of any kind of Intellectual Property use such consistent standards of quality.

4.12. Letters of Credit and Letter of Credit Rights. No Grantor is a beneficiary or assignee under any Letter of Credit other than the Letters of Credit described on Schedule 4.12 (as such schedule may be amended or supplemented from time to time). With respect to any Letters of Credit that are by their terms transferable, each Grantor has caused (or, in the case of the Letters of Credit that are specified on Schedule 4.12 on the date hereof, will use commercially reasonable efforts to cause) all issuers and nominated persons under Letters of Credit in which the Grantor is the beneficiary or assignee to consent to the assignment of such Letter of Credit to the Collateral Trustee and has agreed that upon the occurrence of a Secured

Debt Default it shall cause all payments thereunder to be made to the Collateral Account. With respect to any Letters of Credit that are not transferable, each Grantor shall obtain (or, in the case of the Letters of Credit that are specified on Schedule 4.12 on the date hereof, use commercially reasonable efforts to obtain) the consent of the issuer thereof and any nominated Person thereon to the assignment of the proceeds of the released Letter of Credit to the Collateral Trustee in accordance with Section 5–114(c) of the New York UCC.

4.13. Commercial Tort Claims. No Grantor has any Commercial Tort Claims as of the date hereof individually or in the aggregate in excess of $500,000 and, except as specifically described on Schedule 4.13 (as such schedule may be amended or supplemented from time to time), no Grantor has any Commercial Tort Claims after the date hereof individually or in the aggregate in excess of $500,000.

SECTION 5. COVENANTS

Each Grantor covenants and agrees with the Collateral Trustee and the other Secured Parties that, from and after the date of this Agreement, until the Secured Obligations (other than Secured Obligations in respect of any Specified Hedging Agreement and indemnification and other contingent obligations not then due and payable) shall have been paid in full in cash, no letter of credit issued under any Secured Debt Document shall be outstanding, any Credit–Linked Deposits (or similar deposits) shall have been returned and all commitments to extend credit under all Secured Debt Documents shall have expired or been terminated:

5.1. Covenants in Secured Debt Documents. Each Grantor shall take, or shall refrain from taking, as the case may be, each action that is necessary to be taken or not taken, as the case may be, so that no Secured Debt Default under any Secured Debt Document is caused by the failure to take such action or to refrain from taking such action by such Grantor.

5.2. Delivery and Control of Instruments, Certificated Securities, Chattel Paper, Negotiable Documents, Investment Property and Letter of Credit Rights. (a) If any of the Collateral is or shall become evidenced or represented by any Instrument, Certificated Security, Negotiable Document or Tangible Chattel Paper, such Instrument (other than checks received in the ordinary course of business), Certificated Security, Negotiable Documents or Tangible Chattel Paper shall promptly be delivered to (or, in the case of the Pledged NEO Notes, the Company or such other applicable Grantor shall use commercially reasonable efforts to cause such Pledged NEO Notes to be delivered to) the Collateral Trustee, duly endorsed in a manner reasonably satisfactory to the Collateral Trustee, to be held as Collateral pursuant to this Agreement, and all of such property owned by any Grantor as of the Restatement Date shall be delivered on the Restatement Date.

(b) If any of the Collateral is or shall become "Electronic Chattel Paper" such Grantor shall ensure that (i) a single authoritative copy exists which is unique, identifiable, unalterable (except as provided in clauses (iii), (iv) and (v) of this paragraph), (ii) such authoritative copy identifies the Collateral Trustee as the assignee and is communicated to and maintained by the Collateral Trustee or its designee, (iii) copies or revisions that add or change the assignee of the authoritative copy can only be made with the participation of the Collateral Trustee, (iv) each copy of the authoritative copy and any copy of a copy is readily identifiable as

a copy and not the authoritative copy and (v) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

(c) If any of the Collateral is or shall become evidenced or represented by an Uncertificated Security, such Grantor shall cause the Issuer thereof either (i) to register the Collateral Trustee as the registered owner of such Uncertificated Security, upon original issue or registration of transfer or (ii) to agree in writing with such Grantor and the Collateral Trustee that such Issuer will comply with instructions with respect to such Uncertificated Security originated by the Collateral Trustee without further consent of such Grantor, such agreement to be in substantially the form of Exhibit C, and such action shall be taken on or prior to the Restatement Date with respect to any Uncertificated Securities owned as of the Restatement Date by any Grantor.

(d) Each Grantor shall maintain Securities Entitlements, Securities Accounts and Deposit Accounts (other than any which constitute Excluded Perfection Assets) only with financial institutions that have agreed, pursuant to Control Agreements (Deposit and Securities Accounts), to comply with entitlement orders and instructions issued or originated by the Collateral Trustee without further consent of such Grantor.

(e) If any of the Collateral is or shall become evidenced or represented by a Commodity Contract, such Grantor shall cause the Commodity Intermediary with respect to such Commodity Contract to agree in writing with such Grantor and the Collateral Trustee, pursuant to a Control Agreement (Commodity Contracts), that such Commodity Intermediary will apply any value distributed on account of such Commodity Contract as directed by the Collateral Trustee without further consent of such Grantor.

(f) In addition to and not in lieu of the foregoing, if any Issuer of any Investment Property is organized under the law of, or has its chief executive office in, a jurisdiction outside of the United States, each Grantor shall take such additional actions, including causing the issuer to register the pledge on its books and records, as may be necessary or advisable or as may be reasonably requested by the Collateral Trustee, under the laws of such jurisdiction to insure the validity, perfection and priority of the security interest of the Collateral Trustee.

(g) In the case of any transferable Letters of Credit in excess of $250,000 individually or in the aggregate, each Grantor shall use commercially reasonable efforts to obtain the consent of any issuer thereof to the transfer of such Letter of Credit to the Collateral Trustee. In the case of any other Letter–of–Credit Rights in excess of $250,000 individually or in the aggregate each Grantor shall use commercially reasonable efforts to obtain the consent of the issuer thereof and any nominated Person thereon to the assignment of the proceeds of the related Letter of Credit in accordance with Section 5–114(c) of the New York UCC.

(h) Each Grantor agrees (i) to cause (or, in the case of any Pledged LLC Interest that have been issued by an Issuer that is not a Subsidiary, to use commercially reasonable efforts to cause) each Pledged LLC Interest and Pledged Partnership Interest to be represented by a certificate delivered to the Collateral Trustee pursuant to the terms hereof and (ii) to cause (or, in the case of any Pledged LLC Interest that have been issued by an Issuer that

is not a Subsidiary, to use commercially reasonable efforts to cause) the terms thereof to expressly provide that each such Pledged LLC Interest and Pledged Partnership Interest is a security governed by Article 8 of the New York UCC, in each case no later than 60 days following the date hereof and for all times thereafter during the term of this Agreement.

5.3. Maintenance of Insurance. (a) Such Grantor shall keep its properties that are of an insurable character adequately insured at all times by financially sound and responsible insurers, which, in the case of any insurance on any property with respect to which a mortgage has been granted pursuant to the terms of any Security Documents, are licensed to do business in the States where the applicable property is located; maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, in each case as is customary with companies of a similar size operating in the same or similar businesses, including public liability insurance against claims for personal injury or death or property damage; and maintain such other insurance as may be required by law; provided that in any event such Grantor shall maintain, to the extent obtainable on commercially reasonable terms, (i) property and machinery breakage insurance on all real and personal property on an all risks basis (including the perils of flood and quake and loss by fire, explosion and theft), covering the repair or replacement cost of all such property (with the exception of losses from terrorism, earthquake and flood which may be subject to the highest amount commercially and reasonably available), (ii) consequential loss coverage for business interruption and extra expense (which shall include construction expenses and such other business interruption expenses as are otherwise generally available to similar businesses) in an amount of not less than 12 months gross revenues and (iii) public liability insurance providing limits of $150,000,000 per occurrence and in the aggregate for bodily injury and property damage to third parties resulting from such Grantor's operations; which public liability insurance shall be written to include worldwide risks on a commercial general liability form. All such insurance with respect to such Grantor shall be provided by insurers or reinsurers which have an A.M. Best policyholders rating of not less than A– or a Standard & Poor rating of not less than BBB, or, if the relevant insurance is not available from such insurers, such other insurers as the Collateral Trustee may approve in writing, acting reasonably. All insurance shall (i) provide that no cancellation, material reduction in amount or material change in coverage thereof shall be effective until at least 30 days (or, in the case of non-payment of premium, 10 days) after receipt by the Collateral Trustee of written notice thereof, (ii) if reasonably requested by the Collateral Trustee, include a breach of warranty clause and (iii) be reasonably satisfactory in all other respects to the Collateral Trustee.

(b) The Company shall deliver to the Collateral Trustee on behalf of the Secured Parties, (i) on the Restatement Date, a certificate dated such date showing the amount and types of insurance coverage as of such date, (ii) upon request of any Secured Debt Representative or the Collateral Trustee from time to time, full information as to the insurance carried, (iii) promptly following receipt of notice from any insurer, a copy of any notice of cancellation of any material coverage or material change in coverage from that existing on the Restatement Date, (iv) forthwith, notice of any cancellation or nonrenewal of material coverage by any Grantor and (v) promptly after such information is available to the Company, full information as to any claim for an amount in excess of $5,000,000 with respect to any property or machinery breakage insurance policy maintained by such Grantor. The Collateral Trustee shall be named as additional insured on all such liability insurance policies of such Grantor and

the Collateral Trustee shall be named as loss payee on all property and machinery breakage insurance policies of each Grantor.

(c) Upon the request of any Secured Debt Representative or the Collateral Trustee, the Company shall deliver to such Secured Debt Representative and/or the Collateral Trustee a report of a reputable insurance broker with respect to such insurance and such supplemental reports with respect thereto as the Collateral Trustee or any Secured Debt Representative may from time to time reasonably request but, unless a Secured Debt Default shall have occurred and be continuing, not more than once per fiscal year.

5.4. Payment of Secured Obligations. Such Grantor shall pay and discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all taxes, assessments and governmental charges or levies imposed upon the Collateral or in respect of income or profits therefrom, as well as all claims of any kind (including claims for labor, materials and supplies) against or with respect to the Collateral, except that no such charge need be paid if the amount or validity thereof is currently being contested in good faith by appropriate proceedings, reserves in conformity with GAAP with respect thereto have been provided on the books of such Grantor and such proceedings could not reasonably be expected to result in the sale, forfeiture or loss of any material portion of the Collateral or any interest therein.

5.5. Maintenance of Perfected Security Interest; Further Documentation. (a) Such Grantor shall maintain each of the security interests created by this Agreement as a perfected security interest having at least the priority described in Section 4.3 and shall defend such security interest against the claims and demands of all persons whomsoever (other than the Secured Parties), subject to the rights of such Grantor under the Secured Debt Documents to dispose of the Collateral and subject to the provisions relating to the release of the Liens in the Secured Debt Documents and the Collateral Trust Agreement.

(b) Such Grantor shall furnish to the Collateral Trustee from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the assets and property of such Grantor as the Collateral Trustee may reasonably request, all in reasonable detail.

(c) At any time and from time to time, upon the written request of the Collateral Trustee, and at the sole expense of such Grantor, such Grantor shall promptly and duly authorize, execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Collateral Trustee may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including (i) the filing of any financing or continuation statements under the Uniform Commercial Code (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby and (ii) in the case of Investment Property, Deposit Accounts and any other relevant Collateral, taking any actions necessary to enable the Collateral Trustee to obtain "control" (within the meaning of the applicable Uniform Commercial Code) with respect thereto, including executing and delivering and causing the relevant depositary bank or securities intermediary to execute and deliver a Control Agreement (Deposit and Securities Accounts).

5.6. Changes in Location, Name, Jurisdiction of Incorporation, etc. Such Grantor shall not, except upon 15 days' prior written notice to the Collateral Trustee and delivery to the Collateral Trustee of duly authorized and, where required, executed copies of (a) all additional financing statements and other documents reasonably requested by the Collateral Trustee to maintain the validity, perfection and priority of the security interests provided for herein and (b) if applicable, a written supplement to Schedule 4.5 showing any additional location at which Inventory or Equipment (other than mobile goods) with a value in excess of $250,000 shall be kept:

(i) permit any of the Inventory or Equipment (other than mobile goods) with a value in excess of $250,000 to be kept at a location other than those listed on Schedule 4.5;

(ii) change its legal name, jurisdiction of organization or the location of its chief executive office or sole place of business from that referred to in Section 4.4; or

(iii) change its legal name, identity or structure to such an extent that any financing statement filed by the Collateral Trustee in connection with this Agreement would become misleading.

5.7. Notices. Such Grantor shall advise the Collateral Trustee promptly, in reasonable detail, of:

(a) any Lien (other than any Lien expressly permitted under the Secured Debt Documents) on any of the Collateral which would adversely affect the ability of the Collateral Trustee to exercise any of its remedies hereunder; and

(b) the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the security interests created hereby.

5.8. Investment Property. (a) If such Grantor shall become entitled to receive or shall receive any stock or other ownership certificate (including any certificate representing a stock dividend or a distribution in connection with any reclassification, increase or reduction of capital or any certificate issued in connection with any reorganization), option or rights in respect of the Equity Interests of any Issuer, whether in addition to, in substitution of, as a conversion of, or in exchange for, any shares of or other ownership interests in the Pledged Securities, or otherwise in respect thereof, such Grantor shall accept the same as the agent of the Parties, hold the same in trust for the Secured Parties and deliver the same forthwith to the Collateral Trustee in the exact form received, duly endorsed by such Grantor to the Collateral Trustee, if required, together with an undated stock power or similar instrument of transfer covering such certificate duly executed in blank by such Grantor and with, if the Collateral Trustee so requests, signature guaranteed, to be held by the Collateral Trustee, subject to the terms hereof, as additional collateral security for the Secured Obligations. Upon the occurrence and during the continuance of a Secured Debt Default, any sums paid upon or in respect of the Pledged Securities upon the liquidation or dissolution of any Issuer shall be paid over to the Collateral Trustee to be held by it hereunder as additional collateral security for the Secured

Obligations, and in case any distribution of capital shall be made on or in respect of the Pledged Securities or any property shall be distributed upon or with respect to the Pledged Securities pursuant to the recapitalization or reclassification of the capital of any Issuer or pursuant to the reorganization thereof, the property so distributed shall, unless otherwise subject to a perfected security interest in favor of the Collateral Trustee, be delivered to the Collateral Trustee to be held by it hereunder as additional collateral security for the Secured Obligations. If any sums of money or property so paid or distributed in respect of the Pledged Securities shall be received by such Grantor, such Grantor shall, until such money or property is paid or delivered to the Collateral Trustee, hold such money or property in trust for the Secured Parties, segregated from other funds of such Grantor, as additional collateral security for the Secured Obligations.

(b) Without the prior written consent of the Collateral Trustee, such Grantor shall not (i) vote to enable, or take any other action to permit, any Issuer to issue any stock, partnership interests, limited liability company interests or other equity securities of any nature or to issue any other securities convertible into or granting the right to purchase or exchange for any stock, partnership interests, limited liability company interests or other equity securities of any nature of any Issuer, except to the extent expressly permitted under the Secured Debt Documents, (ii) sell, assign, transfer, exchange, or otherwise dispose of, or grant any option with respect to, any of the Investment Property or Proceeds thereof or any interest therein (except, in each case, pursuant to a transaction expressly permitted by the provisions of the Secured Debt Documents), (iii) create, incur or permit to exist any Lien or option in favor of, or any claim of any Person with respect to, any of the Investment Property or Proceeds thereof, or any interest therein, except for the security interests created by this Agreement or any other security interests permitted by the Secured Debt Documents, (iv) enter into any agreement or undertaking restricting the right or ability of such Grantor or the Collateral Trustee to sell, assign or transfer any of the Investment Property or Proceeds thereof or any interest therein or (v) without the prior written consent of the Collateral Trustee, cause or permit any Issuer of any Pledged Partnership Interests or Pledged LLC Interests which are not securities (for purposes of the New York UCC) on the date hereof to elect or otherwise take any action to cause such Pledged Partnership Interests or Pledged LLC Interests to be treated as securities for purposes of the New York UCC; provided, however, notwithstanding the foregoing, if any issuer of any Pledged Partnership Interests or Pledged LLC Interests takes any such action in violation of the provisions in this clause (v), such Grantor shall promptly notify the Collateral Trustee in writing of any such election or action and, in such event, shall take all steps necessary or advisable to establish the Collateral Trustee's "control" thereof.

(c) In the case of each Grantor which is an Issuer, such Issuer agrees that (i) it shall be bound by the terms of this Agreement relating to the Pledged Securities issued by it and shall comply with such terms insofar as such terms are applicable to it, (ii) it shall notify the Collateral Trustee promptly in writing of the occurrence of any of the events described in Section 5.8(a) with respect to the Pledged Securities issued by it and (iii) the terms of Sections 6.3(c) and 6.7 shall apply to it, mutatis mutandis, with respect to all actions that may be required of it pursuant to Section 6.3(c) or 6.7 with respect to the Pledged Securities issued by it. In addition, each Grantor which is either an Issuer or an owner of any Pledged Security hereby consents to the grant by each other Grantor of the security interest hereunder in favor of the Collateral Trustee and to the transfer of any Pledged Security to the Collateral Trustee or its nominee

following a Secured Debt Default and to the substitution of the Collateral Trustee or its nominee as a partner, member or shareholder of the Issuer of the related Pledged Security.

5.9. Receivables. (a) Other than in the ordinary course of business consistent with its past practice, such Grantor shall not (i) grant any extension of the time of payment of any Receivable that is included in the Collateral, (ii) compromise or settle any Receivable for less than the full amount thereof, (iii) release, wholly or partially, any Person liable for the payment of any Receivable, (iv) allow any credit or discount whatsoever on any Receivable that is included in the Collateral or (v) amend, supplement or modify any Receivable that is included in the Collateral in any manner that could adversely affect the value thereof.

(b) Such Grantor shall deliver to the Collateral Trustee a copy of each material demand, notice or document received by it that questions or calls into doubt the validity or enforceability of more than 7.5% of the aggregate amount of the then outstanding Receivables that are included in the Collateral.

(c) Each Grantor shall perform and comply in all material respects with all of its obligations with respect to the Receivables that are included in the Collateral.

(d) Each Grantor shall keep and maintain at its own cost and expense complete records of each Receivable that is included in the Collateral, in a manner consistent with prudent business practice, including records of all payments received, credits granted thereon, advances paid, advances recouped, advances not recouped and all other documentation relating thereto.

(e) Each Grantor shall legend, at the request of the Collateral Trustee made at any time after the occurrence of any Secured Debt Default under any Secured Debt Document and in form and manner reasonably satisfactory to the Collateral Trustee, the Receivables that are included in the Collateral and the other books, records and documents of such Grantor evidencing or pertaining to the Receivables that are included in the Collateral with an appropriate reference to the fact that the Receivables that are included in the Collateral have been assigned to the Collateral Trustee for the benefit of the Secured Parties and that the Collateral Trustee has a security interest therein for the benefit of the Secured Parties.

(f) No Grantor shall rescind or cancel any indebtedness evidenced by any Receivable that is included in the Collateral or modify any term thereof or make any adjustment with respect thereto except in the ordinary course of business consistent with prudent business practice, or extend or renew any such indebtedness except in the ordinary course of business consistent with prudent business practice or compromise or settle any dispute, claim, suit or legal proceeding relating thereto or sell any Receivable that is included in the Collateral or interest therein except in the ordinary course of business consistent with prudent business practice without the prior written consent of the Collateral Trustee. Each Grantor shall timely fulfill all obligations on its part to be fulfilled under or in connection with the Receivables that are included in the Collateral in a manner consistent with Good Utility Practices.

(g) Each Grantor shall cause to be collected from the account debtor of each of the Receivables that are included in the Collateral, as and when due in the ordinary course of

business consistent with prudent business practice (including Receivables that are delinquent, such Receivables that are included in the Collateral to be collected in accordance with generally accepted commercial collection procedures), any and all amounts owing under or on account of such Receivable that is included in the Collateral, and apply forthwith upon receipt thereof all such amounts as are so collected to the outstanding balance of such Receivable, except that any Grantor may, with respect to any Receivable that is included in the Collateral, allow in the ordinary course of business such extensions of time to pay amounts due in respect of Receivables that are included in the Collateral and such other modifications of payment terms or settlements in respect of Receivables as shall be commercially reasonable under the circumstances, all in accordance with such Grantor's ordinary course of business consistent with its collection practices as in effect from time to time. The costs and expenses (including attorneys' fees) of collection, in any case, whether incurred by any Grantor, the Collateral Trustee or any other Secured Party, shall be paid by the Grantors.

5.10. Contracts. (a) Such Grantor shall perform and comply in all material respects with all its obligations under the Contracts.

(b) Such Grantor shall not amend, modify, terminate, waive or fail to enforce any provision of any Contract in any manner which could reasonably be expected to materially adversely affect the value of the Collateral or otherwise have a Material Adverse Effect.

(c) Such Grantor shall exercise promptly and diligently each and every material right which it may have under each Material Contract (other than any right of termination).

(d) Such Grantor shall deliver to the Collateral Trustee a copy of each material demand, notice or document received by it relating in any way to any Material Contract and shall also deliver to the Collateral Trustee a copy of all new Material Contracts entered into after the date hereof.

(e) With respect to any Non–Assignable Contract that is a Material Contract as of the date hereof, each Grantor shall, within thirty days of the date hereof, request in writing the consent of the counterparty or counterparties to such Non–Assignable Contract pursuant to the terms of such Non–Assignable Contract or applicable law to the assignment or granting of a security interest in such Non–Assignable Contract to the Collateral Trustee for the benefit of the Secured Parties and use its commercially reasonable efforts to obtain such consent as soon as practicable thereafter. No Grantor shall after the Restatement Date enter into any Non–Assignable Contract that is a Material Contract unless, within 30 days, counterparties to such Non–Assignable Contract consent in writing pursuant to the terms of such Non–Assignable Contract to the assignment and granting of a security interest in such Non–Assignable Contract to the Collateral Trustee for the benefit of the Secured Parties.

(f) Such Grantor shall not permit to become effective in any document creating, governing or providing for any permit, lease, license or Material Contract, a provision that would prohibit the creation or perfection of, or exercise of remedies in connection with, a Lien on such permit, lease, license or Material Contract in favor of the Collateral Trustee unless

such Grantor believes, in its reasonable judgment, that such prohibition is usual and customary in transactions of such type.

5.11. Intellectual Property. (a) Such Grantor (either itself or through licensees) shall (i) continue to use each Trademark material to its business in order to maintain such Trademark in full force free from any claim of abandonment for non-use, (ii) maintain as in the past the quality of products and services offered under such Trademark and take all necessary steps to ensure that all licensed users of such Trademark maintain as in the past such quality, (iii) use such Trademark with the appropriate notice of registration and all other notices and legends required by applicable Requirements of Law and (iv) not (and not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby such Trademark may become invalidated or impaired in any way.

(b) Such Grantor (either itself or through licensees) shall not do any act, or omit to do any act, whereby any Patent owned by such Grantor material to its business may become forfeited, abandoned or dedicated to the public.

(c) Such Grantor (either itself or through licensees) (i) shall employ each Copyright material to its business and (ii) shall not (and shall not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any material portion of such Copyrights may become invalidated or otherwise impaired. Such Grantor shall not (either itself or through licensees) knowingly do any act whereby any material portion of such Copyrights may fall into the public domain.

(d) Such Grantor (either itself or through licensees) shall not do any act that uses any Material Intellectual Property to infringe, misappropriate or violate the intellectual property rights of any other Person.

(e) Such Grantor (either itself or through licensees) shall use proper statutory notice in connection with the use of the Material Intellectual Property.

(f) Such Grantor shall notify the Collateral Trustee promptly if it knows, or has reason to know, that any application or registration relating to any Material Intellectual Property may become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court or tribunal in any country) regarding such Grantor's ownership of, or the validity of, any Material Intellectual Property or such Grantor's right to register the same or to own and maintain the same in the case of Owned Intellectual Property.

(g) Promptly upon such Grantor's acquisition or creation of any invention, trademark or other similar property that is material to the business of such Grantor, apply for registration thereof with the United States Patent and Trademark Office and any other appropriate office. Whenever such Grantor (either by itself or through any agent, employee, licensee or designee) shall file an application for the registration of any Intellectual Property that is material to the business of such Grantor with the United States Patent and Trademark Office or any similar office or agency in any other country or any political subdivision thereof, such

Grantor shall report such filing to the Collateral Trustee within five Business Days after the last day of the fiscal quarter in which such filing occurs. Upon request of the Collateral Trustee, such Grantor shall execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as the Collateral Trustee may request to evidence the Secured Parties' security interest in any Patent, Trademark or other Intellectual Property of such Grantor and the goodwill and general intangibles of such Grantor relating thereto or represented thereby. Notwithstanding the foregoing, such Grantor shall register with the U.S. Copyright Office copyrightable works only (i) if reasonably requested by the Collateral Trustee or (ii) if the Collateral Trustee has been given at least 45 days prior notice and the opportunity to record with the U.S. Copyright Office an instrument evidencing the Collateral Trustee's security interest in such copyrighted works.

(h) Such Grantor shall take all reasonable and necessary steps, including in any proceeding before the United States Patent and Trademark Office, subject to the last sentence of the preceding paragraph, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of Intellectual Property material to its business, including the payment of required fees and taxes, the filing of responses to office actions issued by the United States Patent and Trademark Office and the United States Copyright Office, the filing of applications for renewal or extension, the filing of affidavits of use and affidavits of incontestability, the filing of divisional, continuation, continuation-in-part, reissue, and renewal applications or extensions, the payment of maintenance fees, and the participation in interference, reexamination, opposition, cancellation, infringement and misappropriation proceedings.

(i) Such Grantor (either itself or through licensees) shall not, without the prior written consent of the Collateral Trustee, discontinue use of or otherwise abandon any of its Intellectual Property, or abandon any application or any right to file an application for letters patent, trademark, or copyright, unless such Grantor shall have previously determined that such use or the pursuit or maintenance of such Intellectual Property is no longer desirable in the conduct of such Grantor's business and that the loss thereof could not reasonably be expected to have a Material Adverse Effect and, in which case, such Grantor shall give prompt notice of any such abandonment to the Collateral Trustee in accordance herewith.

(j) In the event that any Owned Intellectual Property material to its business is infringed, misappropriated or diluted by a third party, such Grantor shall (i) take such actions as such Grantor shall reasonably deem appropriate under the circumstances to protect such Intellectual Property and (ii) if such Intellectual Property is of material economic value, promptly notify the Collateral Trustee after it learns thereof and sue for infringement, misappropriation or dilution, to seek injunctive relief where appropriate and to recover any and all damages for such infringement, misappropriation or dilution.

(k) Such Grantor agrees that, should it obtain an ownership interest in any item of intellectual property which is not, as of the Restatement Date, a part of the Intellectual Property Collateral (the "After-Acquired Intellectual Property"), (i) the provisions of Section 3 shall automatically apply thereto, (ii) any such After-Acquired Intellectual Property, and in the case of trademarks, the goodwill of the business connected therewith or symbolized thereby,

shall automatically become part of the Intellectual Property Collateral, (iii) it shall give prompt (and, in any event within five Business Days after the last day of the fiscal quarter in which such Grantor acquires such ownership interest) written notice thereof to the Collateral Trustee in accordance herewith and (iv) it shall provide the Collateral Trustee promptly (and, in any event within five Business Days after the last day of the fiscal quarter in which such Grantor acquires such ownership interest) with an amended Schedule 4.11 and take the actions specified in Section 5.11(m).

(l) Such Grantor agrees to execute an Intellectual Property Security Agreement with respect to its Intellectual Property in substantially the form of Exhibit D in order to record the security interest granted herein to the Collateral Trustee for the benefit of the Secured Parties with the United States Patent and Trademark Office, the United States Copyright Office and any other applicable Governmental Authority.

(m) Such Grantor agrees to execute an After-Acquired Intellectual Property Security Agreement with respect to its After-Acquired Intellectual Property in substantially the form of Exhibit E in order to record the security interest granted herein to the Collateral Trustee, for the benefit of Secured Parties, with the United States Patent and Trademark Office, the United States Copyright Office and any other applicable Governmental Authority.

(n) Such Grantor shall take all steps reasonably necessary to protect the secrecy of all Trade Secrets material to its business, including entering into confidentiality agreements with employees and labeling and restricting access to secret information and documents.

5.12. Commercial Tort Claims. Such Grantor shall advise the Collateral Trustee promptly of any Commercial Tort Claim held by such Grantor individually or in the aggregate in excess of $100,000 and shall promptly execute a supplement to this Agreement in form and substance reasonably satisfactory to the Collateral Trustee to grant a security interest in such Commercial Tort Claim to the Collateral Trustee for the benefit of the Secured Parties.

5.13. Deposit and Securities Accounts. (a) On or prior to the Restatement Date, each Grantor shall deliver to the Collateral Trustee one or more Control Agreements (Deposit and Securities Accounts), executed by all parties thereto, for each Deposit Account and each Securities Account that is included in the Collateral in which such Grantor has an interest as of the date hereof (collectively, the "Pledged Accounts"); provided that no Grantor shall be required at any time to enter into Control Agreements (Deposit and Securities Accounts) with respect to any Deposit Account or Securities Account solely to the extent that the same constitutes an Excluded Perfection Asset at such time. After the Restatement Date, each Grantor shall deliver to the Collateral Trustee a Control Agreement (Deposit and Securities Accounts) for each Deposit Account and each Securities Account in which such Grantor has an interest after the Restatement Date; provided that no Grantor shall be required at any time to enter into a Control Agreement with respect to any Deposit Account or Securities Account solely to the extent that the same constitutes an Excluded Perfection Asset at such time. Each Grantor agrees that it shall have no Deposit Account or Securities Accounts other than (i) Deposit Accounts and Securities Accounts with respect to which Control Agreements (Deposit and Securities Accounts) have

been delivered, (ii) Deposit Accounts and Securities Accounts that constitute Excluded Perfection Interests and (iii) Deposit Accounts that constitute Excluded Assets.

(b) Each Grantor irrevocably authorizes the Collateral Trustee to notify each Depositary Bank of the occurrence of an Actionable Default. Following the occurrence of an Actionable Default, the Collateral Trustee may instruct each Depositary Bank to transfer immediately all funds and investments held in each Deposit Account or Securities Account to an account designated by the Collateral Trustee; provided, however, that the Collateral Trustee agrees that it shall deliver such instruction only during the continuation of an Actionable Default. Each Grantor hereby agrees to irrevocably direct each Depositary Bank to comply with the instructions of the Collateral Trustee with respect to the applicable Deposit Account or Securities Account held by such Depositary Bank without further consent from the Grantor or any other Person.

5.14. Collections. (a) Each Grantor agrees (i) to notify and direct promptly each Account Debtor and every other Person obligated to make payments on Accounts that are included in the Collateral or in respect of any Inventory that is included in the Collateral to make all such payments directly to the Pledged Accounts established in accordance with Section 5.13, (ii) to use all reasonable efforts to cause each Account Debtor and every other Person identified in clause (i) above to make all payments with respect to Accounts that are included in the Collateral and Inventory that is included in the Collateral directly to the Pledged Accounts and (iii) promptly to deposit all payments received by it on account of Accounts that are included in the Collateral and Inventory that is included in the Collateral, whether in the form of cash, checks, notes, drafts, bills of exchange, money orders or otherwise, in the Pledged Accounts in precisely the form in which received (but with any endorsements of such Grantor necessary for deposit or collection), and until they are so deposited such payments shall be held in trust by such Grantor for the benefit and as the property of the Secured Parties.

(b) Without the prior written consent of the Collateral Trustee, no Grantor shall, in a manner adverse to the Secured Parties, change the general instructions given to Account Debtors in respect of payment on Accounts to be deposited in the Pledged Accounts. Until the Collateral Trustee shall have advised the Grantors to the contrary, each Grantor shall, and the Collateral Trustee hereby authorizes each Grantor to, enforce and collect all amounts owing on the Inventory and Accounts, for the benefit and on behalf of the Collateral Trustee and the other Secured Parties; provided, however, that such privilege may at the option of the Collateral Trustee be terminated upon the occurrence and during the continuance of any Actionable Default.

SECTION 6. REMEDIAL PROVISIONS

6.1. Certain Matters Relating to Receivables.

(a) At any time after the occurrence and during the continuance of an Actionable Default, the Collateral Trustee shall have the right, but shall in no way be obligated to make test verifications of the Receivables that are included in the Collateral in any manner and through any medium that it reasonably considers advisable, and each Grantor shall furnish all such assistance and information as the Collateral Trustee may require in connection with such test verifications.

At any time and from time to time after the occurrence and during the continuance of an Actionable Default, upon the Collateral Trustee's request and at the expense of the relevant Grantor, such Grantor shall cause independent public accountants or others satisfactory to the Collateral Trustee or the Administrative Agent, as agent for the Collateral Trustee, to furnish to the Collateral Trustee or the Administrative Agent, as agent for the Collateral Trustee, as the case may be, reports showing reconciliations, aging and test verifications of, and trial balances for, the Receivables that are included in the Collateral.

(b) Each Grantor may collect such Grantor's Receivables that are included in the Collateral, subject to the Collateral Trustee's direction and control as defined in Section 5.13, and each Grantor hereby agrees to continue to collect all amounts due or to become due to such Grantor under the Receivables and any Supporting Obligation, in each case, that are included in the Collateral and diligently exercise each material right it may have under any Receivable and any Supporting Obligation, in each case, that are included in the Collateral at its own expense; provided, however, that the Collateral Trustee may curtail or terminate said authority at any time after the occurrence and during the continuance of an Actionable Default as provided in Section 5.13. If required by the Collateral Trustee at any time after the occurrence and during the continuance of an Actionable Default, any payments of Receivables that are included in the Collateral, when collected by any Grantor, (i) shall be forthwith (and, in any event, within two Business Days) deposited by such Grantor in the exact form received, duly endorsed by such Grantor to the Collateral Trustee for the benefit of the Secured Parties if required, in a Collateral Account maintained under the sole dominion and control of the Collateral Trustee, subject to withdrawal by the Collateral Trustee for the account of the Secured Parties only as provided in Section 6.7, and (ii) until so turned over, shall be held by such Grantor in trust for the Secured Parties, segregated from other funds of such Grantor. Each such deposit of Proceeds of Receivables that are included in the Collateral shall be accompanied by a report identifying in reasonable detail the nature and source of the payments included in the deposit.

(c) At any time after the occurrence and during the continuance of an Actionable Default, at the Collateral Trustee's request, each Grantor shall deliver to the Collateral Trustee all original and other documents evidencing, and relating to, the agreements and transactions which gave rise to the Receivables that are included in the Collateral, including all original orders, invoices and shipping receipts.

6.2. Communications with Obligors; Grantors Remain Liable. (a) At any time after the occurrence and during the continuance of an Actionable Default, the Collateral Trustee in its own name or in the name of others may at any time communicate with obligors under the Receivables that are included in the Collateral and parties to the Contracts to verify with them to the Collateral Trustee's reasonable satisfaction the existence, amount and terms of any Receivables or Contracts, in each case, that are included in the Collateral.

(b) The Collateral Trustee may at any time notify, or require any Grantor to so notify, the Account Debtor or counterparty on any Receivable or Contract that is included in the Collateral of the security interest of the Collateral Trustee therein. In addition, after the occurrence and during the continuance of an Actionable Default, the Collateral Trustee may upon written notice to the applicable Grantor, notify, or require any Grantor to notify, the

Account Debtor or counterparty to make all payments under the Receivables and/or Contracts that are included in the Collateral directly to the Collateral Trustee.

(c) Anything herein to the contrary notwithstanding, each Grantor shall remain liable under each of the Receivables and Contracts that are included in the Collateral to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise thereto. No Secured Party shall have any obligation or liability under any Receivable (or any agreement giving rise thereto) or Contract that is included in the Collateral by reason of or arising out of this Agreement or the receipt by any Secured Party of any payment relating thereto, nor shall any Secured Party be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Receivable (or any agreement giving rise thereto) or Contract that is included in the Collateral, to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party thereunder, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

6.3. Pledged Securities. (a) Unless an Actionable Default shall have occurred and be continuing and the Collateral Trustee (subject to the terms of the Collateral Trust Agreement) shall have given notice to the relevant Grantor of the Collateral Trustee's intent to exercise its rights pursuant to Section 6.3(b), each Grantor shall be permitted to receive all cash dividends paid in respect of the Pledged Equity Interests and all payments made in respect of the Pledged Notes, in each case paid in the normal course of business of the relevant Issuer and consistent with past practice, to the extent permitted in each credit agreement, indenture or comparable document constituting a Secured Debt Document, and to exercise all voting and corporate rights with respect to the Pledged Securities; provided, however, that no vote shall be cast or corporate or other ownership right exercised or other action taken which, in the Collateral Trustee's reasonable judgment, would materially impair the Collateral or which would be inconsistent with or result in any violation of any provision of this Agreement or any Secured Debt Document.

(b) Each Grantor hereby authorizes and instructs each Issuer of any Investment Property pledged by such Grantor hereunder to (i) comply with any instruction received by it from the Collateral Trustee in writing that (x) states that an Actionable Default has occurred and is continuing and (y) is otherwise in accordance with the terms of this Agreement and the Collateral Trust Agreement, without any other or further instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying and (ii) upon delivery of any notice to such effect pursuant to Section 6.3(a), pay any dividends or other payments with respect to the Investment Property directly to the Collateral Trustee. In order to permit the Collateral Trustee to exercise the voting and other consensual rights which it may be entitled to exercise pursuant hereto and to receive all dividends and other distributions which it may be entitled to receive hereunder each Grantor shall promptly execute and deliver (or cause to be executed and delivered) to the Collateral Trustee all proxies, dividend payment orders and other instruments as the Collateral Trustee may from time to time reasonably request and each Grantor acknowledges that the Collateral Trustee may utilize the power of attorney set forth herein.

(c) Each Grantor hereby authorizes and instructs each Issuer of any Pledged Securities pledged by such Grantor hereunder to (i) comply with any instruction received by it from the Collateral Trustee in writing that (x) states that an Actionable Default has occurred and is continuing and (y) is otherwise in accordance with the terms of this Agreement and the Collateral Trust Agreement, without any other or further instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying, and (ii) upon any such instruction following the occurrence of an Actionable Default, pay any dividends or other payments with respect to the Investment Property, including the Pledged Securities, directly to the Collateral Trustee.

6.4. Intellectual Property; Grant of License. For the purpose of enabling the Collateral Trustee, after the occurrence and during the continuance of an Actionable Default, to exercise rights and remedies under this Section 6 at such time as the Collateral Trustee shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, each Grantor hereby grants to the Collateral Trustee an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to such Grantor) to use, exploit, assign or license, after the occurrence and during the continuance of an Actionable Default, any of the Intellectual Property now owned or hereafter acquired by such Grantor, wherever the same may be located, through any and all media, whether now existing or hereafter developed, throughout the world, including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout hereof.

6.5. Intellectual Property Litigation and Protection.

(a) Upon the occurrence and during the continuance of any Actionable Default (and subject to the terms of the Collateral Trust Agreement), the Collateral Trustee shall have the right but shall in no way be obligated to file applications for protection of the Intellectual Property and/or bring suit in the name of any Grantor, the Collateral Trustee or the Secured Parties to protect or enforce the Intellectual Property and any Intellectual Property License. In the event of such suit, each Grantor shall, at the reasonable request of the Collateral Trustee, do any and all lawful acts and execute any and all documents reasonably requested by the Collateral Trustee in aid of such enforcement and the Grantors shall promptly reimburse and indemnify the Collateral Trustee for all costs and expenses incurred by the Collateral Trustee in the exercise of its rights under this Section 6.5 in accordance with Section 8.4 hereof. In the event that the Collateral Trustee shall elect not to bring suit to enforce the Intellectual Property, each Grantor agrees, at the reasonable request of the Collateral Trustee, to take all commercially reasonable actions necessary, whether by suit, proceeding or other action, to prevent the infringement, misappropriation, counterfeiting, unfair competition, dilution, diminution in value of or other damage to any of the material Intellectual Property owned by such Grantor by others and for that purpose agrees to diligently maintain any suit, proceeding or other action against any Person so infringing necessary to prevent such infringement.

(b) If an Actionable Default shall occur and be continuing, upon written demand from the Collateral Trustee (subject to the terms of the Collateral Trust Agreement), each Grantor shall grant, assign, convey or otherwise transfer to the Collateral Trustee or such Collateral Trustee's designee all of such Grantor's right, title and interest in and to the

Intellectual Property and shall execute and deliver to the Collateral Trustee such documents as are necessary or appropriate to carry out the intent and purposes of this Agreement.

6.6. Proceeds to be Turned Over To Collateral Trustee. In addition to the rights of the Secured Parties specified in Section 6.1 with respect to payments of Receivables that are included in the Collateral, if an Actionable Default shall occur and be continuing, all Proceeds received by any Grantor consisting of cash, cash equivalents, checks and other near–cash items shall be held by such Grantor in trust for the Secured Parties, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, be turned over to the Collateral Trustee in the exact form received by such Grantor (duly endorsed by such Grantor to the Collateral Trustee, if required by the Collateral Trustee). All Proceeds received by the Collateral Trustee hereunder shall be held by the Collateral Trustee in a Collateral Account maintained under its sole dominion and control. All Proceeds while held by the Collateral Trustee in a Collateral Account (or by such Grantor in trust for the Secured Parties) shall continue to be held as collateral security for all the Secured Obligations and shall not constitute payment thereof until applied as provided in Section 6.7.

6.7. Application of Proceeds. At such intervals as may be agreed upon by each Borrower and the Collateral Trustee, or, if an Actionable Default shall have occurred and be continuing, at any time at the Collateral Trustee's election, the Collateral Trustee may apply all or any part of Proceeds constituting Collateral realized through the exercise by the Collateral Trustee of its remedies hereunder, whether or not held in any Collateral Account, in payment of the Secured Obligations in accordance with the provisions of the Collateral Trust Agreement.

6.8. Code and Other Remedies. (a) If an Actionable Default shall occur and be continuing, the Collateral Trustee, on behalf of the Secured Parties, may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Secured Obligations, all rights and remedies of a secured party under the New York UCC (whether or not the New York UCC applies to the affected Collateral) or its rights under any other applicable law or in equity in each case subject to the terms of the Collateral Trust Agreement. Without limiting the generality of the foregoing and in each case subject to the terms of the Collateral Trust Agreement, the Collateral Trustee, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, license, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Collateral Trustee or any other Secured Party or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Collateral Trustee and each other Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Grantor,

and each Grantor hereby waives (to the extent permitted by applicable law) all rights of redemption, stay and/or appraisal which it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least ten days notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Collateral Trustee shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Collateral Trustee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. In connection with any such sale, the Collateral Trustee may sell the Collateral without giving any warranties as to the Collateral. The Collateral Trustee may specifically disclaim or modify any warranties of title or the like. This procedure will not be considered to adversely effect the commercial reasonableness of any sale of the Collateral. In the exercise of its remedies, each Grantor agrees that it would not be commercially unreasonable for the Collateral Trustee to dispose of the Collateral or any portion thereof by using Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets. Each Grantor hereby waives any claims against the Collateral Trustee arising by reason of the fact that the price at which any Collateral may have been sold at such a private sale was less than the price which might have been obtained at a public sale, even if the Collateral Trustee accepts the first offer received and does not offer such Collateral to more than one offeree. Each Grantor further agrees, at the Collateral Trustee's request, to assemble the Collateral and make it available to the Collateral Trustee at places which the Collateral Trustee shall reasonably select, whether at such Grantor's premises or elsewhere. In the exercise of its remedies, the Collateral Trustee shall have the right to enter onto the property where any Collateral is located and take possession thereof with or without judicial process.

(b) The Collateral Trustee shall apply the net proceeds of any action taken by it pursuant to this Section 6.8, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Secured Parties hereunder, including reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Secured Obligations in accordance with the Collateral Trust Agreement. If the Collateral Trustee sells any of the Collateral upon credit, the Grantor will be credited only with payments actually made by purchaser and received by the Collateral Trustee and applied to indebtedness of the purchaser. In the event the purchaser fails to pay for the Collateral, the Collateral Trustee may resell the Collateral and the Grantor shall be credited with proceeds of the sale. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Collateral Trustee or the other Secured Parties arising out of the exercise by them of any rights hereunder.

(c) In the event of any disposition of any of the Intellectual Property, the goodwill of the business connected with and symbolized by any Trademarks subject to such disposition shall be included, and the applicable Grantor shall supply the Collateral Trustee or its designee with such Grantor's know–how and expertise, and with documents and things embodying the same, relating to the manufacture, distribution, advertising and sale of products or the provision of services relating to any Intellectual Property subject to such disposition, and

such Grantor's customer lists and other records and documents relating to such Intellectual Property and to the manufacture, distribution, advertising and sale of such products and services.

6.9. Registration Rights. (a) If the Collateral Trustee is directed to exercise its right to sell any or all of the Pledged Equity Interests or the Pledged Debt Securities pursuant to Section 6.8, and if the Collateral Trustee is so directed to have the Pledged Equity Interests or the Pledged Debt Securities, or that portion thereof to be sold, registered under the provisions of the Securities Act, the relevant Grantor shall cause the Issuer thereof to (i) execute and deliver, and cause the directors and officers of such Issuer to execute and deliver, all such instruments and documents, and do or cause to be done all such other acts as the Collateral Trustee determines to be reasonably necessary or advisable to register the Pledged Equity Interests or the Pledged Debt Securities, or that portion thereof to be sold, under the provisions of the Securities Act, (ii) use its commercially reasonable efforts to cause the registration statement relating thereto to become effective and to remain effective for a period of one year from the date of the first public offering of the Pledged Equity Interests or the Pledged Debt Securities, or that portion thereof to be sold and (iii) make all amendments thereto and/or to the related prospectus which, in the opinion of the Collateral Trustee, are reasonably necessary or advisable, all in conformity with the requirements of the Securities Act and the rules and regulations of the Securities and Exchange Commission applicable thereto. Each Grantor agrees to use commercially reasonable efforts to cause such Issuer to comply with the provisions of the securities or "Blue Sky" laws of any and all jurisdictions which the Collateral Trustee shall designate and to make available to its security holders, as soon as practicable, an earnings statement (which need not be audited) which will satisfy the provisions of Section 11(a) of the Securities Act.

(b) Each Grantor recognizes that the Collateral Trustee may be unable to effect a public sale of any or all the Pledged Equity Interests or the Pledged Debt Securities, by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. The Collateral Trustee shall be under no obligation to delay a sale of any of the Pledged Equity Interests or the Pledged Debt Securities for the period of time necessary to permit the Issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such Issuer would agree to do so.

(c) Each Grantor agrees to use its best efforts to do or cause to be done all such other acts as may be necessary to make such sale or sales of all or any portion of the Pledged Equity Interests or the Pledged Debt Securities pursuant to this Section 6.9 valid and binding and in compliance with any and all other applicable Requirements of Law. Each Grantor further agrees that a breach of any of the covenants contained in this Section 6.9 will cause irreparable injury to the Secured Parties, that the Secured Parties have no adequate remedy at law in respect of such breach and, as a consequence, that each and every covenant contained in this Section 6.9 shall be specifically enforceable against such Grantor, and such Grantor hereby

waives and agrees not to assert any defenses against an action for specific performance of such covenants except for a defense that no Actionable Default has occurred.

6.10. Deficiency. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the fees and disbursements of any attorneys employed by any Secured Party to collect such deficiency.

6.11. Separate Liens. The Collateral Trustee may exercise any or all of the rights and remedies set forth in this Section 6 separately with respect to each security interest granted hereunder or jointly, as directed by the relevant Secured Parties in accordance with the Collateral Trust Agreement.

SECTION 7. THE COLLATERAL TRUSTEE

7.1. Collateral Trustee's Appointment as Attorney–in–Fact, etc. (a) Each Grantor hereby irrevocably constitutes and appoints the Collateral Trustee and any officer or agent thereof, with full power of substitution, as its true and lawful attorney–in–fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Collateral Trustee the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

(i) in the name of such Grantor or its own name, or otherwise, take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any Receivable or Contract or with respect to any other Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Collateral Trustee for the purpose of collecting any and all such moneys due under any Receivable or Contract or with respect to any other Collateral whenever payable;

(ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Collateral Trustee may request to evidence the Collateral Trustee's security interest in such Intellectual Property and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;

(iii) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;

(iv) execute, in connection with any sale provided for in Section 6.8 or 6.9, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and

(v) (1) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Collateral Trustee or as the Collateral Trustee shall direct; (2) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (3) sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (4) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (5) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (6) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Collateral Trustee may deem appropriate; (7) assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Copyright, Patent or Trademark pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Collateral Trustee shall determine; and (8) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Collateral Trustee were the absolute owner thereof for all purposes, and do, at the Collateral Trustee's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Collateral Trustee deems necessary to protect, preserve or realize upon the Collateral and the Collateral Trustee's security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

Anything in this Section 7.1(a) to the contrary notwithstanding, the Collateral Trustee agrees that it will not exercise any rights under the power of attorney provided for in this Section 7.1(a) unless an Actionable Default shall have occurred and be continuing, and in accordance with the Collateral Trust Agreement.

(b) If any Grantor fails to perform or comply with any of its agreements contained herein, the Collateral Trustee, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The expenses of the Collateral Trustee incurred in connection with actions undertaken as provided in this Section 7.1, together with interest thereon at the rate applicable under Section 2.06 of the Credit Agreement, from the date of payment by the Collateral Trustee to the date reimbursed by the relevant Grantor, shall be payable by such Grantor to the Collateral Trustee on demand.

(d) Each Grantor hereby ratifies all that said attorneys set forth in this Section 7.1 shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

7.2. Duty of Collateral Trustee. The Collateral Trustee's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under

Section 9–207 of the New York UCC or otherwise, shall be to deal with it in the same manner as the Collateral Trustee deals with similar property for its own account. Neither the Collateral Trustee, nor any other Secured Party nor any of their respective officers, directors, partners, employees, agents, attorneys and other advisors, attorneys–in–fact or Affiliates shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Collateral Trustee and the other Secured Parties hereunder are solely to protect the Secured Parties' interests in the Collateral and shall not impose any duty upon any Secured Party to exercise any such powers. The Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, partners, employees, agents, attorneys and other advisors, attorneys–in–fact or Affiliates shall be responsible to any Grantor for any act or failure to act hereunder, except to the extent that any such act or failure to act is found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from their own gross negligence or willful misconduct.

Notwithstanding anything to the contrary contained in this Agreement, the rights, privileges, powers, benefits and immunities of the Collateral Trustee hereunder are subject to the terms, conditions and limitations set forth in the Collateral Trust Agreement, reference to which is made for all purposes; provided, however, that any forbearance by the Collateral Trustee in exercising any right or remedy available to it under the Collateral Trust Agreement shall not give rise to a defense on the part of the Grantors with respect to the Collateral Trustee's exercise of any right or remedy pursuant to this Agreement or as otherwise afforded by applicable law.

7.3. Execution of Financing Statements. Each Grantor acknowledges that pursuant to Section 9–509(b) of the New York UCC and any other applicable law, each Grantor authorizes the Collateral Trustee to file or record financing or continuation statements, and amendments thereto, and other filing or recording documents or instruments with respect to the Collateral, without the signature of such Grantor, in such form and in such offices as the Collateral Trustee reasonably determines appropriate to perfect or maintain the perfection of the security interests of the Collateral Trustee under this Agreement. Each Grantor agrees that such financing statements may describe the collateral in the same manner as described in the Security Documents or as "all assets" or "all personal property", wherever located and whether now owned or hereafter existing or acquired or such other description as the Collateral Trustee, in its sole judgment, determines is necessary or advisable. A photographic or other reproduction of this Agreement shall be sufficient as a financing statement or other filing or recording document or instrument for filing or recording in any jurisdiction. Each Grantor hereby ratifies and authorizes the filing by or on behalf of the Collateral Trustee of any financing statement with respect to the Collateral made prior to the date hereof.

7.4. Authority of Collateral Trustee. Each Grantor acknowledges that the rights and responsibilities of the Collateral Trustee under this Agreement with respect to any action taken by the Collateral Trustee or the exercise or non–exercise by the Collateral Trustee of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Collateral Trustee and the other Secured Parties, be governed by the Collateral Trust Agreement and by such other agreements

with respect thereto as may exist from time to time among them, but, as between the Collateral Trustee and the Grantors, the Collateral Trustee shall be conclusively presumed to be acting as agent for the Secured Parties, in its capacities as further described in the Collateral Trust Agreement, and with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority. Notwithstanding anything to the contrary contained herein, in taking any action hereunder the Collateral Trustee shall not be required to act except to the extent that it shall have been directed in writing to so act by a Secured Debt Representative; provided that all actions of the Collateral Trustee hereunder shall be taken pursuant to the terms of the Collateral Trust Agreement and the Collateral Trustee shall act to the extent directed pursuant to the terms thereof with respect to those matters specified therein.

7.5. Access to Collateral, Books and Records; Other Information. Upon reasonable request to any Grantor, representatives of the Collateral Trustee or any other Secured Party (acting through the applicable Secured Debt Representative) shall have full and free access to visit and inspect, as applicable, during normal business hours all of the Collateral of such Grantor, including all of the books, correspondence and records of such Grantor relating thereto; provided that no Grantor shall be required to provide such access more than two times in any fiscal year, unless an Actionable Default shall have occurred and be continuing. The Collateral Trustee and its representatives may examine the same, take extracts therefrom and make photocopies thereof, and such Grantor agrees to render to the Collateral Trustee, at such Grantor's cost and expense, such clerical and other assistance as may be reasonably requested by the Collateral Trustee with regard thereto. Such Grantor shall, at any and all times, within a reasonable time after written request by the Collateral Trustee, furnish or cause to be furnished to the Collateral Trustee, in such manner and in such detail as may be reasonably requested by the Collateral Trustee, additional information with respect to the Collateral.

7.6. Appointment of Co–Collateral Agents. At any time or from time to time, in order to comply with any Requirement of Law, the Collateral Trustee may appoint another bank or trust company or one of more other persons, either to act as co–agent or agents on behalf of the Secured Parties with such power and authority as may be necessary for the effectual operation of the provisions hereof and which may be specified in the instrument of appointment. Each separate trustee or co–trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Collateral Trustee or separately, as may be provided therein, subject to all the provisions of the Collateral Trust Agreement and the other Security Documents, specifically including every provision of such agreements relating to the conduct of, affecting the liability of, or affording protection to, the Collateral Trustee. A copy of every such instrument shall be sent to the Collateral Trustee.

SECTION 8. MISCELLANEOUS

8.1. Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 7.1 of the Collateral Trust Agreement.

8.2. Notices. All notices, requests and demands to or upon the Collateral Trustee or any Grantor hereunder shall be effected in the manner provided for in Section 7.5 of the Collateral Trust Agreement; provided that any such notice, request or demand to or upon any Guarantor shall be addressed to such Guarantor at its notice address set forth on Schedule 8.2 or such other address specified in writing to the Collateral Trustee in accordance with such Section. Each Grantor agrees to provide a copy of each notice provided by it hereunder to the Collateral Trustee to each Secured Debt Representative in the manner provided for in Section 7.1 of the Collateral Trust Agreement.

8.3. No Waiver by Course of Conduct; Cumulative Remedies. Neither the Collateral Trustee nor any other Secured Party shall by any act (except by a written instrument pursuant to Section 8.1), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Secured Debt Default under any Secured Debt Document. No failure to exercise, nor any delay in exercising, on the part of the Collateral Trustee or any other Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Collateral Trustee or any other Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which such Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

8.4. Enforcement Expenses; Indemnification. (a) Each Grantor agrees to pay or reimburse the Collateral Trustee and each Secured Party for all its costs and expenses incurred in collecting against such Grantor under the guarantee contained in Section 2 or otherwise enforcing or preserving any rights under this Agreement and the Secured Debt Documents to which such Grantor is a party, including the fees and disbursements of counsel to the Collateral Trustee and each Secured Party.

(b) Each Grantor agrees to pay, and to save the Collateral Trustee and the other Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) Each Grantor agrees to pay, and to save the Collateral Trustee and the other Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement to the extent each Credit Agreement Borrower would be required to do so pursuant to Section 9.05 of the Credit Agreement (whether or not then in effect), if the Collateral Trustee were acting as the Administrative Agent under the Credit Agreement.

(d) The agreements in this Section shall survive repayment of the Secured Obligations and all other amounts payable under the Secured Debt Documents.

8.5. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of the Collateral Trustee and the other Secured Parties and their successors and assigns; provided that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Collateral Trustee, and any attempted assignment without such consent shall be null and void.

8.6. Set–Off. Each Grantor hereby irrevocably authorizes each Secured Party at any time and from time to time, without notice to such Grantor or any other Grantor, any such notice being expressly waived by each Grantor, to set–off and appropriate and apply any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by each Secured Party to or for the credit or the account of such Grantor, or any part thereof in such amounts as each Secured Party may elect, against and on account of the obligations and liabilities of such Grantor to each Secured Party hereunder and claims of every nature and description of each Secured Party against such Grantor, in any currency, whether arising hereunder, under any other Secured Debt Document or otherwise, as each Secured Party may elect, whether or not each Secured Party has made any demand for payment and although such obligations, liabilities and claims may be contingent or unmatured, provided that each such set–off and appropriation by any Secured Party shall be held by it and applied in accordance with the terms of the Collateral Trust Agreement. The applicable Secured Party shall notify such Grantor promptly of any such set–off and the application made by each Secured Party of the proceeds thereof, provided that the failure to give such notice shall not affect the validity of such set–off and application. The rights of each Secured Party under this Section are in addition to other rights and remedies (including other rights of set–off) which each Secured Party may have.

8.7. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

8.8. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.9. Section Headings. The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

8.10. Integration. This Agreement and each of the other Secured Debt Documents represent the agreement of the Grantors, the Collateral Trustee and the other Secured Parties with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Secured Party relative to subject matter hereof and thereof not expressly set forth or referred to herein or in any of the other Secured Debt Documents.

8.11. APPLICABLE LAW. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

8.12. Submission to Jurisdiction; Waivers. Each Grantor hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Secured Debt Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the Courts of the State of New York, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Grantor at its address referred to in Section 8.2 or at such other address of which the Collateral Trustee and the Secured Debt Representatives shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

8.13. Acknowledgments. Each Grantor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Secured Debt Documents to which it is a party;

(b) no Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Secured Debt Documents, and the relationship between the Grantors, on the one hand, and the Collateral Trustee and the other Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the Secured Debt Documents or otherwise exists by virtue of the transactions contemplated hereby among the Secured Parties or among the Grantors and the Secured Parties.

8.14. Additional Grantors. Each Subsidiary of the Company that is required to become a party to this Agreement pursuant to any Secured Debt Document shall become a Grantor and a Guarantor for all purposes of this Agreement upon execution and delivery by such Subsidiary of an Assumption Agreement in the form of Annex 1.

8.15. Releases. (a) All or any portion of the Collateral shall be released from the Liens created hereby, and the Guarantee of any Guarantor under this Agreement shall terminate, in each case as provided in Section 4.1 of the Collateral Trust Agreement.

(b) In the event of any sale or other disposition of all of the Equity Interests in any Guarantor to a Person that is not (either before or after giving effect to such transactions) the Company or a Subsidiary, then such Guarantor will be released and relieved of any obligations under its Guarantee; provided that the proceeds of such sale or other disposition are applied in accordance with the applicable provisions of all applicable Secured Debt Documents. Upon delivery by the Company to each applicable Guaranteed Secured Debt Representative of an officer's certificate and an opinion of counsel to the effect that such sale or other disposition was made by the Company or any applicable Subsidiary in accordance with the provisions of all of the applicable Secured Debt Documents, such Guaranteed Secured Debt Representative will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Guarantee.

(c) In addition to the foregoing, the Guarantee of any Guarantor under this Agreement with respect to any Series of Guaranteed Secured Debt shall terminate to the extent such termination is provided for in the applicable Secured Debt Documents governing such Series of Guaranteed Secured Debt.

8.16. Conflicts. In the case of any conflicts between this Agreement and the Collateral Trust Agreement, the provisions of the Collateral Trust Agreement shall govern and control.

8.17. WAIVER OF JURY TRIAL. EACH GRANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER SECURED DEBT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

8.18. Additional Guaranteed Secured Debt Representatives. Each Guaranteed Secured Debt Representative that becomes entitled to the benefits of the Collateral Trust Agreement after the date hereof in accordance with the terms thereof shall become a party to this Agreement for purposes of Section 2.

8.19. Rights and Immunities of Secured Debt Representatives. The Administrative Agent shall be entitled to all of the rights, protections, immunities and indemnities set forth in the Credit Agreement, the Trustee shall be entitled to all of the rights, protections, immunities and indemnities set forth in the Indenture and any future Secured Debt Representative shall be entitled to all of the rights, protections, immunities and indemnities set forth in the credit agreement, indenture or other agreement governing the applicable Secured Debt with respect to which such Person shall act as representative, in each case as if specifically

set forth herein. In no event shall any Secured Debt Representative be liable for any act or omission on the part of the Grantors or the Collateral Trustee hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Guarantee and Collateral Agreement to be duly executed and delivered as of the date first above written.

NRG ENERGY, INC.

By: /s/ George P. Schaefer

Name: George P. Schaefer
Title: Treasurer

NRG POWER MARKETING INC.

By: /s/ George P. Schaefer

Name: George P. Schaefer
Title: Treasurer

(signatures continue on next page)

The Guarantors:

ARTHUR KILL POWER LLC
ASTORIA GAS TURBINE POWER LLC
BERRIANS I GAS TURBINE POWER LLC
BIG CAJUN II UNIT 4 LLC
CAMAS POWER BOILER, INC.
CAPISTRANO COGENERATION COMPANY
CHICKAHOMINY RIVER ENERGY CORP.
COMMONWEALTH ATLANTIC POWER LLC
CONEMAUGH POWER LLC
CONNECTICUT JET POWER LLC
DEVON POWER LLC
DUNKIRK POWER LLC
EASTERN SIERRA ENERGY COMPANY
EL SEGUNDO POWER II LLC
ENERGY NATIONAL, INC.
ENIFUND, INC.
ENIGEN, INC.
ESOCO MOLOKAI, INC.
ESOCO, INC.
GRANITE II HOLDING, LLC
HANOVER ENERGY COMPANY
HUNTLEY POWER LLC
INDIAN RIVER ROPERATIONS INC.
INDIAN RIVER POWER LLC
JAMES RIVER POWER LLC
KEYSTONE POWER LLC
LOUISIANA GENERATING LLC
LS POWER MANAGEMENT LLC
MERIDEN GAS TURBINES LLC
MIDATLANTIC GENERATION HOLDING LLC
MIDDLETOWN POWER LLC
MONTVILLE POWER LLC

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(signatures continue on next page)

The Guarantors:

NEO CALIFORNIA POWER LLC
NEO CHESTER–GEN LLC
NEO CORPORATION
NEO FREEHOLD–GEN LLC
NEO LANDFILL GAS HOLDINGS INC.
NEO POWER SERVICES, INC.
NEO–MONTAUK GENCO MANAGEMENT LLC
NORTHEAST GENERATION HOLDINGS LLC
NORWALK POWER LLC
NRG AFFILIATE SERVICES INC.
NRG ARTHUR KILL OPERATIONS, INC.
NRG ASIA–PACIFIC, LTD.
NRG ASTORIA GAS TURBINE OPERATIONS INC.
NRG BAYOU COVE LLC
NRG BRAZOS VALLEY GP LLC
NRG BRAZOS VALLEY LP LLC
NRG BOURBONNAISE EQUIPMENT LLC
NRG BOURBONAISE LLC
NRG CALIFORNIA PEAKER OPERATIONS LLC
NRG CABRILLO POWER OPERATIONS INC.
NRG CADILLAC OPERATIONS INC.
NRG CENTRAL U.S. LLC
NRG COMLEASE LLC
NRG CONNECTICUT AFFILIATE SERVICES INC.

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(*signatures continue on next page*)

The Guarantors:

NRG DEVELOPMENT COMPANY INC.
NRG DEVON OPERATIONS INC.
NRG DUNKIRK OPERATIONS INC.
NRG EASTERN LLC
NRG EL SEGUNDO OPERATIONS INC.
NRG ENERGY JACKSON VALLEY I, INC.
NRG ENERGY JACKSON VALLEY II, INC.
NRG GRANITE ACQUISITIONS LLC
NRG HUNTLEY OPERATIONS INC.
NRG ILION LP LLC
NRG INTERNATIONAL LLC
NRG INTERNATIONAL III, INC.
NRG KAUFMAN LLC
NRG LATIN AMERICA INC.
NRG MARKETING SERVICES LLC
NRG MESQUITE LLC
NRG MEXTRANS INC.
NRG MIDATLANTIC AFFILIATE SERVICES INC.
NRG MIDATLANTIC GENERATING LLC
NRG MIDATLANTIC LLC
NRG MIDDLETOWN OPERATIONS INC.
NRG MONTVILLE OPERATIONS INC.
NRG NEW JERSEY ENERGY SALES LLC
NRG NEW ROADS HOLDINGS LLC
NRG NORTH CENTRAL OPERATIONS INC.
NRG NORTHEAST AFFILIATE SERVICES, INC.
NRG NORTHEAST GENERATING LLC
NRG NORWALK HARBOR OPERATIONS INC.
NRG OPERATING SERVICES, INC.
NRG OSWEGO HARBOR POWER OPERATIONS INC.
NRG PACGEN INC.
NRG PROCESSING SOLUTIONS LLC.

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(*signatures continue on next page*)

The Guarantors:

NRG ROCKFORD ACQUISITION LLC
NRG ROCKFORD EQUIPMENT LLC
NRG ROCKY ROAD LLC
NRG SAGUARO OPERATIONS INC.
NRG SERVICES CORPORATION
NRG SOUTH CENTRAL AFFILIATE SERVICES INC.
NRG SOUTH CENTRAL GENERATING LLC
NRG SOUTH CENTRAL OPERATIONS INC.
NRG TELOGIA POWER LLC
NRG WEST COAST LLC
NRG WESTERN AFFILIATE SERVICES INC.
O'BRIEN COGENERATION, INC.II
ONSITE ENERGY, INC.
OSWEGO HARBOR POWER LLC
PACIFIC CROCKETT HOLDINGS, INC.
PACIFIC GENERATION COMPANY
PACIFIC GENERATION HOLDINGS COMPANY
PACIFIC–MT. POSO CORPORATION
SAGUARO POWER LLC
SAN JOAQUIN VALLEY ENERGY I, INC.
SAN JOAQUIN VALLEY ENERGY IV, INC.
SOMERSET OPERATIONS INC.
SOMERSET POWER LLC
SOUTH CENTRAL GENERATION HOLDING LLC
TACOMA ENERGY RECOVERY COMPANY
TELOGIA POWER INC.
VIENNA OPERATIONS INC.
VIENNA POWER LLC.

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(signatures continue on next page)

GRANITE POWER PARTNERS II, L.P.

By: NRG Granite Acquisition LLC
Its: General Partner

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

KAUFMAN COGEN LP

By: NRG Kaufman LLC
Its: General Partner

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

NRG ILION LIMITED PARTNERSHIP

By: NRG Rockford Acquisition LLC
Its: General Partner

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

NRGENERATING HOLDINGS (NO. 21) B.V.

By: /s/ Robert Henry

Name: Robert Henry
Title: Director

(*signatures continue on next page*)

DEUTSCHE BANK TRUST COMPANY
AMERICAS, as Priority Collateral Trustee and
Parity Collateral Trustee

By: /s/ Richard L. Buckwalter

Name: Richard L. Buckwalter
Title: Vice President

By: /s/ Irina Golovashchuk

Name: Irina Golovashchuk
Title: Associate

(signatures continue on next page)

CREDIT SUISSE FIRST BOSTON,
acting through its Cayman Islands Branch, as the Administrative Agent

By: /s/ Jay Chall

Name: Jay Chall
Title: Director

By: /s/ Denise L. Alvarez

Name: Denise L. Alvarez
Title: Associate

Exhibit 10.27
EXECUTION COPY

COLLATERAL TRUST AGREEMENT

dated as of December 23, 2003

as amended and restated as of

December 24, 2004

among

NRG ENERGY, INC.,

NRG POWER MARKETING INC.,

the Guarantors from time to time party hereto,

CREDIT SUISSE FIRST BOSTON,
as Administrative Agent,

LAW DEBENTURE TRUST COMPANY OF NEW YORK,
as Trustee

and

DEUTSCHE BANK TRUST COMPANY AMERICAS,
as Priority Collateral Trustee, Parity Collateral Trustee
and Account Collateral Trustee

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<u>Exhibits</u>:
Exhibit A Collateral Trust Joinder

This Collateral Trust Agreement, dated as of December 23, 2003, as amended and restated as of December 24, 2004 (this "Agreement"), is entered into by and among NRG ENERGY, INC., a Delaware corporation (the "Company"), NRG POWER MARKETING INC., a Delaware corporation ("Power Marketing" and, together with the Company, the "Credit Agreement Borrowers"), the Guarantors from time to time party hereto, CREDIT SUISSE FIRST BOSTON, as Administrative Agent (as defined below), LAW DEBENTURE TRUST COMPANY OF NEW YORK, as Trustee (as defined below), and DEUTSCHE BANK TRUST COMPANY AMERICAS, as Priority Collateral Trustee, Parity Collateral Trustee and Account Collateral Trustee (each as defined below).

RECITALS

1. On the Closing Date, the parties thereto entered into the Original Collateral Trust Agreement. On the Restatement Date, this Agreement will be amended and restated in the form hereof.

2. On the Restatement Date, the Credit Agreement Borrowers intend to amend and restate a Credit Agreement, originally dated as of December 23, 2003, as amended and restated on December 24, 2004 (as amended, restated, supplemented or modified from time to time, the "Credit Agreement") among the Credit Agreement Borrowers, the several banks and other financial institutions or entities from time to time parties thereto as lenders, Credit Suisse First Boston, and Goldman Sachs Credit Partners L.P., as joint lead book runners and joint lead arrangers (in such capacities, collectively, the "Arrangers") and as co-documentation agents, Credit Suisse First Boston, as administrative agent (in such capacity and together with its successors, the "Administrative Agent") and as collateral agent (in such capacity and together with its successors, the "Collateral Agent") and Goldman Sachs Credit Partners L.P., as syndication agent (in such capacity, the "Syndication Agent"), which will provide for a $950,000,000 credit facility to be made available in the form of revolving loans, term loans, swingline loans and letters of credit to be issued thereunder or to be deposited in the form of credit-linked deposits thereunder.

3. The Company has previously issued 8% Second Priority Senior Secured Notes (the "Notes") in an aggregate principal amount of $1,725,000,000 pursuant to an Indenture dated as of December 23, 2003 (as amended, supplemented, replaced or modified from time to time, the "Indenture") among the Company, the Guarantors and Law Debenture Trust Company of New York, as trustee (in such capacity and together with its successors, the "Trustee").

4. The Credit Agreement Borrowers and the Guarantors have secured their respective Secured Obligations (as defined below), including their obligations under the Credit Agreement and any future Priority Lien Debt, on a priority basis, and, subject to such priority, their obligations under the Indenture and any future Parity Lien Debt, with security interests in all present and future Collateral (as defined below) to the extent that such security interests have been provided for in the applicable Security Documents (as defined below).

5. This Agreement sets forth the terms on which each Secured Party appoints Deutsche Bank Trust Company Americas as its collateral trustee for the present and future

holders of the Secured Obligations to receive, hold, maintain, administer and distribute the Collateral at any time delivered to the collateral trustee or the subject of the Security Documents, and to enforce the Security Documents and all interests, rights, powers and remedies of the collateral trustee with respect thereto or thereunder and the proceeds thereof.

NOW THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1. DEFINITIONS; PRINCIPLES OF CONSTRUCTION

SECTION 1.1 Defined Terms.

(a) The following terms shall have the following meanings:

"Act of Instructing Debtholders" shall mean, as to any matter at any time, (a) prior to the Discharge of Priority Lien Obligations, a direction in writing delivered to the Collateral Trustee by or with the written consent of the Priority Debt Representatives representing the holders of Priority Lien Debt constituting more than 50% of the sum of (x) the aggregate outstanding amount of all Priority Lien Debt and (y) the face amount of any outstanding letters of credit issued under Priority Lien Documents or, if such direction is delivered in respect of any act other than the enforcement of remedies or the protections of Liens on Collateral, 50% of the sum of (i) the aggregate outstanding amount of all Priority Lien Debt, (ii) the aggregate undrawn commitments with respect to all Priority Lien Debt and (iii) the face amount of all outstanding letters of credit issued under any Priority Lien Document, and (b) at any time after the Discharge of Priority Lien Obligations, a direction in writing delivered to the Collateral Trustee by or with the written consent of the Parity Debt Representatives representing the Required Parity Debtholders. For this purpose, Secured Debt registered in the name of, or beneficially owned by, the Company or any Affiliate of the Company will be deemed not to be outstanding and neither the Company nor any such Affiliate shall be entitled to vote to direct the relevant Secured Debt Representative.

"Actionable Default" shall mean (a) prior to the Discharge of Priority Lien Obligations, the occurrence of any event of default under any Priority Lien Document, the result of which is that (i) the holders of Priority Lien Debt under such Priority Lien Document have the right to declare all of the Secured Obligations thereunder to be due and payable prior to the stated maturity thereof or (ii) such Secured Obligations automatically become due and payable prior to the stated maturity thereof, and (b) at any time after the Discharge of Priority Lien Obligations, the occurrence of any event of default under any Parity Lien Document, the result of which is that (x) the holders of Parity Lien Debt under such Parity Lien Document have the right to declare all of the Secured Obligations thereunder to be due and payable prior to the stated maturity thereof or (y) such Secured Obligations automatically become due and payable prior to the stated maturity thereof.

"Additional Notes" shall mean additional Notes (other than the first $1,250,000,000 aggregate principal amount of Notes issued under the Senior Note Documents on

December 23, 2003) issued under the Secured Debt Documents, as part of the same series as such Notes issued on December 23, 2003.

"Administrative Agent" shall have the meaning assigned to such term in the recitals.

"Affiliate" of any specified Person shall mean any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition and the definition of the term "subsidiary", "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the voting stock of a Person will be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Agreement" shall have the meaning assigned to such term in the preamble.

"Arrangers" shall have the meaning assigned to such term in the recitals.

"Attributable Debt" in respect of a sale and leaseback transaction shall mean, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; provided, however, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."

"Bankruptcy Case" shall mean any case under Title 11 of the United States Code or any comparable foreign law equivalent, or any successor bankruptcy law commenced voluntarily or involuntarily against the Company or any other Obligor.

"Board of Directors" shall mean (i) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (ii) with respect to a partnership, the Board of Directors of the general partner of the partnership, (iii) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof and (iv) with respect to any other Person, the board or committee of such Person serving a similar function.

"Business Day" shall mean any day other than a Saturday, Sunday or day on which commercial banks in New York City are authorized or required by law to close.

"Capital Lease Obligations" shall mean, at the time any determination is to be made, the amount of liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP, and the stated maturity thereof shall be

the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

"Capital Stock" shall mean (a) in the case of a corporation, corporate stock; (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"CERCLA" shall have the meaning assigned to such term in Section 5.14.

"Class" shall mean all Secured Parties having the same priority. This Agreement includes two Classes of Secured Parties, the holders of Priority Lien Obligations and the holders of Parity Lien Obligations.

"Closing Date" shall mean December 23, 2003.

"Collateral" shall mean, in the case of each Series of Secured Debt, (i) all properties and assets of the Company and each applicable Guarantor, now owned or hereafter acquired, in which Liens have been granted to each of the Priority Collateral Trustee and the Parity Collateral Trustee and (ii) all Deposit Accounts and Securities Accounts (as defined in the Guarantee and Collateral Agreement) of the Company and each applicable Guarantor, now owned or hereafter acquired, in which liens have been granted to the Account Collateral Trustee, in each case, under any of the Security Documents to secure the Secured Obligations in respect of such Series of Secured Debt.

"Collateral Agent" shall have the meaning assigned to such term in the recitals.

"Collateral Trustee" means each of (i) the Priority Collateral Trustee (as defined in Section 2.1 herein), (ii) the Parity Collateral Trustee (as defined in Section 2.2 herein), and (iii) the Account Collateral Trustee (as defined in Section 2.3 herein); provided, however, that in respect of the Deposit Accounts and the Securities Accounts (as defined in the Guarantee and Collateral Agreement), "Collateral Trustee" means only the Account Collateral Trustee.

"Collateral Trust Joinder" shall mean an agreement substantially in the form of Exhibit A hereto.

"Company" shall have the meaning assigned to such term in the preamble.

"Control Agreement" shall mean a Control Agreement to be executed and delivered by the applicable Obligor and the other party or parties thereto, as required by the Guarantee and Collateral Agreement, as the same maybe amended, restated, supplemented or otherwise modified from time to time.

"Credit Agreement" shall have the meaning assigned to such term in the recitals.

"Credit Agreement Agent" shall mean, at any time and for so long as the Credit Agreement shall be in effect, the Person serving at such time as the "Administrative Agent" under the Credit Agreement or any other representative of the Lenders then most recently designated by the Lenders in accordance with the terms of the Credit Agreement, in a written notice delivered to each Secured Debt Representative and the Collateral Trustee, as the Credit Agreement Agent for the purposes of each of the Priority Lien Documents, and, at any time when the Credit Agreement shall no longer be in effect, the Person serving at such time as the "Agent" or "Administrative Agent" under the applicable Credit Facility or any other representative of the lenders thereunder then most recently designated by such lenders in accordance with the terms of the agreement relating to such facility, in a written notice delivered to each Secured Debt Representative and the Collateral Trustee, as the Credit Agreement Agent for the purposes of each of the Priority Lien Documents.

"Credit Agreement Borrowers" shall have the meaning assigned to such term in the preamble.

"Credit Agreement Documents" shall mean the Credit Agreement and the Security Documents.

"Credit Agreement Parallel Debt" shall have the meaning assigned to such term in Article 8.

"Credit Facilities" shall mean, one or more debt facilities (including the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, credit-linked deposits (or similar deposits), receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

"Credit-Linked Deposit" shall mean the cash deposit made by the Lenders to reimburse drawings on certain letters of credit issued under the Credit Agreement, which deposit is held by the Administrative Agent in accordance with the Credit Agreement.

"Discharge of Priority Lien Obligations" shall mean the occurrence of all of the following: (i) termination of all commitments to extend credit that would constitute Priority Lien Debt; (ii) payment in full in cash of the principal of and interest and premium (if any) on all Priority Lien Debt (other than any undrawn letters of credit); (iii) discharge or cash collateralization (at 100% of the aggregate undrawn amount) of all outstanding letters of credit constituting Priority Lien Debt; (iv) return in full in cash of any Credit-Linked Deposits to the applicable Lenders and (v) payment in full in cash of all other Priority Lien Obligations that are outstanding and unpaid at the time the Priority Lien Debt is paid in full in cash (other than any obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities in respect of which no claim or demand for payment has been made at such time).

"Dutch Security Documents" shall mean (a) the first priority Deed of Pledge dated December 24, 2004, among NRG International LLC, as Pledgor, NRGenerating International B.V., as Company and the Collateral Trustee, as Pledgee, (b) the second priority Deed of Pledge dated December 24, 2004, among NRG International LLC, as Pledgor, NRGenerating International B.V., as Company and the Collateral Trustee, as Pledgee, (c) the first priority Deed of Pledge dated December 24, 2004, among NRGenerating Holdings (No. 21) B.V., as Pledgor, Tosli Acquisition B.V., as Company and the Collateral Trustee, as Pledgee, and (d) the second priority Deed of Pledge dated December 24, 2004, among NRGenerating Holdings (No. 21) B.V., as Pledgor, Tosli Acquisition B.V., as Company and the Collateral Trustee, as Pledgee.

"Environmental Laws" shall mean all former, current and future Federal, state, local and foreign laws (including common law), treaties, regulations, rules, ordinances and codes, and legally binding decrees, judgments, directives and orders (including consent orders), in each case, relating to protection of the environment, natural resources, occupational health and safety or the presence, Release of, or exposure to, Hazardous Materials, or the generation, manufacture, processing, distribution, use, treatment, storage, transport, recycling or handling of, or the arrangement for such activities with respect to, Hazardous Materials.

"Environmental Liability" shall mean all liabilities, obligations, damages, losses, claims, actions, suits, judgments, orders, fines, penalties, fees, expenses and costs (including administrative oversight costs, natural resource damages and remediation costs), whether contingent or otherwise, arising out of or relating to (a) compliance or non-compliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release of any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed, imposed or covered by an indemnity with respect to any of the foregoing.

"Equally and Ratably" shall mean, in reference to sharing of Liens or proceeds thereof as between the Secured Parties of the same Class, that such Liens or proceeds:

(i) shall be allocated and distributed first to each Secured Debt Representative for each outstanding Series of Secured Debt within that Class, for the account of the holders of such Series of Secured Debt, ratably in proportion to the principal of (and, in the case of the Credit Agreement, any Credit-Linked Deposits) and interest and premium (if any) and reimbursement obligations (contingent or otherwise) with respect to letters of credit, if any, outstanding (whether or not drawings have been made under such letters of credit) on each outstanding Series of Secured Debt within that Class when the allocation or distribution is made, and thereafter

(ii) shall be allocated and distributed (if any remain after payment in full of all of the principal of (and, in the case of the Credit Agreement, any Credit-Linked Deposits) and interest and premium (if any) on all outstanding Secured Obligations within that Class) to each Secured Debt Representative for each outstanding series of Secured Obligations within that Class, for the account of the holders of any remaining Secured Obligations within that Class, ratably in proportion to the aggregate unpaid

amount of such remaining Secured Obligations within that Class due and demanded (with written notice to the applicable Secured Debt Representative and the Collateral Trustee) prior to the date such distribution is made.

It is understood and agreed that Liens and proceeds will not be shared between Classes.

"Equity Interests" shall mean Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"GAAP" shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board or the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"Guarantee" shall mean a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep–well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"Guarantee and Collateral Agreement" shall mean the Guarantee and Collateral Agreement dated as of December 23, 2003, as amended and restated as of the date hereof, and executed and delivered by the Company and each Guarantor, as the same may be amended, restated or otherwise modified from time to time.

"Guarantors" shall mean, initially, in the case of any Series of Secured Debt, each Subsidiary party hereto that, pursuant to the terms of the Guarantee and Collateral Agreement, has provided a Guarantee in respect of the Secured Obligations evidenced by such Series of Secured Debt and shall include any future Subsidiary required by the terms of any Secured Debt Document to become a guarantor of the Secured Obligations evidenced thereby, and any successor of the foregoing.

"Hazardous Materials" shall mean (a) any petroleum products or byproducts and all other hydrocarbons, coal ash, coal combustion by–products or waste, boiler slag, scrubber residue, flue desulfurization material, radon gas, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, chlorofluorocarbons and all other ozone–depleting substances and (b) any chemical, material, substance or waste that is prohibited, limited or regulated by or pursuant to any Environmental Law.

"Hedging Agreement" shall mean any agreement of the type described in clauses (a), (b) or (c) of the definition of "Hedging Obligations".

"Hedging Obligations" shall mean, with respect to any specified Person, the obligations of such Person under (a) interest rate swap agreements (whether from fixed to

floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements; (b) other agreements or arrangements designed to manage interest rates or interest rate risk; and (c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

"Indebtedness" shall mean, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent (a) in respect of borrowed money; (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof); (c) in respect of banker's acceptances; (d) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions; (e) representing the balance deferred and unpaid of the purchase price of any property (including trade payables) or services due more than six months after such property is acquired or such services are completed; or (f) representing the net amount owing under any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

"Indemnified Liabilities" shall mean any and all liabilities (including all Environmental Liabilities), obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, performance, administration or enforcement of this Agreement or any of the other Security Documents, including any of the foregoing relating to the use of proceeds of any Secured Debt or the violation of, noncompliance with or liability under, any law (including Environmental Laws) applicable to or enforceable against the Company or any of its subsidiaries or any of the Collateral and all reasonable costs and expenses (including reasonable fees and expenses of legal counsel selected by the Indemnitee) incurred by any Indemnitee in connection with any claim, action, investigation or proceeding in any respect relating to any of the foregoing, whether or not suit is brought.

"Indemnitee" shall have the meaning assigned to such term in Section 7.8(a).

"Indenture" shall have the meaning assigned to such term in the recitals.

"Indenture Parallel Debt" shall have the meaning assigned to such term in Article 9.

"Insolvency Proceeding" shall mean:

(i) any proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of the Company or any other Obligor, any receivership or assignment for the benefit of creditors relating to the Company or any other Obligor or any similar case or proceeding relative to the Company or any other Obligor or its creditors, as such, in each case whether or not voluntary;

(ii) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to the Company or any other Obligor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or

(iii) any other proceeding of any type or nature in which substantially all claims of creditors of the Company or any other Obligor are determined and any payment or distribution is or may be made on account of such claims.

"Junior Trust Estate" shall have the meaning assigned to such term in Section 2.2.

"Lenders" shall mean, at any time, the parties to the Credit Agreement then holding (or committed to provide) loans, letters of credit, Credit–Linked Deposits or other extensions of credit that constitute (or when provided will constitute) Priority Lien Debt outstanding under the Credit Agreement.

"Lien" shall mean, with respect to any asset, (a) any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset; (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; and (c) in the case of Equity Interests or debt securities, any purchase option, call or similar right of a third party with respect to such Equity Interests or debt securities.

"Note Documents" shall mean the Indenture, the Notes, each Sharing Confirmation and the Security Documents.

"Notes" shall have the meaning assigned to such term in the recitals.

"Notice of Actionable Default" shall mean a written notice given to the Collateral Trustee stating that an Actionable Default has occurred and is continuing, delivered by (i) prior to the Discharge of Priority Lien Obligations, the Secured Debt Representative for the holders of Priority Lien Obligations that are governed by the Secured Debt Document pursuant to which such Actionable Default has occurred, and (ii) following the Discharge of Priority Lien Obligations, the Secured Debt Representative for the holders of Parity Lien Obligations that are governed by the Secured Debt Document pursuant to which such Actionable Default has occurred.

"Obligations" shall mean any principal (including reimbursement obligations with respect to letters of credit whether or not any drawing has been made thereon and including, in the case of the Credit Agreement, any obligations to return Credit–Linked Deposits), interest (including any interest accruing at the then applicable rate provided in any applicable Secured Debt Document after the maturity of the loans or notes and reimbursement obligations therein and interest accruing at the then applicable rate provided in any applicable Secured Debt Document after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, whether or not a claim for post–filing or post–petition interest is allowed in such proceeding), penalties, fees, indemnifications, reimbursements, damages and

other liabilities payable under the documentation governing any Indebtedness or Hedging Agreement.

"Obligor" shall mean the Company and the applicable Guarantors.

"Original Collateral Trust Agreement" shall mean this Agreement as in effect immediately prior to the Restatement Date.

"Parity Debt Representative" shall mean:

(i) in the case of the Notes, the Trustee; or

(ii) in the case of any other Series of Parity Lien Debt, the trustee, agent or representative of the holders of such Series of Parity Lien Debt who maintains the transfer register for such Series of Parity Lien Debt and is appointed as a Parity Debt Representative (for purposes related to the administration of the security documents) pursuant to the credit agreement, indenture or other agreement governing such Series of Parity Lien Debt, and who has executed a Collateral Trust Joinder.

"Parity Lien" shall mean a Lien granted by a Security Document to the Collateral Trustee upon any property of the Company or any other Obligor to secure Parity Lien Obligations.

"Parity Lien Debt" shall mean (i) the Notes and (ii) any other Indebtedness (including Additional Notes) that is secured equally and ratably with the Notes by a Parity Lien that was permitted to be incurred and so secured under the applicable provisions of the Indenture and the Credit Agreement (each if then in effect) and any other applicable Secured Debt Document; provided, in the case of each issue or series of Indebtedness referred to in this clause (ii), that:

(a) on or before the date on which such Indebtedness was incurred by the Company such Indebtedness is designated by the Company, in an officers' certificate delivered to each Parity Debt Representative and the Parity Collateral Trustee on or before such date, as Parity Lien Debt for the purposes of the Indenture (if then in effect) and this Agreement;

(b) such Indebtedness is governed by an indenture or other agreement that includes a Sharing Confirmation; and

(c) all requirements set forth in this Agreement as to the confirmation, grant or perfection of the Liens granted to the Parity Collateral Trustee, for the benefit of the Secured Parties, to secure such Indebtedness or Obligations in respect thereof are satisfied

(and the satisfaction of such requirements and the other provisions of this clause (ii) shall be conclusively established, for purposes of entitling the holders of such Indebtedness to share equally and ratably with the other holders of Parity Lien Debt in the benefits and proceeds of the Parity Collateral Trustee's Liens on the Collateral, if the Company delivers to the

Parity Collateral Trustee an officers' certificate stating that such requirements and other provisions have been satisfied and that such Indebtedness is Parity Lien Debt, together with an opinion of counsel stating that such officers' certificate has been duly authorized by the Board of Directors of the Company and has been duly executed and delivered, and the holders of such Indebtedness and Obligations in respect thereof will be entitled to rely conclusively thereon).

"Parity Lien Documents" shall mean, collectively, the Note Documents and any indenture or agreement governing each other Series of Parity Lien Debt and all agreements binding on any Obligor related thereto.

"Parity Lien Obligations" shall mean Parity Lien Debt and all other Obligations in respect thereof.

"Parity Lien Secured Parties" shall mean the holders of Parity Lien Obligations and any Parity Debt Representatives.

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Power Marketing" shall have the meaning assigned to such term in the preamble.

"Priority Debt Representative" shall mean (i) in the case of the Credit Agreement (and any Hedging Agreements that are permitted to be incurred by the terms of each Secured Debt Document and are permitted by the terms of the Priority Lien Documents relating to the Credit Agreement to be secured Equally and Ratably with the Priority Lien Obligations thereunder), the Administrative Agent; or (ii) in the case of any other Series of Priority Lien Debt, the trustee, agent or representative of the holders of such Series of Priority Lien Debt who maintains the transfer register for such Series of Priority Lien Debt and is appointed as a Priority Debt Representative (for purposes related to the administration of the security documents) pursuant to the credit agreement, indenture or other agreement governing such Series of Priority Lien Debt, and who has executed a Collateral Trust Joinder.

"Priority Lien" shall mean a Lien granted by a Security Document to the Collateral Trustee, for the benefit of the Priority Lien Secured Parties, upon any property of the Company or any other Obligor to secure Priority Lien Obligations.

"Priority Lien Debt" shall mean (i) the Indebtedness under, together with the aggregate amount of all Credit-Linked Deposits made pursuant to, the Credit Agreement and (ii) Indebtedness, including any deposit that is similar to the Credit-Linked Deposits, under any other Credit Facility that is secured Equally and Ratably with the Indebtedness under the Credit Agreement by a Priority Lien that was permitted to be incurred and so secured under the applicable provisions of the Credit Agreement and the Indenture (each if then in effect) and any other applicable Secured Debt Document, but only if on or before the day on which such Indebtedness under a Credit Facility described in clause (ii) above is incurred by any applicable Obligor such Indebtedness is designated by such Obligor, in an officers' certificate delivered to each Parity Debt Representative and the Priority Collateral Trustee on or before such date, as

Priority Lien Debt for the purposes of each of the Parity Lien Debt Documents and this Agreement.

"Priority Lien Documents" shall mean, collectively, the Credit Agreement Documents and the credit agreement, indenture or other agreement governing any other Credit Facility pursuant to which the Priority Lien Debt is incurred and all other agreements governing, securing or related to any Priority Lien Obligations.

"Priority Lien Obligations" shall mean the Priority Lien Debt and all other Obligations in respect of Priority Lien Debt and includes, in the case of the Credit Agreement and any other Credit Facility the Indebtedness under which constitutes Priority Lien Debt, any obligations in respect of Hedging Agreements that are permitted to be incurred by the terms of the Priority Lien Documents relating to the Credit Agreement or, if the Credit Agreement is not in effect at the time such Hedging Agreement is entered into, such other Credit Facilities, and are permitted by the terms of the Priority Lien Documents relating to the Credit Agreement or, if the Credit Agreement is not in effect at the time such Hedging Agreement is entered into, such other Credit Facilities to be secured Equally and Ratably with the Priority Lien Obligations thereunder.

"Priority Lien Secured Parties" shall mean the holders of Priority Lien Obligations and any Priority Debt Representatives.

"Release" shall mean any release, spill, emission, leaking, pumping, injection, pouring, emptying, deposit, disposal, discharge, dispersal, dumping, escaping, leaching or migration into or through the environment or within or upon any building, structure, facility or fixture.

"Required Parity Debtholders" shall mean, at any time in respect of any action or matter, holders of a majority in aggregate outstanding principal amount of all Parity Lien Debt then outstanding, voting together as a single class. For this purpose, Parity Lien Debt registered in the name of, or beneficially owned by, the Company or any Affiliate of the Company will be deemed not to be outstanding and neither the Company nor any such Affiliate shall be entitled to vote to direct the relevant Parity Debt Representative.

"Responsible Officer" shall mean, with respect to the Collateral Trustee or any Secured Debt Representative, any officer within the corporate trust department of the Collateral Trustee or such Secured Debt Representative, as the case may be, including any managing director, director, vice president, assistant vice president, associate, trust officer or any other officer of the Collateral Trustee or such Secured Debt Representative, as the case may be, 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 Agreement.

"Restatement Date" shall mean December 24, 2004.

"Secured Debt" shall mean Parity Lien Debt and Priority Lien Debt.

"Secured Debt Default" shall mean any event or condition which, under the terms of any credit agreement, indenture or other agreement governing any Series of Secured Debt causes, or permits holders of Secured Debt outstanding thereunder (with or without the giving of notice or lapse of time, or both, and whether or not notice has been given or time has lapsed) to cause, the Secured Debt outstanding thereunder to become immediately due and payable.

"Secured Debt Documents" shall mean the Parity Lien Documents and the Priority Lien Documents.

"Secured Debtholder" shall mean, at any time, a Person which then is the holder of any Secured Debt (including any Credit-Linked Deposits or similar deposits) or has any commitment with respect to any Secured Debt or the issuance of any letters of credit under any Secured Debt Document or the making of any loans under any Secured Debt Document.

"Secured Debt Representative" shall mean each Parity Debt Representative and each Priority Debt Representative.

"Secured Obligations" shall mean the Parity Lien Obligations and the Priority Lien Obligations.

"Secured Parties" shall mean the Parity Lien Secured Parties and the Priority Lien Secured Parties.

"Security Documents" shall mean this Agreement and one or more security agreements, pledge agreements, collateral assignments, mortgages, collateral agency agreements, control agreements, deeds of trust or other grants or transfers for security executed and delivered by the Company or any other Obligor creating (or purporting to create) a Lien upon Collateral in favor of either the Priority Collateral Trustee, the Parity Collateral Trustee or the Account Collateral Trustee, for the benefit of any or all of the Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms.

"Senior Trust Estate" shall have the meaning assigned to such term in Section 2.1.

"Series of Parity Lien Debt" shall mean, severally, the Notes and each other issue or series of Parity Lien Debt for which a single transfer register is maintained.

"Series of Priority Lien Debt" shall mean, severally, the extensions of credit under the Credit Agreement and each other issue or series of Priority Lien Debt for which a single transfer register is maintained and shall include, in the case of the Credit Agreement and any other Credit Facility the Indebtedness under which constitutes Priority Lien Debt, any obligations in respect of Hedging Agreements that are permitted to be incurred by the terms of the Priority Lien Documents relating to the Credit Agreement or, if the Credit Agreement is not in effect at the time such Hedging Agreement is entered into, such other Credit Facilities, and are permitted by the terms of the Priority Lien Documents relating to the Credit Agreement or, if the Credit Agreement is not in effect at the time such Hedging Agreement is entered into, such other Credit Facilities to be secured Equally and Ratably with the Priority Lien Obligations thereunder

"Series of Secured Debt" shall mean, severally, the Notes, each other issue or Series of Parity Lien Debt, the extensions of credit under the Credit Agreement, and each other issue or Series of Priority Lien Debt.

"Sharing Confirmation" shall mean, as to any Series of Parity Lien Debt, the written agreement of the holders of such Series of Parity Lien Debt, as set forth in the indenture or other agreement governing such Series of Parity Lien Debt, for the enforceable benefit of all holders of each other existing and future Series of Parity Lien Debt and each existing and future Parity Debt Representative, that all Parity Lien Obligations shall be and are secured Equally and Ratably by all Liens at any time granted by the Company or any other Obligor to secure any Obligations in respect of such Series of Parity Lien Debt, whether or not upon property otherwise constituting Collateral, that all such Liens shall be enforceable by the Collateral Trustee for the benefit of all holders of Parity Lien Obligations Equally and Ratably, and that the holders of Obligations in respect of such Series of Parity Lien Debt are bound by the provisions in this Agreement relating to the order of application of proceeds from enforcement of such Liens, and consent to and direct the Collateral Trustee to perform its obligations under this Agreement.

"subsidiary" shall mean, with respect to any Person (herein referred to as the "parent"), any corporation, partnership, limited liability company, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, controlled or held, or (b) that is, at the time any determination is made, otherwise controlled by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" shall mean any subsidiary of the Company.

"Swiss Security Documents" shall mean (a) the Public Certification regarding the pledge of the shares in NRG International Holdings GmbH (1st ranking right of pledge) dated December 24, 2004 between NRG International III Inc., as pledgor and the Collateral Trustee, as pledgee (b) the Public Certification regarding the pledge of the shares in NRG International Holdings GmbH (2nd ranking right of pledge) dated December 24, 2004 between NRG International III Inc., as pledgor and the Collateral Trustee, as pledgee, (c) the Public Certification regarding the pledge of the shares in NRG International Holdings (No.2) GmbH (1st ranking right of pledge) dated December 24, 2004 between NRG International III Inc., as pledgor and the Collateral Trustee, as pledgee, and (d) the Public Certification regarding the pledge of the shares in NRG International Holdings (No.2) GmbH (2nd ranking right of pledge) dated December 24, 2004 between NRG International III Inc., as pledgor and the Collateral Trustee, as pledgee.

"Syndication Agent" shall have the meaning assigned to such term in the recitals.

"Trustee" shall have the meaning assigned to such term in the recitals.

"Trust Estates" shall have the meaning assigned to such term in Section 2.2.

"UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York or any other applicable jurisdiction.

(b) All terms used in this Agreement that are defined in Article 9 of the UCC, and not otherwise defined herein shall have the meanings therein set forth.

SECTION 1.2 Rules of Interpretation.

(a) Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference.

(b) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(c) Unless otherwise indicated, any reference to any agreement or instrument shall be deemed to include a reference to such agreement or instrument as assigned, amended, amended and restated, supplemented, otherwise modified from time to time or replaced in accordance with the terms of this Agreement.

(d) The use in this Agreement or any of the other Security Documents of the word "include" or "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. The word "will" shall be construed to have the same meaning and effect as the word "shall."

(e) References to "Sections" and "clauses" shall be to Sections and clauses, respectively, of this Agreement unless otherwise specifically provided.

(f) References to "Articles" shall be to Articles of this Agreement unless otherwise specifically provided.

(g) References to "Exhibits" and "Schedules" shall be to Exhibits and Schedules, respectively, of this Agreement unless otherwise specifically provided.

(h) The use in this Agreement of the words "herein," "hereof," and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof.

(i) This Agreement, the other Security Documents and any documents or instruments delivered pursuant hereto shall be construed without regard to the identity of the party who drafted the various provisions of the same. Each and every provision of this Agreement, the other Security Documents and any instruments and documents entered into and delivered in connection therewith shall be construed as though the parties participated equally in the drafting of the same. Consequently, each of the parties acknowledges and agrees that any rule of construction that a document is to be construed against the drafting party shall not be applicable either to this Agreement or the other Security Documents and any instruments and documents entered into and delivered in connection therewith.

ARTICLE 2. THE TRUST ESTATES

SECTION 2.1 Appointment of Priority Collateral Trustee and Declaration of Senior Trust.

(a) Appointment of Priority Collateral Trustee. Each of the Priority Lien Secured Parties hereby appoints Deutsche Bank Trust Company Americas as its collateral trustee for purposes of obtaining and perfecting a security interest in the Collateral (as defined in the Guarantee and Collateral Agreement) for the benefit of the Priority Secured Parties. Deutsche Bank Trust Company Americas accepts such appointment by the Priority Lien Secured Parties as their collateral trustee (in such capacity, the "Priority Collateral Trustee").

(b) TO SECURE the payment of the Priority Lien Obligations and in consideration of the premises and the mutual agreements set forth herein, each of the Obligors hereby grants to the Priority Collateral Trustee, and the Priority Collateral Trustee hereby accepts and agrees to hold, in trust under this Agreement for the benefit of all present and future holders of Priority Lien Obligations, all of such Obligor's right, title and interest in, to and under all Collateral granted to the Priority Collateral Trustee under any Security Document for the benefit of the Priority Lien Secured Parties, together with all of the Priority Collateral Trustee's right, title and interest in, to and under the Security Documents, and all interests, rights, powers and remedies of the Priority Collateral Trustee thereunder or in respect thereof and all cash and non-cash proceeds thereof (collectively, the "Senior Trust Estate"),

TO HAVE AND TO HOLD the Senior Trust Estate unto the Priority Collateral Trustee and its successors and assigns in trust under this Agreement,

IN TRUST, NEVERTHELESS, for the benefit solely and exclusively of all present and future holders of Priority Lien Obligations as security for the payment of all present and future Priority Lien Obligations,

PROVIDED, that if at any time (i) all Liens granted by any and all of the Priority Lien Documents have been released as provided in Section 4.1, (ii) the Priority Collateral Trustee holds no other property in trust as part of the Senior Trust Estate, (iii) no monetary obligation (other than indemnification and other contingent obligations not then due and payable) is outstanding and payable under this Agreement to the Priority Collateral Trustee or any of its co-trustees, agents or sub-agents (whether in an individual or representative capacity) and (iv) the Company delivers to the Collateral Trustee an officer's certificate stating that all Liens of the Priority Collateral Trustee have been released in compliance with all applicable provisions of the Priority Lien Documents and that Obligors are not required by any Priority Lien Document to grant any Lien upon any property to secure the Priority Lien Obligations, then the senior trust arising hereunder shall terminate, except that, notwithstanding such termination, all provisions set forth in Sections 7.7 and 7.8 hereof enforceable by the Priority Collateral Trustee or any of its co-trustees, agents or sub-agents (whether in an individual or representative capacity) shall remain enforceable in accordance with their terms,

AND THE PARTIES FURTHER DECLARE AND COVENANT that the Senior Trust Estate shall be held and distributed by the Priority Collateral Trustee subject to the further agreements herein.

SECTION 2.2 Appointment of Parity Collateral Trustee and Declaration of Junior Trust.

(a) Appointment of Parity Collateral Trustee. Each of the Parity Lien Secured Parties hereby appoints Deutsche Bank Trust Company Americas as its collateral trust for purposes of obtaining and perfecting a security interest in the Collateral (as defined in the Guarantee and Collateral Agreement) for the benefit of the Parity Lien Secured Parties. Deutsche Bank Trust Company Americas accepts such appointment by the Parity Lien Secured Parties as their collateral trustee (in such capacity, the "Parity Collateral Trustee").

(b) TO SECURE the payment of the Parity Lien Obligations and in consideration of the premises and the mutual agreements set forth herein, each of the Obligors hereby grants to the Parity Collateral Trustee, and the Parity Collateral Trustee hereby accepts and agrees to hold, in trust under this Agreement for the benefit of all present and future holders of Parity Lien Obligations, all of such Obligor's right, title and interest in, to and under all Collateral granted to the Parity Collateral Trustee under any Security Document for the benefit of the Parity Lien Secured Parties, together with all of the Parity Collateral Trustee's right, title and interest in, to and under the Security Documents, and all interests, rights, powers and remedies of the Parity Collateral Trustee thereunder or in respect thereof and all cash and non–cash proceeds thereof (collectively, the "Junior Trust Estate", and together with the Senior Trust Estate, the "Trust Estates"),

TO HAVE AND TO HOLD the Junior Trust Estate unto the Parity Collateral Trustee and its successors and assigns in trust under this Agreement,

IN TRUST, NEVERTHELESS, for the benefit solely and exclusively of all present and future holders of Parity Lien Obligations as security for the payment of all present and future Parity Lien Obligations,

PROVIDED, that if at any time (i) all Liens granted by any and all of the Parity Lien Documents have been released as provided in Section 4.1, (ii) the Parity Collateral Trustee holds no other property in trust as part of the Junior Trust Estate, (iii) no monetary obligation (other than indemnification and other contingent obligations not then due and payable) is outstanding and payable under this Agreement to the Collateral Trustee or any of its co–trustees, agents or sub–agents (whether in an individual or representative capacity) and (iv) the Company delivers to the Parity Collateral Trustee an officer's certificate stating that all Liens of the Parity Collateral Trustee have been released in compliance with all applicable provisions of the Parity Lien Documents and that the Obligors are not required by any Parity Lien Document to grant any Lien upon any property to secure the Parity Lien Obligations, then the junior trust arising hereunder shall terminate, except that, notwithstanding such termination, all provisions set forth in Sections 7.7 and 7.8 hereof enforceable by the Parity Collateral Trustee or any of its co–trustees, agents or sub–agents (whether in an individual or representative capacity) shall remain enforceable in accordance with their terms,

AND THE PARTIES FURTHER DECLARE AND COVENANT that the Junior Trust Estate shall be held and distributed by the Parity Collateral Trustee subject to the further agreements herein.

SECTION 2.3 Appointment of Account Collateral Trustee.

Appointment of Account Collateral Trustee. Each of the Priority Lien Secured Parties and the Parity Lien Secured Parties (i) hereby appoints Deutsche Bank Trust Company Americas as its collateral trustee for purposes of obtaining and perfecting a security interest in the Deposit Accounts and the Securities Accounts (as defined in the Guarantee and Collateral Agreement) and all of the other deposit accounts or securities accounts (each as defined in the UCC) which constitute collateral described in Section 3 of the Guarantee and Collateral Agreement of any Grantor (as defined in the Guarantee and Collateral Agreement) maintained by any bank or securities intermediary (each as defined in the UCC) and (ii) hereby instructs the Account Collateral Trustee to hold, maintain, control and take enforcement actions with respect to the Deposit Accounts and Securities Accounts in accordance with the Guarantee and Collateral Agreement and this Agreement. Deutsche Bank Trust Company Americas hereby accepts such appointment by the Priority Lien Secured Parties and the Parity Lien Secured Parties as their collateral trustee (in such capacity, the "Account Collateral Trustee")

SECTION 2.4 Priority of Liens.

(a) Notwithstanding anything else contained herein or in any Security Document, it is the intent of the parties that: (i) this Agreement and the Security Documents create two separate and distinct Trust Estates and Liens: the Senior Trust Estate and Lien securing the payment and performance of the Priority Lien Obligations and the Junior Trust Estate and Lien securing the payment and performance of the Parity Lien Obligations and (ii) the Liens securing the Parity Lien Obligations are subject and subordinate to the Liens securing the Priority Lien Obligations.

(b) The parties hereto agree that, after the date hereof and prior to the Discharge of Priority Lien Obligations, in no event shall the Parity Debt Representatives or any Parity Lien Secured Parties have a Lien on or security interest in any Collateral that is not subject and subordinate to the first priority lien of the Priority Lien Secured Parties. Notwithstanding (i) anything to the contrary contained in any Parity Lien Document and irrespective of the time, order or method of attachment or perfection of the security interests created by the Priority Lien Documents or the Parity Lien Documents, (ii) anything contained in any filing or agreement to which the Priority Lien Secured Parties or Parity Lien Secured Parties or any other party hereto may be a party and (iii) the rules for determining priority under the UCC or any other law governing the relative priorities of secured creditors, any security interest in any Collateral that is part of the Senior Trust Estate has and shall have priority over any security interest in such Collateral that is part of the Junior Trust Estate.

(c) Whether or not any Bankruptcy Case or Insolvency Proceeding has been commenced by or against any Obligor, until the Discharge of Priority Lien Obligations, (i) the

Parity Lien Secured Parties will not (A) exercise or seek to exercise any rights or exercise any remedies with respect to any Collateral that is subject to the Senior Trust Estate, (B) institute any action or proceeding with respect to such rights or remedies with respect to any Collateral, including any action of foreclosure, (C) contest, protest or object to any foreclosure proceeding or action brought by the Priority Lien Secured Parties or any other exercise by the Priority Lien Secured Parties of any rights and remedies under any Priority Lien Documents relating to the Collateral that is subject to the Senior Trust Estate, (D) object to the forbearance by the Priority Lien Secured Parties to the bringing or pursuing of any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral that is subject to the Senior Trust Estate, (E) take or receive from the Obligors, directly or indirectly, in cash or other property or by set off or in any other manner, the Collateral or any part thereof or proceeds therefrom in satisfaction of the Parity Lien Obligations, (F) contest or seek to invalidate any Liens or security interests securing the Priority Debt Obligations, or the perfection thereof, or the validity or enforceability of this Agreement, (G) take or permit any action prejudicial to or inconsistent with the priority position of the Senior Trust Estate over the Junior Trust Estate, (H) object to any adequate protection or similar relief requested and obtained by the Priority Lien Secured Parties in any Insolvency Proceeding or Bankruptcy Case with respect to any Obligor or (I) object to any consent or approval by the Priority Lien Secured Parties to the use of cash or other Collateral, or any similar relief, in any Insolvency Proceeding or Bankruptcy Case with respect to any Obligor, and (ii) the Priority Lien Secured Parties shall have the exclusive right to enforce rights and exercise remedies with respect to any Collateral that is part of the Senior Trust Estate, regardless of whether such Collateral may also be part of the Junior Trust Estate. Notwithstanding the foregoing, the Parity Lien Secured Parties may enforce rights, exercise remedies and take actions (A) without any condition or restriction whatsoever, at any time after the Discharge of Priority Lien Obligations, (B) as necessary to perfect a Lien upon any Collateral by any method of perfection except through possession or control or (C) as necessary to prove, preserve or protect (but not enforce) the Liens securing the Parity Lien Obligations.

(d) In exercising rights and remedies with respect to the Collateral, the Priority Debt Representatives may enforce (or refrain from enforcing) the provisions of the Priority Lien Documents and exercise (or refrain from exercising) remedies thereunder or any such rights and remedies, all in such order and in such manner as they may determine in the exercise of their sole and exclusive discretion, including (i) the exercise or forebearance from exercise of all rights and remedies in respect of the Collateral and/or the Priority Lien Obligations, (ii) the enforcement or forbearance from enforcement of any Lien in respect of the Collateral, (iii) the release, with or without consideration, of the Collateral from the Senior Trust Estate, and, in connection with any such release, the concurrent release, with or without consideration (as determined by the Priority Lien Secured Parties), of such collateral from the Junior Trust Estate, (iv) the exercise or forebearance from exercise of rights and powers of a holder of shares of stock included in the Senior Trust Estate to the extent provided in the Security Documents, (v) the acceptance of the Collateral in full or partial satisfaction of the Priority Lien Obligations and (vi) the exercise or forebearance from exercise of all rights and remedies of a secured lender under the UCC or any similar law of any applicable jurisdiction or in equity.

(e) Without in any way limiting the generality of the foregoing paragraphs, the Priority Lien Secured Parties may, at any time and from time to time, without the consent of

or notice to the Parity Lien Secured Parties, without incurring responsibility to the Parity Lien Secured Parties and without impairing or releasing the subordination provided in this Agreement or the obligations hereunder of the Parity Lien Secured Parties, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, the Priority Lien Obligations, or otherwise amend or supplement in any manner the Priority Lien Obligations, or any instrument evidencing the Priority Lien Obligations or any agreement under which the Priority Lien Obligations are outstanding, (ii) release any Person or entity liable in any manner for the collection of the Priority Lien Obligations, (iii) release the Lien on any Collateral securing the Priority Lien Obligations and (iv) exercise or refrain from exercising any rights against any Obligor.

(f) The doctrine of marshalling of assets or collateral or any other legal or equitable principle or doctrine which could otherwise, in any way, constrain, limit or affect the order or manner of the enforcement against any Person obligated for the Priority Lien Obligations or the liquidation of the Senior Trust Estate shall not be applicable to the Senior Trust Estate or to the rights of the Priority Lien Secured Parties under this Agreement.

SECTION 2.5 Collateral Shared Equally and Ratably within Class. The parties hereto agree that the payment and satisfaction of all of the Secured Obligations within each Class shall be secured Equally and Ratably by each of the security interests established in favor of the Priority Collateral Trustee and the Parity Collateral Trustee belonging to such Class. It is understood and agreed that nothing in this Section 2.4 is intended to alter the priorities among Secured Parties belonging to different Classes as provided in Section 2.3 hereof.

ARTICLE 3. OBLIGATIONS AND POWERS OF COLLATERAL TRUSTEE

SECTION 3.1 Undertaking of the Collateral Trustee.

(a) Subject to, and in accordance with, this Agreement, the Collateral Trustee will, as trustee for the benefit solely and exclusively of the present and future Secured Parties for whom it is acting:

(i) accept, enter into, hold, maintain, administer and enforce all Security Documents, including all Collateral subject thereto, and all security interests created thereunder, perform its obligations under the Security Documents and protect, exercise and enforce the interests, rights, powers and remedies granted or available to it under, pursuant to or in connection with the Security Documents;

(ii) take all lawful and commercially reasonable actions permitted under the Security Documents that it may deem necessary or advisable to protect or preserve its interest in the Collateral subject thereto and such interests, rights, powers and remedies;

(iii) deliver and receive notices pursuant to the Security Documents;

(iv) sell, assign, collect, assemble, foreclose on, institute legal proceedings with respect to, or otherwise exercise or enforce the rights and remedies of a secured party (including a mortgagee, trust deed beneficiary and insurance beneficiary or

loss payee) with respect to the Collateral under the Security Documents and its other interests, rights, powers and remedies;

(v) remit as provided in Section 3.4 all cash proceeds received by the Collateral Trustee from the collection, foreclosure or enforcement of its interest in the Collateral under the Security Documents or any of its other interests, rights, powers or remedies;

(vi) execute and deliver amendments to the Security Documents as from time to time authorized by an Act of Instructing Debtholders; and

(vii) release any Lien granted to it by any Security Document upon any Collateral if and as required by Section 4.1(b).

(b) Each party to this Agreement acknowledges and consents to the undertaking of the Collateral Trustee set forth in Section 3.1(a) and agrees to each of the other provisions of this Agreement applicable to it.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Collateral Trustee shall not commence any exercise of remedies or any foreclosure actions or otherwise take any action or proceeding against any of the Collateral (other than actions as necessary to prove, protect or preserve the Liens securing the Secured Obligations) unless and until it shall have received a Notice of Actionable Default, or a Responsible Officer of the Collateral Trustee has actual knowledge that an Actionable Default has occurred and is continuing, and then only in accordance with the provisions of this Agreement.

SECTION 3.2 Release or Subordination of Liens. The Collateral Trustee will not release or subordinate any Lien of the Collateral Trustee or consent to the release or subordination of any Lien of the Collateral Trustee, except (a) as directed by an Act of Instructing Debtholders, (b) as required by Article 4, (c) as ordered pursuant to applicable law under a final and nonappealable order or judgment of a court of competent jurisdiction or (d) for the subordination of the Junior Trust Estate and the Parity Liens to the Senior Trust Estate and the Priority Liens.

SECTION 3.3 Remedies Upon Actionable Default. If the Collateral Trustee at any time receives a Notice of Actionable Default or other notice that an Actionable Default has occurred and is continuing, it will promptly deliver written notice thereof to each Secured Debt Representative. Thereafter, the Collateral Trustee may await direction by an Act of Instructing Debtholders and will act, or decline to act, as directed by an Act of Instructing Debtholders, in the exercise and enforcement of the Collateral Trustee's interests, rights, powers and remedies in respect of the Collateral or under the Security Documents or applicable law and, following the initiation of such exercise of remedies, the Collateral Trustee will act, or decline to act, with respect to the manner of such exercise of remedies as directed by an Act of Instructing Debtholders. Unless it has been directed to the contrary by an Act of Instructing Debtholders, the Collateral Trustee in any event may (but shall not be obligated to) take or refrain from taking such action with respect to any Actionable Default as it may deem advisable and in the best interest of the holders of Secured Obligations.

SECTION 3.4 Application of Proceeds.

(a) The Collateral Trustee shall apply the proceeds of any collection, sale, foreclosure or other realization upon any Collateral and the proceeds of any title insurance policy required under any real property mortgage in the following order of application:

FIRST, to the payment of all amounts payable under this Agreement on account of the Collateral Trustee's fees or any reasonable legal fees, costs and expenses or other liabilities of any kind incurred by the Collateral Trustee or any co-trustee or agent in connection with any Security Document, including any amounts payable by the Collateral Trustee, as collateral trustee, to or for the benefit of persons other than the Secured Debtholders pursuant to the terms thereof;

SECOND, to the respective Priority Debt Representatives for application to the payment of Priority Lien Obligations Equally and Ratably, or to be held by the Priority Debt Representatives pending such application, until all Priority Debt Obligations have been paid in full in cash or the cash amount held by the Priority Debt Representatives in respect of all Priority Lien Obligations is sufficient to pay all Priority Lien Obligations in full in cash;

THIRD, to the respective Parity Debt Representatives for application to the Parity Lien Obligations entitled to the benefit of such Collateral Equally and Ratably, or to be held by the Parity Debt Representatives pending such application, until all Parity Lien Obligations have been paid in full in cash or the cash amount held by the Parity Debt Representatives in respect of all Parity Lien Obligations is sufficient to pay all Parity Lien Obligations in full in cash; and

FOURTH, any surplus remaining after the payment in full in cash of all of the Secured Obligations entitled to the benefit of such Collateral shall be paid to the Company or the other applicable Obligor, as the case may be, or its successors or assigns, or as a court of competent jurisdiction may direct.

For this purpose, "proceeds" of Collateral includes any and all cash, securities and other property realized from collection, foreclosure or enforcement of the Collateral Trustee's Liens upon the Collateral (including distributions of Collateral in satisfaction of any Secured Obligations).

(b) If any Parity Debt Representative or any holder of a Parity Lien Obligation collects or receives any proceeds in respect of the Parity Lien Obligations that should have been applied to the payment of the Priority Lien Obligations in accordance with clause (a) above and, with respect to a Parity Debt Representative, a Responsible Officer of such Parity Debt Representative shall have received written notice, or shall have actual knowledge, of the same prior to such Parity Debt Representative's distribution of such proceeds, whether after the commencement of a Bankruptcy Case or otherwise, such Parity Debt Representative or such holder of a Parity Lien Obligation, as the case may be, shall forthwith deliver the same to the Collateral Trustee, for the account of the holders of the Priority Lien Obligations, in the form received, duly indorsed to the Collateral Trustee, for the account of the holders of the Priority Lien Obligations to be applied in accordance with clause (a) above. Until so delivered, such proceeds shall be held by such Parity Debt Representative or such holder of a Parity Lien

Obligation, as the case may be, for the benefit of the holders of the Priority Lien Obligations and shall be deemed to be held segregated from other funds and property held by such Parity Debt Representative or such holder of a Parity Lien Obligation.

SECTION 3.5 Powers of the Collateral Trustee.

(a) The Collateral Trustee is irrevocably authorized and empowered to enter into and perform its obligations and protect, perfect, exercise and enforce its interest, rights, powers and remedies under the Security Documents and applicable law and in equity and to act as set forth in this Article 3 or as requested in any lawful directions given to it from time to time in respect of any matter by an Act of Instructing Debtholders.

(b) No Secured Debt Representative, Secured Debtholder or other holder of Secured Obligations shall have any liability whatsoever for any act or omission of the Collateral Trustee.

SECTION 3.6 Documents and Communications. The Collateral Trustee will permit each Secured Debt Representative and each Secured Debtholder upon reasonable written notice from time to time to inspect and copy, at the cost and expense of the party requesting such copies, any and all Security Documents and other documents, notices, certificates, instructions or communications received by the Collateral Trustee in its capacity as such.

SECTION 3.7 For Sole and Exclusive Benefit of Holders of Secured Obligations. The Collateral Trustee shall accept, hold, administer and enforce all Liens at any time transferred or delivered to it and all other interests, rights, powers and remedies at any time granted to or enforceable by the Collateral Trustee and all other property of the Trust Estates solely and exclusively for the benefit of the present and future holders of present and future Secured Obligations, and shall distribute all proceeds received by it in realization thereon or from enforcement thereof solely and exclusively pursuant to the provisions of Section 3.4.

SECTION 3.8 Additional Secured Debt.

(a) The Collateral Trustee will, as trustee hereunder, perform its undertakings set forth in Section 3.1(a) with respect to each holder of Secured Obligations of a Series of Secured Debt that is issued or incurred after the date hereof that (i) holds Secured Obligations that are identified as a holder of Parity Lien Debt or Priority Lien Debt in accordance with the procedures set forth in Section 3.8(b) and (ii) signs, through its designated Secured Debt Representative identified pursuant to Section 3.8(b), a Collateral Trust Joinder.

(b) The Company or other applicable Obligor shall be permitted to designate as additional Secured Debtholders hereunder each Person who is, or who becomes, the registered holder of Parity Lien Debt or the holder of Priority Lien Debt incurred by the Company or such other Obligor after the date of this Agreement in accordance with the terms of the Secured Debt Documents; provided that for purposes of this Section 3.8, all extensions of credit under the Credit Agreement (including issuances of letters of credit) shall be deemed to be incurred on the date hereof so that no such further designation shall be required to be made so that all such extensions of credit under the Credit Agreement (regardless when made or incurred) shall be deemed Priority Lien Debt. The Company or other applicable Obligor may effect such

designation by delivering to the Collateral Trustee, with copies to each previously identified Secured Debt Representative, each of the following:

(i) An officer's certificate of the Company stating that:

(A) the Company or such other Obligor intends to incur additional Secured Debt ("New Secured Debt") which shall either be (x) Priority Lien Debt permitted by each agreement governing Secured Debt to be secured with a Priority Lien on a pari passu basis with all previously existing Priority Lien Debt and which, when incurred and after giving pro forma effect to the incurrence of such Priority Lien Debt and the application of the proceeds therefrom, shall be in an aggregate principal amount that is permitted by the terms of the Secured Debt Documents or (y) Parity Lien Debt permitted by each agreement governing Secured Debt to be secured with a Parity Lien on a pari passu basis with all previously existing Parity Lien Debt and which, when incurred and after giving pro forma effect to the incurrence of such Parity Lien Debt and the application of the proceeds therefrom, shall be in an aggregate principal amount that is permitted by the terms of each Secured Debt Document; and

(B) after giving pro forma effect to the incurrence of such New Secured Debt and the application of the proceeds therefrom, no Secured Debt Default shall have occurred and be continuing and, to the best of the signatory's knowledge after due inquiry, no event or condition shall have occurred which could reasonably be expected to result in a Secured Debt Default;

(ii) evidence that the Company or such other Obligor has duly authorized, executed (if applicable) and recorded (or caused to be recorded) in each appropriate governmental office all relevant filings and recordations to ensure that the New Secured Debt is secured by the Collateral;

(iii) evidence that the officer's certificate delivered pursuant to clause (i) above has been duly authorized by the Board of Directors of the Company and has been duly executed and delivered; and

(iv) a written notice specifying the name and address of the Secured Debt Representative for such series of New Secured Debt for purposes of Section 7.5.

Notwithstanding the foregoing, nothing in this Agreement shall be construed to allow the Company or any other Obligor to incur additional Indebtedness unless otherwise permitted by the terms of the Secured Debt Documents.

ARTICLE 4. OBLIGATIONS ENFORCEABLE BY THE COMPANY AND THE GUARANTORS

SECTION 4.1 Release of Liens.

(a) The Collateral Trustee's Liens upon the Collateral will be released:

(i) in whole, upon (A) the payment in full and discharge of all outstanding Secured Debt and all other Secured Obligations that are outstanding, due and payable at the time all of the Secured Debt is paid in full and discharged, (B) the return in full of all outstanding Credit-Linked Deposits (or similar deposits) made under all Secured Debt Documents and (C) the termination or expiration of all commitments to extend credit under all Secured Debt Documents and the cancellation or termination of all outstanding letters of credit issued pursuant to any Secured Debt Documents;

(ii) as to any Collateral that is sold, transferred or otherwise disposed of by the Company or any other Obligor in a transaction or other circumstance which is not prohibited by all of the Secured Debt Documents at the time of such sale, transfer or other disposition or to the extent of the interest sold, transferred or otherwise disposed of; and

(iii) as to any Collateral other than Collateral being released pursuant to clauses (i) or (ii) of this Section 4.1(a), if consent to the release of such Collateral has been given by an Act of Instructing Debtholders; provided that if such Collateral represents all or substantially all of the Collateral, consent to release of such Collateral has been given by the requisite percentage or number of holders of each Series of Secured Debt under the applicable Secured Debt Document, and in each case, such release has become effective in accordance with such consent.

(b) The Collateral Trustee agrees for the benefit of the Company and the other Obligors that if the Collateral Trustee at any time receives:

(i) an officer's certificate of the Company stating that (x) such officer has read Article 4 of this Agreement and understands the provisions and the definitions relating hereto, (y) such officer has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not the conditions precedent in this Agreement and all other Secured Debt Documents, if any, relating to the release of the Collateral have been complied with and (z) in the opinion of such officer, such conditions precedent, if any, have been complied with;

(ii) the proposed instrument or instruments releasing such Lien as to such property in recordable form, if applicable; and

(iii) the written confirmation of each Priority Debt Representative (or, at any time after a Discharge of Priority Lien Obligations, each Parity Debt Representative (such confirmation to be given following receipt of, and based solely on, the officer's certificate described in 4.1 (b)(i) above) that, in its view, such release is permitted by Section 4.1(a) and the respective Secured Debt Documents governing the Secured Obligations the holders of which such Secured Debt Representative represents,

then the Collateral Trustee will execute (with such acknowledgements and/or notarizations as are required) and deliver such release to the Company or other applicable Obligor on or before the later of (x) the date specified in such request for such release and (y) the fifth Business Day after the date of receipt of the items required by this Section 4.1(b) by the Collateral Trustee.

(c) The Collateral Trustee hereby agrees that:

(i) in the case of any release pursuant to clause (ii) of Section 4.1(a), if the terms of any such sale, transfer or other disposition require the payment of the purchase price to be contemporaneous with the delivery of the applicable release, then, at the request of the Company or other applicable Obligor, the Collateral Trustee shall either be present at the closing of such transaction or shall deliver the release under customary escrow arrangements that permit such contemporaneous payment and delivery of the release; and

(ii) at any time when a Secured Debt Default under a Series of Secured Debt that constitutes Parity Lien Debt has occurred and is continuing, within one Business Day of the receipt by it of any Act of Instructing Debtholders pursuant to Section 4.1(a)(iii), the Collateral Trustee shall deliver a copy of such Act of Instructing Debtholders to each Secured Debt Representative.

(d) Each Secured Debt Representative hereby agrees that:

(i) as soon as reasonably practicable after receipt of an officer's certificate from the Company pursuant to Section 4.1(b)(i) it will, to the extent required by such Section, either provide (x) the written confirmation required by Section 4.1(b)(iii), (y) a written statement that such release is not permitted by Section 4.1(a) or(z) a request for further information from the Company reasonably necessary to determine whether the proposed release is permitted by Section 4.1(a) and after receipt of such information such Secured Debt Representative will as soon as reasonably practicable either provide the written confirmation or statement required pursuant to clause (x) or (y), as applicable; and

(ii) within one Business Day of the receipt by it of any notice from the Collateral Trustee pursuant to Section 4.1(c)(ii), such Secured Debt Representative shall deliver a copy of such notice to each registered holder of the Series of Priority Lien Debt or Series of Parity Lien Debt for which it acts as Secured Debt Representative.

SECTION 4.2 Delivery of Copies to Secured Debt Representatives. The Company will deliver to each Secured Debt Representative a copy of each officer's certificate delivered to the Collateral Trustee pursuant to Section 4.1(b), together with copies of all documents delivered to the Collateral Trustee with such officer's certificate. The Secured Debt Representatives will not be obligated to take notice thereof or to act thereon, subject to Section 4.1(d).

SECTION 4.3 Collateral Trustee not Required to Serve, File or Record. The Collateral Trustee is not required to serve, file, register or record any instrument releasing or subordinating its security interest in any Collateral.

ARTICLE 5. IMMUNITIES OF THE COLLATERAL TRUSTEE

SECTION 5.1 No Implied Duty. The Collateral Trustee will not have any fiduciary duties nor will it have responsibilities other than those expressly assumed by it in this Agreement and the other Security Documents. The Collateral Trustee shall not be required to take any

action which is contrary to applicable law or any provision of this Agreement or the other Security Documents.

SECTION 5.2 Appointment of Agents and Advisors. The Collateral Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, accountants, appraisers or other experts or advisors selected by it in good faith as it may reasonably require and shall not be responsible for any misconduct or negligence on the part of any of them.

SECTION 5.3 Other Agreements. The Collateral Trustee has accepted and is bound by the Security Documents executed by the Collateral Trustee as of the date of this Agreement and, as directed by an Act of Instructing Debtholders, the Collateral Trustee may execute additional Security Documents delivered to it after the date of this Agreement, provided, however, that such additional Security Documents do not adversely affect the rights, privileges, benefits and immunities of the Collateral Trustee. The Collateral Trustee shall not otherwise be bound by, or be held obligated by, the provisions of any credit agreement, indenture or other agreement governing Secured Debt (other than this Agreement and the other Security Documents).

SECTION 5.4 Solicitation of Instructions.

(a) The Collateral Trustee may at any time solicit written confirmatory instructions, in the form of an Act of Instructing Debtholders or an order of a court of competent jurisdiction, as to any action which it may be requested or required to take, or which it may propose to take, in the performance of any of its obligations under this Agreement.

(b) No written direction given to the Collateral Trustee by an Act of Instructing Debtholders, which in the sole judgment of the Collateral Trustee imposes, purports to impose or might reasonably be expected to impose upon the Collateral Trustee any obligation or liability not set forth in or arising under this Agreement and the other Security Documents shall be binding upon the Collateral Trustee unless the Collateral Trustee elects, at its sole option, to accept such direction.

SECTION 5.5 Limitation of Liability. The Collateral Trustee shall not be responsible or liable for any action taken or omitted to be taken by it hereunder or under any other Security Document, except for its own gross negligence, bad faith or willful misconduct as determined by a court of competent jurisdiction.

SECTION 5.6 Documents in Satisfactory Form. The Collateral Trustee shall be entitled to require that all agreements, certificates, opinions, instruments and other documents at any time submitted to it, including those expressly provided for in this Agreement, be delivered to it in a form and with substantive provisions reasonably satisfactory to it.

SECTION 5.7 Entitled to Rely. The Collateral Trustee may conclusively rely upon any certificate, notice or other document (including any facsimile) reasonably believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or persons and need not investigate any fact or matter stated in any such document. The Collateral Trustee may seek and rely upon any judicial order or judgment, upon any advice, opinion or statement of legal counsel, independent consultants and other experts selected by it in good faith

and upon any certification, instruction, notice or other writing delivered to it by the Company or any other Obligor in compliance with the provisions of this Agreement or delivered to it by any Secured Debt Representative as to the Secured Debtholders for whom it acts, without being required to determine the authenticity thereof or the correctness of any fact stated therein or the propriety or validity of service thereof. The Collateral Trustee may act in reliance upon any instrument comporting with the provisions of this Agreement or any signature reasonably believed by it to be genuine and may assume that any Person purporting to give notice or receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so. To the extent an officer's certificate or an opinion of counsel is required or permitted under this Agreement to be delivered to the Collateral Trustee in respect of any matter, the Collateral Trustee may rely conclusively on such officer's certificate or opinion of counsel as to such matter.

SECTION 5.8 Secured Debt Default. The Collateral Trustee shall not be required to inquire as to the occurrence or absence of any Secured Debt Default and shall not be affected by or required to act upon any notice or knowledge as to the occurrence of any Secured Debt Default unless and until it receives a Notice of Actionable Default or a Responsible Officer of the Collateral Trustee has actual knowledge that an Actionable Default has occurred and is continuing.

SECTION 5.9 Actions by Collateral Trustee. As to any matter not expressly provided for by this Agreement, the Collateral Trustee shall act or refrain from acting as directed by an Act of Instructing Debtholders and shall be fully protected if it does so.

SECTION 5.10 Security or Indemnity in favor of the Collateral Trustee. The Collateral Trustee shall not be required to advance or expend any funds or otherwise incur any financial liability in the performance of its duties or the exercise of its powers or rights hereunder unless it has been provided with security or indemnity reasonably satisfactory to it against any and all liability or expense which may be incurred by it by reason of taking or continuing to take such action.

SECTION 5.11 Rights of the Collateral Trustee. In the event there is any bona fide, good faith disagreement between the other parties to this Agreement or any of the other Security Documents resulting in adverse claims being made in connection with Collateral held by the Collateral Trustee and the terms of this Agreement or any of the other Security Documents do not unambiguously mandate the action the Collateral Trustee is to take or not to take in connection therewith under the circumstances then existing, or the Collateral Trustee is in doubt as to what action it is required to take or not to take hereunder, it shall be entitled to refrain from taking any action (and shall incur no liability for doing so) until directed otherwise in writing by a request signed jointly by the parties hereto entitled to give such direction or by order of a court of competent jurisdiction.

SECTION 5.12 Limitations on Duty of Collateral Trustee in Respect of Collateral.

(a) Beyond the exercise of reasonable care in the custody of Collateral in its possession, the Collateral Trustee shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to

preservation of rights against prior parties or any other rights pertaining thereto and the Collateral Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Collateral Trustee shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property, and the Collateral Trustee shall not be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Trustee in good faith.

(b) The Collateral Trustee shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Collateral Trustee, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of any Obligor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Collateral Trustee hereby disclaims any representation or warranty to the present and future holders of the Secured Obligations concerning the perfection of the Liens and security interests granted hereunder or in the value of any of the Collateral.

SECTION 5.13 Assumption of Rights, Not Assumption of Duties. Notwithstanding anything to the contrary contained herein, (a) each of the parties thereto shall remain liable under each of the Security Documents (other than this Agreement) to the extent set forth therein to perform all of their respective duties and obligations thereunder to the same extent as if this Agreement had not be executed, (b) the exercise by the Collateral Trustee of any of its rights, remedies or powers hereunder shall not release such parties from any of their respective duties or obligations under the other Security Documents and (c) the Collateral Trustee shall not be obligated to perform any of the obligations or duties of any of the parties thereunder other than the Collateral Trustee.

SECTION 5.14 No Liability for Clean Up of Hazardous Materials. In the event that the Collateral Trustee is required to acquire title to an asset for any reason, or take any managerial action of any kind in regard thereto, in order to carry out any fiduciary or trust obligation for the benefit of another, which in the Collateral Trustee's sole discretion may cause the Collateral Trustee to be considered an "owner or operator" under the provisions of the Comprehensive Environmental Response Cleanup and Liability Act or any similar Environmental Laws (collectively, "CERCLA") or otherwise cause the Collateral Trustee to incur, or be exposed to, any Environmental Liability or any liability under CERCLA or any other federal, state or local law, the Collateral Trustee reserves the right, instead of taking such action, either to resign as Collateral Trustee or to arrange for the transfer of the title or control of the asset to a court appointed receiver. The Collateral Trustee shall not be liable to any Person for any Environmental Liability or any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Collateral Trustee's actions and

conduct as authorized, empowered and directed hereunder or relating to the discharge, Release or threatened Release of Hazardous Materials into the environment.

ARTICLE 6. RESIGNATION AND REMOVAL OF THE COLLATERAL TRUSTEE

SECTION 6.1 Resignation or Removal of Collateral Trustee. Subject to the appointment of a successor Collateral Trustee as provided in Section 6.2 and the acceptance of such appointment by the successor Collateral Trustee, (a) the Collateral Trustee may resign at any time by giving not less than 30 days' notice of resignation to each Secured Debt Representative and the Company and (b) the Collateral Trustee may be removed at any time, with or without cause, by an Act of Instructing Debtholders.

SECTION 6.2 Appointment of Successor Collateral Trustee. Upon any such resignation or removal, a successor Collateral Trustee may be appointed by an Act of Instructing Debtholders. If no successor Collateral Trustee shall have been so appointed and shall have accepted such appointment within 30 days after the predecessor Collateral Trustee gave notice of resignation or was removed, the retiring Collateral Trustee may (at the expense of the Company), at its option, appoint a successor Collateral Trustee, or petition a court of competent jurisdiction for appointment of a successor Collateral Trustee, which shall be a bank or trust company (a) authorized to exercise corporate trust powers, (b) having a combined capital and surplus of at least $500,000,000 and (c) maintaining an office in New York, New York. The Collateral Trustee shall fulfill its obligations hereunder until a successor Collateral Trustee meeting the requirements of this Section 6.2 has accepted its appointment as Collateral Trustee and the provisions of Section 6.3 have been satisfied.

SECTION 6.3 Succession. When the Person so appointed as successor Collateral Trustee accepts such appointment:

(a) such Person shall succeed to and become vested with all the rights, powers, privileges and duties of the predecessor Collateral Trustee, and the predecessor Collateral Trustee shall be discharged from its duties and obligations hereunder, and

(b) the predecessor Collateral Trustee shall promptly transfer all Liens and collateral security and other property of the Trust Estates within its possession or control to the possession or control of the successor Collateral Trustee and shall execute instruments and assignments as may be necessary or desirable or reasonably requested by the successor Collateral Trustee to transfer to the successor Collateral Trustee all Liens, interests, rights, powers and remedies of the predecessor Collateral Trustee in respect of the Security Documents or the Trust Estates.

Thereafter the predecessor Collateral Trustee shall remain entitled to enforce the immunities granted to it in Article 5 and the provisions of Sections 7.7 and 7.8.

ARTICLE 7. MISCELLANEOUS PROVISIONS

SECTION 7.1 Amendment.

(a) No amendment or supplement to the provisions of this Agreement or any other Security Document (to which the Collateral Trustee is a party) will be effective without the approval of the Collateral Trustee acting as directed by an Act of Instructing Debtholders, except that:

(i) any amendment or supplement that has the effect solely of adding or maintaining Collateral, securing additional Secured Debt that was otherwise permitted by the terms of the Secured Debt Documents to be secured by the Collateral or preserving or perfecting the Liens thereon or the rights of the Collateral Trustee therein will become effective when executed and delivered by the Company or any other applicable Obligor party thereto and the Collateral Trustee;

(ii) no amendment or supplement that reduces, impairs or adversely affects the right of any Secured Debtholder (A) to vote its outstanding Secured Debt as to any matter described as subject to an Act of Instructing Debtholders (or amends the provisions of this clause (ii) or the definition of "Act of Instructing Debtholders" or "Actionable Default"), (B) to share in the order of application described in Section 3.4 in the proceeds of enforcement of or realization on any Collateral, in each case that has not been released in accordance with the provisions described in Section 4.1 or (C) to require that Liens securing Secured Obligations be released only as set forth in the provisions described in Section 4.1 shall become effective without the consent of the requisite percentage or number of holders of each Series of Secured Debt so affected under the applicable Secured Debt Document;

(iii) no amendment or supplement that imposes any obligation upon the Collateral Trustee or any Secured Debt Representative or adversely affects the rights of the Collateral Trustee or any Secured Debt Representative, respectively, in its capacity as such shall become effective without the consent of the Collateral Trustee or such Secured Debt Representative, respectively; and

(iv) any amendment or supplement that has the effect solely of adding a parallel debt hereunder in respect of any future Series of Secured Debt that shall become entitled to the benefits of this Agreement, which is in form substantially the same as the Credit Agreement Parallel Debt and the Indenture Parallel Debt contained herein, will become effective when executed and delivered by the Company or any other applicable Obligor party thereto, the applicable Secured Debt Representative with respect to such future Series of Secured Debt and the Collateral Trustee.

The Collateral Trustee shall not enter into any such amendment or supplement unless it shall have received an officer's certificate of the Company to the effect that such amendment or supplement will not result in a breach of any provision or covenant contained in any of the Secured Debt Documents. Prior to executing any amendment or supplement pursuant to this Section 7.1, the Collateral Trustee shall be entitled to receive an opinion of counsel of the Company to the effect that the execution of such document is authorized or permitted hereunder, and with respect to amendments adding Collateral, an opinion of counsel of the Company addressing customary perfection, and if such additional Collateral consists of equity interests of any Person, priority, matters with respect to such additional Collateral. Notwithstanding the

foregoing, any amendment, supplement or other agreement regarding the provisions of the Security Documents that releases Collateral will be effective only in accordance with the requirements set forth in Section 4.1.

(b) The Collateral Trustee, acting as directed by an Act of Instructing Debtholders, and the Obligors may, at any time and from time to time, without the consent of any Parity Lien Secured Parties, enter into amendments or other written agreements supplemental to any Security Document that is a Priority Lien Document for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any Security Document that is a Priority Lien Document or changing in any manner the rights of the holders of the Priority Lien Secured Parties or the Obligors thereunder. Any amendment or waiver of, or any consent under, any provision of any Priority Lien Document that is a Security Document (except to the extent that such amendment, waiver or consent, would have the effect of releasing Collateral from the Junior Trust Estate not in accordance with Section 4.1) shall apply automatically to any comparable provision of any comparable Parity Lien Document without the consent of or notice to any Parity Lien Secured Parties and without any action by any Obligor or any Parity Lien Secured Parties. The Company shall promptly notify the Parity Lien Secured Parties of any amendment or waiver of, or any consent under, any provision of any Priority Lien Document that is a Security Document that applies automatically to any comparable provision of any comparable Parity Lien Document, which notice shall include a copy of such amendment, waiver or consent, as applicable, provided that the failure to give such notice shall not affect the validity of such amendment or waiver of, or consent under, the Priority Lien Documents.

(c) Without an Act of Instructing Debtholders, no Parity Lien Document that is a Security Document (but that is not also a Priority Lien Document) may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification, or the terms of any new Parity Lien Document that is a Security Document, would be inconsistent with any of the terms of the Priority Lien Documents or this Agreement. The Parity Lien Secured Parties agree that each Parity Lien Document that is a Security Document (but that is not also a Priority Lien Document) shall include the following language:

"Notwithstanding anything herein to the contrary, the lien and security interest granted to the Collateral Trustee pursuant to this Agreement and the exercise of any right or remedy by such Collateral Trustee hereunder are subject to the provisions of the Collateral Trust Agreement dated as of December 23, 2003, as amended and restated as of December 24, 2004 (the "Collateral Trust Agreement") among Credit Suisse First Boston, as Administrative Agent, the Collateral Trustee, Law Debenture Trust Company of New York, as Trustee, NRG Energy, Inc. and NRG Power Marketing Inc., as the Credit Agreement Borrowers, and the other Guarantors party thereto (as amended, restated, supplemented or modified from time to time). In the event of any conflict between the terms of the Collateral Trust Agreement and this Agreement, the terms of the Collateral Trust Agreement shall govern."

; provided, however, that if the jurisdiction in which any such Parity Lien Document shall be filed prohibits the inclusion of the language above or would prevent a document containing such language to be recorded of record, the Parity Debt Representatives and the Priority Debt Representatives agree, prior to such Parity Lien Document being entered into, to negotiate in

good faith replacement language stating that the lien and security interest granted under such Parity Lien Document is subject to the provisions of this Agreement.

SECTION 7.2 Further Assurances The Company and each of the other Obligors shall do or cause to be done all acts and things which may be required, or which the Collateral Trustee from time to time may reasonably request, to assure and confirm that the Collateral Trustee holds, for the benefit of the holders of the applicable Secured Obligations, duly created and enforceable and except, with respect to any Series of Secured Debt, to the extent not required to be perfected by the Secured Debt Documents relating to such Series of Secured Debt, perfected Liens upon the Collateral, including after-acquired Collateral and any property or assets which become Collateral pursuant to the definition thereof after the date hereof, subject, in the case of Parity Lien Obligations with respect to the Collateral that secures such Parity Lien Obligations, only to the Priority Liens and those Liens that arise by operation of law and are not voluntarily granted, in each case as contemplated by the Secured Debt Documents.

Upon the reasonable request of the Collateral Trustee at any time and from time to time, the Company and each of the other Obligors shall promptly execute, acknowledge and deliver such security documents, instruments, certificates, notices and other documents, and take such other actions as shall be reasonably required, or that the Collateral Trustee may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Secured Debt Documents for the benefit of the holders of Secured Obligations.

SECTION 7.3 Successors and Assigns.

(a) Except as provided in Section 5.2, the Collateral Trustee may not, in its capacity as such, delegate any of its duties or assign any of its rights hereunder, and any attempted delegation or assignment of any such duties or rights shall be null and void. All obligations of the Collateral Trustee hereunder shall inure to the sole and exclusive benefit of, and be enforceable by, each Secured Debt Representative and each present and future holder of Secured Obligations, each of whom shall be entitled to enforce this Agreement as a third party beneficiary hereof, and all of their respective successors and assigns.

(b) Neither the Company nor any other Obligor may delegate any of its duties or assign any of its rights hereunder, and any attempted delegation or assignment of any such duties or rights shall be null and void. All obligations of the Company and the other Obligors hereunder shall inure to the sole and exclusive benefit of, and be enforceable by, the Collateral Trustee, each Secured Debt Representative and each present and future holder of Secured Obligations, each of whom shall be entitled to enforce this Agreement as a third party beneficiary hereof, and all of their respective successors and assigns.

SECTION 7.4 Delay and Waiver. No failure to exercise, no course of dealing with respect to the exercise of, and no delay in exercising, any right, power or remedy arising under this Agreement or any of the other Security Documents shall impair any such right, power or remedy or operate as a waiver thereof. No single or partial exercise of any such right, power or remedy shall preclude any other or future exercise thereof or the exercise of any other right,

power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

SECTION 7.5 Notices. Any communications, including notices and instructions, between the parties hereto or notices provided herein to be given may be given to the following addresses:

If to the Collateral Trustee:

Deutsche Bank Trust Company Americas
60 Wall Street, 27th Floor
Mail Stop: NYC60-2710
New York, NY 10005
Attention: Annie Jaghatspanyan
Fax: (212) 797-8614

If to the Company or any other Obligor:

NRG Energy, Inc.
211 Carnegie Center
Princeton, NJ 08540
Attention: Treasurer, Chief Financial Officer and General Counsel
Fax: (609) 524-4501

If to the Administrative Agent:

Credit Suisse First Boston
Eleven Madison Avenue
New York, NY 10010
Attention: Julia Kingsbury
Fax: (212) 325-8304

If to the Trustee:

Law Debenture Trust Company of New York
767 Third Avenue, 31st Floor
New York, NY 10017
Attention: Estelle Lawrence
Fax: (212) 750-1361

and if to any other Secured Debt Representative, to such address as it may specify by written notice to the parties named above.

Each notice hereunder shall be in writing and may be personally served or sent by facsimile or United States mail or courier service and shall be deemed to have been given when delivered in Person or by courier service and signed for against receipt thereof, upon receipt of facsimile, or three business days after depositing it in the United States mail with postage prepaid and properly addressed. Each party may change its address for notice hereunder to any other location within the continental United States by giving written notice thereof to the other parties as set forth in this Section 7.5.

Promptly following any Discharge of Priority Lien Obligation each Priority Debt Representative with respect to each applicable Series of Priority Lien Debt that is so discharged shall provide written notice of such discharge to the Collateral Trustee and to each other Secured Debt Representative.

SECTION 7.6 Entire Agreement. This Agreement states the complete agreement of the parties relating to the undertaking of the Collateral Trustee set forth herein and supersedes all oral negotiations and prior writings in respect of such undertaking.

SECTION 7.7 Compensation; Expenses.

The Obligors jointly and severally agree to pay, promptly upon demand:

(a) such compensation to the Collateral Trustee and its agents, co-agents and sub-agents as the Company and the Collateral Trustee shall agree in writing from time to time;

(b) all reasonable costs and expenses incurred in the preparation, execution, delivery, filing, recordation, administration or enforcement of this Agreement or any other Security Document or any consent, amendment, waiver or other modification relating thereto;

(c) all reasonable fees, expenses and disbursements of legal counsel and any auditors, accountants, consultants or appraisers or other professional advisors and agents engaged by the Collateral Trustee or any Secured Debt Representative incurred in connection with the negotiation, preparation, closing, administration, performance or enforcement of this Agreement and the other Security Documents or any consent, amendment, waiver or other modification relating thereto and any other document or matter requested by the Company;

(d) all reasonable costs and expenses of creating, perfecting, releasing or enforcing the Collateral Trustee's security interests in the Collateral, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees, and title insurance premiums;

(e) all other reasonable costs and expenses incurred by the Collateral Trustee or any Secured Debt Representative in connection with the negotiation, preparation and execution of the Security Documents and any consents, amendments, waivers or other modifications thereto and the transactions contemplated thereby or the exercise of rights or performance of obligations by the Collateral Trustee thereunder; and

(f) after the occurrence of any Secured Debt Default, all costs and expenses incurred by the Collateral Trustee or any Secured Debt Representative in connection with the preservation, collection, foreclosure or enforcement of the Collateral subject to the Security Documents or any interest, right, power or remedy of the Collateral Trustee or in connection with the collection or enforcement of any of the Secured Obligations or the proof, protection, administration or resolution of any claim based upon the Secured Obligations in any Bankruptcy Case or Insolvency Proceeding, including all fees and disbursements of attorneys, accountants, auditors, consultants, appraisers and other professionals engaged by the Collateral Trustee or the Secured Debt Representatives.

The agreements in this Section 7.7 shall survive repayment of all other Secured Obligations and the removal or resignation of the Collateral Trustee.

SECTION 7.8 Indemnity.

(a) The Obligors jointly and severally agree to defend, indemnify, pay and hold harmless the Collateral Trustee, each Secured Debt Representative, each Secured Debtholder and each of their respective Affiliates and each and all of the directors, officers, partners, trustees, employees, attorneys and agents, and (in each case) their respective heirs, representatives, successors and assigns (each of the foregoing, an "Indemnitee") from and against any and all Indemnified Liabilities; provided, no Indemnitee shall be entitled to indemnification hereunder with respect to any Indemnified Liability to the extent such Indemnified Liability is found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(b) All amounts due under Section 7.8(a) shall be payable upon demand.

(c) To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in Section 7.8(a) may be unenforceable in whole or in part because they are violative of any law or public policy, each of the Obligors shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(d) No Obligor shall ever assert any claim against any Indemnitee, on any theory of liability, for any lost profits or special, indirect or consequential damages or (to the fullest extent a claim for punitive damages may lawfully be waived) any punitive damages arising out of, in connection with, or as a result of, this Agreement or any other Secured Debt Document or any agreement or instrument or transaction contemplated hereby or relating in any respect to any Indemnified Liability, and each of the Obligors hereby forever waives, releases and agrees not to sue upon any claim for any such lost profits or special, indirect, consequential or (to the fullest extent lawful) punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(e) The agreements in this Section 7.8 shall survive repayment of all other Secured Obligations and the removal or resignation of the Collateral Trustee.

SECTION 7.9 Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any respect or in any jurisdiction, the validity, legality and enforceability of such provision in all other respects and of all remaining provisions, and of such provision in all other jurisdictions, shall not in any way be affected or impaired thereby.

SECTION 7.10 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

SECTION 7.11 Obligations Secured. All obligations of the Obligors set forth in or arising under this Agreement shall be Secured Obligations and are secured by all Liens granted by the Security Documents.

SECTION 7.12 Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York without regard to conflicts of law principles.

SECTION 7.13 Consent to Jurisdiction. All judicial proceedings brought against any party hereto arising out of or relating to this Agreement or any of the other Security Documents may be brought in any state or federal court of competent jurisdiction in the State, County and City of New York. By executing and delivering this Agreement, each Obligor, for itself and in connection with its properties, irrevocably (a) accepts generally and unconditionally the nonexclusive jurisdiction and venue of such courts, (b) waives any defense of forum non conveniens, (c) agrees that service of all process in any such proceeding in any such court may be made by registered or certified mail, return receipt requested, to such party at its address provided in accordance with Section 7.5, (d) agrees that service as provided in clause (c) above is sufficient to confer personal jurisdiction over such party in any such proceeding in any such court and otherwise constitutes effective and binding service in every respect and (e) agrees each party hereto retains the right to serve process in any other manner permitted by law or to bring proceedings against any party in the courts of any other jurisdiction.

SECTION 7.14 Waiver of Jury Trial. Each party hereto hereby agrees to waive its respective rights to a jury trial of any claim or cause of action based upon or arising under this Agreement or any of the other Security Documents or any dealings between them relating to the subject matter of this Agreement or the intents and purposes of the other Security Documents. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement and the other Security Documents, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each party hereto acknowledges that this waiver is a material inducement to enter into a business relationship, that each party hereto has already relied on this waiver in entering into this Agreement, and that each party hereto will continue to rely on this waiver in its related future dealings. Each party hereto further warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. This waiver is irrevocable, meaning that it may not be modified either orally or in writing (other than by a mutual written waiver specifically referring to this Section 7.14 and executed by each of the parties hereto), and this waiver shall apply to any subsequent amendments, renewals, supplements or modifications of or to this Agreement or any of the other Security Documents or to any other documents or agreements relating thereto. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

SECTION 7.15 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

SECTION 7.16 Effectiveness. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto and receipt by each party of written notification of such execution and written or telephonic authorization of delivery thereof.

SECTION 7.17 Additional Obligors. The Company shall cause each Subsidiary that becomes an Obligor or is required by any Secured Debt Document to become a party to this Agreement to become a party to this Agreement, for all purposes of this Agreement, by causing such subsidiary to execute and deliver to the parties hereto a Collateral Trust Joinder, whereupon such subsidiary shall be bound by the terms hereof to the same extent as if it had executed and delivered this Agreement as of the date hereof. The Company agrees to provide each Secured Debt Representative with a copy of each Collateral Trust Joinder executed and delivered pursuant to this Section.

SECTION 7.18 Continuing Nature of this Agreement. This Agreement, including the subordination provisions hereof, shall be reinstated if at any time any payment or distribution in respect of any of the Priority Lien Obligations is rescinded or must otherwise be returned in an Insolvency Proceeding or a Bankruptcy Case or otherwise by any of the Priority Lien Secured Parties or any representative of any such party (whether by demand, settlement, litigation or otherwise). In the event that all or any part of a payment or distribution made with respect to the Priority Lien Obligations is recovered from any of the Priority Lien Secured Parties in an Insolvency Proceeding or a Bankruptcy Case or otherwise (and whether by demand, settlement, litigation or otherwise), any payment or distribution received by any of the Parity Lien Secured Parties with respect to the Parity Lien Obligations from the proceeds of any Collateral or any title insurance policy required by any real property mortgage at any time after the date of the payment or distribution that is so recovered, whether pursuant to a right of subrogation or otherwise, shall be deemed to have been received by the Parity Lien Secured Parties in trust as property for the Priority Lien Secured Parties and the Parity Lien Secured Parties shall forthwith deliver such payment or distribution to the Collateral Trustee, for the benefit of the Priority Lien Secured Parties, for application to the Priority Lien Obligations until such Priority Lien Obligations shall have been paid in full in cash and all commitments in respect of Priority Lien Obligations shall have been terminated.

SECTION 7.19 Insolvency. This Agreement shall be applicable both before and after the commencement of any Insolvency Proceeding or Bankruptcy Case by or against any Obligor. The relative rights, as provided for in this Agreement, shall continue after the commencement of any such Insolvency Proceeding or Bankruptcy Case on the same basis as prior to the date of the commencement of any such case, as provided in this Agreement.

SECTION 7.20 Rights and Immunities of Secured Debt Representatives. The Administrative Agent shall be entitled to all of the rights, protections, immunities and indemnities set forth in the Credit Agreement, the Trustee shall be entitled to all of the rights, protections, immunities and indemnities set forth in the Indenture and any future Secured Debt Representative shall be entitled to all of the rights, protections, immunities and indemnities set forth in the credit agreement, indenture or other agreement governing the applicable Secured Debt with respect to which such Person shall act as representative, in each case as if specifically set forth herein. In no event shall any Secured Debt Representative be liable for any act or omission on the part of the Obligors or the Collateral Trustee hereunder.

SECTION 7.21 Perfection of Junior Trust Estate. Solely for purposes of perfecting the Lien of the Parity Collateral Trustee in its capacity as agent of the holders of Parity Lien Obligations and the Parity Lien Representatives in any portion of the Junior Trust Estate or

Collateral (as defined in the Guaranty and Collateral Agreement) in the possession of the Priority Collateral Trustee (or its agents or bailees) as part of the Senior Trust Estate including, without limitation, any instruments, goods, negotiable documents, tangible chattel paper, certificated securities or money, the Priority Collateral Trustee, the holders of Priority Lien Obligations and the Priority Lien Representatives hereby acknowledge that the Priority Collateral Trustee also holds and/or takes possession of such property (including, without limitation, for purposes of Sections 8–301 and 9–313 of the UCC) for the benefit of the Parity Collateral Trustee for the benefit of the holders of Parity Lien Obligations and the Parity Lien Representatives.

ARTICLE 8. CREDIT AGREEMENT PARALLEL DEBT FOR DUTCH AND SWISS SECURITY INTERESTS

Without prejudice to the provisions of the Credit Agreement, and for the purpose of ensuring and preserving the validity and continuity of the security interests granted and to be granted under or pursuant to the Dutch Security Documents and the Swiss Security Documents, the Credit Agreement Borrowers hereby irrevocably and unconditionally undertake to pay to the Collateral Trustee amounts equal to and in the currency of the total amount of the Secured Obligations (as defined in the Credit Agreement), which from time to time are due in accordance with and under the same terms and conditions as each of the Secured Obligations (such payment undertakings and the obligations and liabilities which are the result thereof hereinafter referred to as the "Credit Agreement Parallel Debt").

The Credit Agreement Borrowers and the Collateral Trustee acknowledge that (i) for this purpose the Credit Agreement Parallel Debt constitutes undertakings, obligations and liabilities of the Credit Agreement Borrowers to the Collateral Trustee which are separate and independent from, and without prejudice to, the corresponding Secured Obligations which exist between the Credit Agreement Borrowers and the Secured Parties (as defined in the Credit Agreement) and (ii) the Credit Agreement Parallel Debt represents the Collateral Trustee's own claims (*vorderingen op naam*) (*Forderung in eigenem Namen*) to receive payment of the Credit Agreement Parallel Debt, provided that the total amount of the Credit Agreement Parallel Debt shall never exceed the total amount of the Secured Obligations.

Every payment of monies made by the Credit Agreement Borrowers or the applicable Guarantors to the Administrative Agent (as defined in the Credit Agreement) regarding the Credit Agreement shall, conditionally upon such payment not subsequently being voided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, liquidation or similar laws of general application, be in satisfaction *pro tanto* of the covenant by the Credit Agreement Borrowers contained in the first paragraph of this Article 8, provided that, if any such payment as is mentioned above is subsequently voided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, liquidation or similar laws of general application, the Collateral Trustee shall be entitled to receive a corresponding amount as Credit Agreement Parallel Debt under the first paragraph under this Article 8 from the Credit Agreement Borrowers and the Credit Agreement Borrowers shall remain liable to satisfy such Credit Agreement Parallel Debt and such Credit Agreement Parallel Debt shall be deemed not to have been discharged.

Subject to the provisions of the first paragraph of this Article 8, but notwithstanding any of the other provisions of this Article 8:

(a) the total amount due and payable as Credit Agreement Parallel Debt under this Article 8 shall be decreased to the extent the Credit Agreement Borrowers or the applicable Guarantors shall have paid any amounts to the Secured Parties or any of them to reduce the outstanding Secured Obligations or any of the Secured Parties otherwise receives any amount in payment of the Secured Obligations; and

(b) to the extent that the Credit Agreement Borrowers or the applicable Guarantors shall have paid any amounts to the Collateral Trustee under the Credit Agreement Parallel Debt or the Collateral Trustee otherwise shall have received monies in payment of the Credit Agreement Parallel Debt, the total amount due and payable under the Secured Obligations shall be decreased as if said amounts were received directly in payment of the Secured Obligations.

For the avoidance of doubt, in the event that the Credit Agreement Borrowers are in default in respect of the Secured Obligations, as set forth in the Credit Agreement, the Credit Agreement Borrowers shall, at the same time, be deemed in default in respect of their obligations under the Credit Agreement Parallel Debt.

ARTICLE 9. INDENTURE PARALLEL DEBT FOR DUTCH AND SWISS SECURITY INTERESTS

Without prejudice to the provisions of the Indenture, and for the purpose of ensuring and preserving the validity and continuity of the security interests granted under or pursuant to the Dutch Security Documents and the Swiss Security Documents, the Company hereby irrevocably and unconditionally undertakes to pay to the Collateral Trustee amounts equal to and in the currency of the total amount of the Parity Lien Obligations in respect of the Notes, which from time to time are due in accordance with and under the same terms and conditions as each of the Notes and the Indenture (such payment undertakings and the obligations and liabilities which are the result thereof hereinafter referred to as the "Indenture Parallel Debt").

The Company and the Collateral Trustee acknowledge that (i) for this purpose the Indenture Parallel Debt constitutes undertakings, obligations and liabilities of the Company to the Collateral Trustee which are separate and independent from, and without prejudice to, the corresponding Parity Lien Obligations in respect of the Notes that are issued by the Company to the holders of the Notes and (ii) that the Indenture Parallel Debt represents the Collateral Trustee's own claims (*vorderingen op naam*) (*Forderung in eigenem Namen*) to receive payment of the Indenture Parallel Debt, provided that the total amount of the Indenture Parallel Debt shall never exceed the total amount of the Parity Lien Obligations in respect of the Notes.

Every payment of monies made by the Company or the applicable Guarantors to the Trustee regarding the Parity Lien Obligations in respect of the Notes shall, conditionally upon such payment not subsequently being voided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, liquidation or similar laws of general application,

be in satisfaction *pro tanto* of the covenant by the Company contained in the first paragraph of this Article 9, provided that, if any such payment as is mentioned above is subsequently voided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency, liquidation or similar laws of general application, the Collateral Trustee shall be entitled to receive a corresponding amount as Indenture Parallel Debt under the first paragraph of this Article 9 from the Company and the Company shall remain liable to satisfy such Indenture Parallel Debt and such Indenture Parallel Debt shall be deemed not to have been discharged.

Subject to the provision in the first paragraph in this Article 9, but notwithstanding any of the other provisions of this Article 9:

(a) the total amount due and payable as Indenture Parallel Debt under this Article 9 shall be decreased to the extent the Company or the applicable Guarantors shall have paid any amounts to the holders or any of them to reduce the outstanding Parity Lien Obligations in respect of the Notes or any of the holders otherwise receives any amount in payment of the Parity Lien Obligations in respect of the Notes; and

(b) to the extent that the Company shall have paid any amounts to the Collateral Trustee under the Indenture Parallel Debt or the Collateral Trustee otherwise shall have received monies in payment of the Indenture Parallel Debt, the total amount due and payable under the Parity Lien Obligations in respect of the Notes shall be decreased as if said amounts were received directly in payment of the Parity Lien Obligations in respect of the Notes.

For the avoidance of doubt, in the event that the Company is in default in respect of the Parity Lien Obligations in respect of the Notes, as set forth in the Indenture, the Company shall, at the same time, be deemed in default in respect of its obligations under the Indenture Parallel Debt.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Trust Agreement to be executed by their respective officers or representatives hereunto duly authorized as of the day and year first above written.

The Borrowers:

NRG ENERGY, INC.,

By: /s/ George P. Schaefer

Name: George P. Schaefer
Title: Treasurer

NRG POWER MARKETING INC.,

By: /s/ George P. Schaefer

Name: George P. Schaefer
Title: Treasurer

(*signatures continue on next page*)

The Guarantors:

ARTHUR KILL POWER LLC
ASTORIA GAS TURBINE POWER LLC
BERRIANS I GAS TURBINE POWER LLC
BIG CAJUN II UNIT 4 LLC
CAMAS POWER BOILER, INC.
CAPISTRANO COGENERATION COMPANY
CHICKAHOMINY RIVER ENERGY CORP.
COMMONWEALTH ATLANTIC POWER LLC
CONEMAUGH POWER LLC
CONNECTICUT JET POWER LLC
DEVON POWER LLC
DUNKIRK POWER LLC
EASTERN SIERRA ENERGY COMPANY
EL SEGUNDO POWER II LLC
ENERGY NATIONAL, INC.
ENIFUND, INC.
ENIGEN, INC.
ESOCO MOLOKAI, INC.
ESOCO, INC.
GRANITE II HOLDING, LLC
HANOVER ENERGY COMPANY
HUNTLEY POWER LLC
INDIAN RIVER ROPERATIONS INC.
INDIAN RIVER POWER LLC
JAMES RIVER POWER LLC
KEYSTONE POWER LLC
LOUISIANA GENERATING LLC
LS POWER MANAGEMENT LLC
MERIDEN GAS TURBINES LLC
MIDATLANTIC GENERATION HOLDING LLC
MIDDLETOWN POWER LLC
MONTVILLE POWER LLC

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(signatures continue on next page)

The Guarantors:

NEO CALIFORNIA POWER LLC
NEO CHESTER–GEN LLC
NEO CORPORATION
NEO FREEHOLD–GEN LLC
NEO LANDFILL GAS HOLDINGS INC.
NEO POWER SERVICES, INC.
NEO–MONTAUK GENCO MANAGEMENT LLC
NORTHEAST GENERATION HOLDINGS LLC
NORWALK POWER LLC
NRG AFFILIATE SERVICES INC.
NRG ARTHUR KILL OPERATIONS, INC.
NRG ASIA–PACIFIC, LTD.
NRG ASTORIA GAS TURBINE OPERATIONS INC.
NRG BAYOU COVE LLC
NRG BRAZOS VALLEY GP LLC
NRG BRAZOS VALLEY LP LLC
NRG BOURBONNAISE EQUIPMENT LLC
NRG BOURBONAISE LLC
NRG CALIFORNIA PEAKER OPERATIONS LLC
NRG CABRILLO POWER OPERATIONS INC.
NRG CADILLAC OPERATIONS INC.
NRG CENTRAL U.S. LLC
NRG COMLEASE LLC
NRG CONNECTICUT AFFILIATE SERVICES INC.

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(signatures continue on next page)

The Guarantors:

NRG DEVELOPMENT COMPANY INC.
NRG DEVON OPERATIONS INC.
NRG DUNKIRK OPERATIONS INC.
NRG EASTERN LLC
NRG EL SEGUNDO OPERATIONS INC.
NRG ENERGY JACKSON VALLEY I, INC.
NRG ENERGY JACKSON VALLEY II, INC.
NRG GRANITE ACQUISITIONS LLC
NRG HUNTLEY OPERATIONS INC.
NRG ILION LP LLC
NRG INTERNATIONAL LLC
NRG INTERNATIONAL III, INC.
NRG KAUFMAN LLC
NRG LATIN AMERICA INC.
NRG MARKETING SERVICES LLC
NRG MESQUITE LLC
NRG MEXTRANS INC.
NRG MIDATLANTIC AFFILIATE SERVICES INC.
NRG MIDATLANTIC GENERATING LLC
NRG MIDATLANTIC LLC
NRG MIDDLETOWN OPERATIONS INC.
NRG MONTVILLE OPERATIONS INC.
NRG NEW JERSEY ENERGY SALES LLC
NRG NEW ROADS HOLDINGS LLC
NRG NORTH CENTRAL OPERATIONS INC.
NRG NORTHEAST AFFILIATE SERVICES, INC.
NRG NORTHEAST GENERATING LLC
NRG NORWALK HARBOR OPERATIONS INC.
NRG OPERATING SERVICES, INC.
NRG OSWEGO HARBOR POWER OPERATIONS INC.
NRG PACGEN INC.
NRG PROCESSING SOLUTIONS LLC.

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(signatures continue on next page)

The Guarantors:

NRG ROCKFORD ACQUISITION LLC
NRG ROCKFORD EQUIPMENT LLC
NRG ROCKY ROAD LLC
NRG SAGUARO OPERATIONS INC.
NRG SERVICES CORPORATION
NRG SOUTH CENTRAL AFFILIATE SERVICES INC.
NRG SOUTH CENTRAL GENERATING LLC
NRG SOUTH CENTRAL OPERATIONS INC.
NRG TELOGIA POWER LLC
NRG WEST COAST LLC
NRG WESTERN AFFILIATE SERVICES INC.
O'BRIEN COGENERATION, INC.II
ONSITE ENERGY, INC.
OSWEGO HARBOR POWER LLC
PACIFIC CROCKETT HOLDINGS, INC.
PACIFIC GENERATION COMPANY
PACIFIC GENERATION HOLDINGS COMPANY
PACIFIC–MT. POSO CORPORATION
SAGUARO POWER LLC
SAN JOAQUIN VALLEY ENERGY I, INC.
SAN JOAQUIN VALLEY ENERGY IV, INC.
SOMERSET OPERATIONS INC.
SOMERSET POWER LLC
SOUTH CENTRAL GENERATION HOLDING LLC
TACOMA ENERGY RECOVERY COMPANY
TELOGIA POWER INC.
VIENNA OPERATIONS INC.
VIENNA POWER LLC.

Executing this Agreement on behalf of and so as to bind each of the persons named above under the caption "The Guarantors"

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

(*signatures continue on next page*)

GRANITE POWER PARTNERS II, L.P.

By: NRG Granite Acquisition LLC
Its: General Partner

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

KAUFMAN COGEN LP

By: NRG Kaufman LLC
Its: General Partner

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

NRG ILION LIMITED PARTNERSHIP

By: NRG Rockford Acquisition LLC
Its: General Partner

By: /s/ George Schaefer

Name: George Schaefer
Title: Treasurer

NRGENERATING HOLDINGS (NO. 21) B.V.

By: /s/ Robert Henry

Name: Robert Henry
Title: Director

(*signatures continue on next page*)

DEUTSCHE BANK TRUST COMPANY
AMERICAS, as Collateral Trustee

By: /s/ Richard L. Buckwalter
Name: Richard L. Buckwalter
Title: Vice President

By: /s/ Irina Golovashchuk
Name: Irina Golovashchuk
Title: Associate

(signatures continue on next page)

CREDIT SUISSE FIRST BOSTON,
acting through its Cayman Islands Branch, as the Administrative Agent

By: /s/ Jay Chall

Name: Jay Chall
Title: Director

By: /s/ Denise L. Alvarez

Name: Denise L. Alvarez
Title: Associate

Exhibit A to
Collateral Trust Agreement

Collateral Trust Joinder

The undersigned,__________________, a __________________, hereby agrees to become party as [an Obligor] [a Parity Debt Representative] [a Priority Debt Representative] under the Collateral Trust Agreement dated as of December 23, 2003 (as amended and restated as of December 24, 2004 and as amended, restated, supplemented or otherwise modified from time to time), by and among NRG Energy, Inc., a Delaware corporation, NRG Power Marketing Inc., Credit Suisse First Boston, as Administrative Agent under the Credit Agreement (as defined therein), Law Debenture Company of New York, as Trustee under the Indenture (as defined therein), and Deutsche Bank Trust Company Americas, as Collateral Trustee, for all purposes thereof on the terms set forth therein, and to be bound by the terms of said Collateral Trust Agreement as fully as if the undersigned had executed and delivered said Collateral Trust Agreement as of the date thereof.

The provisions of Article 7 of said Collateral Trust Agreement shall apply with like effect to this Joinder.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Joinder as of __________________, 20________.

[______________________________]

By: ______________________________
Name:
Title:

EXHIBIT 10.28

EXECUTION COPY

RAILROAD CAR FULL SERVICE MASTER LEASING AGREEMENT

GENERAL ELECTRIC RAILCAR
SERVICES CORPORATION

and

NRG POWER MARKETING INC.

Dated: February 18, 2005

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Schedule I Pricing Assumptions

GENERAL ELECTRIC RAILCAR SERVICES CORPORATION
RAILROAD CAR FULL SERVICE MASTER LEASING AGREEMENT

This Railroad Car Full Service Master Leasing Agreement ("Agreement") is made effective as of February 18, 2005 (the "Closing Date"), between **General Electric Railcar Services Corporation,** a Delaware corporation ("Lessor"), and **NRG Power Marketing Inc.,** a Delaware corporation ("Lessee").

1. Lease. Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the railroad car(s) described in one or more riders (the "Rider(s)") (the "Car(s)") subject to this Agreement. Lessor shall purchase the Cars from the manufacturer or supplier ("Seller") and lease the Cars to Lessee if Lessor receives a fully executed Rider for the applicable Cars including all schedules, annexes, and attachments thereto. Each Rider includes the number of Car(s), the commodities the Lessee may carry, the rental rate, term of use, Car numbers and other pertinent information that may be desired by both parties. If the terms of this Agreement and a Rider conflict, the terms of such Rider govern. Each Rider, together with the provisions of this Agreement incorporated therein, shall constitute a separate lease (each, a "Lease"). Once a Rider is signed, Lessee may not cancel the Rider except as provided therein.

2. Delivery. Lessor will deliver the Car(s) to Lessee at the Delivery Location(s) specified in the applicable Rider. Lessor's obligation to deliver is subject to delays beyond its control. Lessee will use the Car(s) exclusively in its own service, unless otherwise herein provided.

3. Inspection; Acceptance. Lessee shall have the right but not the obligation to inspect each of the Cars at the Delivery Location prior to acceptance under a Rider. Lessee's acceptance of each Car under a Rider will be deemed to have occurred upon the execution and delivery by Lessee of the applicable Rider. The date of delivery of a Car to Lessee subject to a Rider shall be the "Delivery Date" for such Car.

4. Rent.

A. Upon presentment by Lessor of an invoice, Lessee will pay rent for each of the Car(s) (in amounts and in installments as set forth in the applicable Rider) from the Delivery Date until such Car is returned to Lessor in accordance with the applicable Lease. Lessee's obligation to pay rent on each Car will terminate on the later of the expiration date of the applicable Rider or the day after the Car arrives at a location within 100 miles of the BNSF route running from the Powder River Basin to Chicago, Illinois or St. Louis, Missouri or as otherwise agreed between Lessor and Lessee in the condition required hereunder. Each rent payment must be paid in advance; provided, that rent for the period beginning on the applicable Delivery Date to but not including the first day of the month immediately following the applicable Delivery Date shall be paid in arrears. The first rent payment (which shall include the rent in arrears for the first portion of the term,

plus the advance rent for the following month) must be paid on the first day of the month immediately following the applicable Delivery Date and thereafter rent must be paid on the first day of each month. Any period which is less than a full month will be prorated. Notices and rent shall be sent to Lessor at its principal office, 161 N. Clark Street, Chicago, Illinois 60601. The terms of this Agreement will continue until the last Car(s) are returned by the Lessee in accordance with the applicable Lease. If Lessee fails to pay in full when due any rent to be paid under this Agreement, then Lessee shall pay on demand interest on such unpaid amount from the due date therefor until paid at a per annum rate equal to the Past Due Rate specified in the applicable Rider.

B. For purposes of the Initial Riders, rent, Stipulated Loss Values and the termination price for exercise of the Early Termination Option set forth in any of such Riders shall be prepared by reference to the rent, Stipulated Loss Value and the termination price for exercise of the Early Termination Option attached as Schedule I hereto and shall be subject to a one–time adjustment (upward or downward) to reflect (i) a change in the purchase price of each Car in accordance with Schedule I hereto, (ii) a change in the Funding Index Rate in accordance with Schedule I hereto, and (iii) any change in tax law effective on or prior to the Delivery Date set forth in such Rider, so as to maintain for Lessor its nominal after–tax yield and periodic after–tax cash flow (the "Net Economic Return").

C. Lessee agrees to return all of the Cars at the end of the Term of the applicable Rider, and with respect to each Car to pay the daily equivalent of the rental at the rate in effect on the last day of the Term until such time as the Car has been returned; provided however, that for any Cars not returned on or prior to the last Business Day of the calendar month following the last day of the Term, Lessee shall pay (as liquidated damages and not as a penalty) rental until the date that the Car is returned pursuant to this Agreement at a rate equal to 150% of the daily equivalent of the rental rate in effect on the last day of the Term. Except with respect to rental (which is governed by this section), this Agreement and the applicable Rider shall remain in full force and effect until all of the Cars subject to such Rider have been returned in accordance with the applicable Lease.

5. Use, Location and Possession. Subject to the terms of this Agreement, Lessee has the exclusive right to possess, use and operate each Car solely for its intended purpose in accordance with this Agreement, provided that any such use is in conformity with all applicable laws, rules and regulations and in conformity with prudent industry practice. Lessee agrees not to operate or locate any Car, or to suffer any Car to be operated or located, in any area excluded from coverage by any insurance policy required by the terms of Section 13 hereof. Lessee shall operate each Car and permit each Car to be located only in the continental United States or Canada; provided that no Car may be used in operations or located within Canada for more than 90 days in any calendar year. Lessee agrees that each Car will bear reporting marks and numbers specified by Lessor, and Lessee may not change the reporting mark or number on any Car. Lessee shall not place any lettering or marking of any kind upon the Cars without Lessor's prior written consent; provided, that Lessee may, at its expense, cause the Cars to be marked or stenciled with the

names or initials or other insignia customarily used by Lessee or any permitted sublessee on railroad cars used by it of the same or a similar type.

6. **Railroad Charges.** Lessee must reimburse Lessor for any payment Lessor is required to make to any railroad for empty movement charges incurred while in Lessee's service. It is agreed that the railroad mileage and junction reports will be conclusive evidence of the facts reported in the absence of manifest error identified in reasonable detail by Lessee.

7. **Repairs; Maintenance.**

A. Lessor Responsibilities. Lessor will be responsible to perform, arrange for, or cause to have performed (itself or through its subcontractor) the maintenance and repair of the Cars, except as expressly set forth in this Agreement or the applicable Rider. Lessor's obligations hereunder shall include the maintenance, repair and replacement of items in accordance with Association of American Railroads ("AAR"), US Department of Transportation ("DOT"), Federal Railroad Administration ("FRA"), or any other applicable law or regulations, provided that (i) if the cost of such maintenance, repairs or modifications to any Car on any date in order to comply with such legal or regulatory requirements (other than solely as a result of an increase following the date of the applicable Rider in the labor or material cost of such repairs or modifications) shall be in excess of the Stipulated Loss Value for such Car set forth in the applicable Rider for the month immediately following the date of the proposed repair or modification, or (ii) if the applicable Rider does not provide a Stipulated Loss Value for such Car and it shall be uneconomic to repair such Car (other than solely as a result of an increase following the date of the applicable Rider in the labor or material cost of such repairs) in Lessor's reasonable judgment, Lessor may, at its option, decline to repair such Car, and upon such determination, the Car shall be deemed to have suffered an Event of Loss. Lessor shall take reasonable action to enforce against the Seller any express warranty of Seller issued on or applicable to any of the Cars; provided, that Lessor shall not be obligated to resort to litigation to enforce any such warranty unless Lessee shall pay all expenses in connection therewith.

B. Lessee Responsibilities. Lessee shall have neither the right nor the responsibility hereunder to make any repairs, perform any maintenance, or perform any inspection (except any inspection otherwise required by applicable law or regulation or as otherwise permitted in Sections 3 and 7.C.) with respect to any Car. Lessee shall not remove or replace any part, equipment and/or accessory on any Car except as permitted under this Agreement or the applicable Rider. Lessee agrees to reasonably cooperate with Lessor in connection with any action by Lessor to enforce any warranty against the Seller.

C. Inspection, Maintenance, and Notification. During the term of the lease, Lessor will inspect the Cars to determine if the Cars are then qualified under and in compliance with AAR, DOT, FRA, or any other applicable law or regulation. Lessee will make the Cars available to Lessor at locations specified in the

applicable Rider when requested by Lessor, two times per year or more frequently if agreed by Lessor and Lessee or if required in order to comply with any applicable law or regulation, to enable Lessor or its designated agent to perform preventative maintenance on the Cars; provided, however, that Lessor will provide reasonable cooperation in scheduling the timing and location of such preventative maintenance to accommodate Lessee's scheduling requirements for the Cars. Upon reasonable prior notice by Lessee to Lessor, Lessee may (at Lessee's sole risk and expense) observe and be present at Lessor's facility during the performance of any maintenance, repair or inspection of any Car. Lessee will notify Lessor promptly upon obtaining actual knowledge of the time, place and nature of any accident or bad order condition requiring any repair to any Car.

D. Costs.

(i) Lessor shall be responsible for the cost and expense of all maintenance and repair relating to ordinary wear and tear on each Car, and including the cost of performing Modifications to the extent provided in Section 20, but excluding costs relating to any other damage or modification to a Car.

(ii) Lessee shall be responsible to pay or reimburse Lessor for the cost and expense of repairs relating to any damage to a Car (other than repairs described in Section 7.D.(i) or repairs made, or paid for, by the Seller under any warranty applicable to such Car) during the Term, including (a) damage relating to the loading or unloading of any Car, (b) corrosion damage other than that associated with ordinary wear and tear, (c) any damage resulting from use of a Car not in compliance with the restrictions on Lessee's use of the Car set forth herein and in the applicable Rider, and (d) damage which does not constitute an Event of Loss resulting from any accident or resulting from any other event requiring repairs to the Car. Notwithstanding the foregoing, Lessee shall not be obligated to pay Lessor for repair of any such damage (v) for which Lessor is responsible under 7(D)(i); (w) which occurs at any time such Car is in a shop specified by Lessor for repair of such Car, (x) for which a railroad is required to pay compensation under AAR Rule 107, (y) which occurs after the applicable Lease has been terminated and such Car has been returned to Lessor in accordance with the terms of this Agreement, or (z) which Lessee demonstrates is directly attributable to Lessor's failure to maintain such Car in accordance with this Agreement. Such costs and expense which Lessee must pay under this Section 7.D.(ii) are referred to as "Lessee Costs." Lessee shall also pay all costs associated with the removal, disposal and cleaning of commodities from the Car during and at the end of the Term and any other costs associated with return of the Cars in the condition required under the applicable Lease at the end of the Term of the Lease.

(iii) If (a) Lessee has made a payment for a Lessee Cost to Lessor relating to any repair, and (b) Lessor receives payment of insurance proceeds from insurance carried by Lessee pursuant to this Agreement, or payment from a railroad, with respect to such repair (any such insurance or railroad payment a "Third Party Payment"), and (c) no Event of Default has occurred and is continuing, Lessor shall reimburse Lessee up to the amount of the Third Party Payment, but in no event more than the Lessee Cost payment previously paid by Lessee with respect to such repair.

E. Rent Abatement. Except as provided in the next succeeding sentence, when a Car arrives at a shop designated by Lessor for maintenance or repair, the rental charges for such Car shall abate beginning with the sixth (6th) day after the date of arrival in the shop, provided, that if a Car is delivered to a shop for maintenance or repair without advance notice from Lessee to Lessor (unless Lessor has requested delivery of such Car to such shop), the abatement period will not commence until the sixth (6th) day after the later of (i) the date Lessee delivers notice to Lessor regarding, or Lessor becomes aware of, the nature of the maintenance or repair requested for such Car or (ii) the date such Car is delivered to a shop acceptable to Lessor. The rental charges shall continue during the repair period to the extent any repairs are required (i) as a result of any damage described in clause (a), (b) or (c) of Section 7.D.ii., (ii) while on a railroad that does not subscribe to, or fails to meet its responsibility under the Interchange Rules of the AAR, or (iii) while on any private siding or track (other than track of a shop designated by Lessor for the repair of such Car) or any private or industrial railroad.

8. Casualty Car(s). If any Car is totally damaged or destroyed or is uneconomic to repair (other than solely as a result of an increase following the date of the applicable Rider in the labor or material cost of such repairs) under Section 7 or is uneconomic to modify (other than solely as a result of an increase following the date of the applicable Rider in the labor or material cost of such repairs) under Section 20, in each case, as reasonably determined by Lessor (an "Event of Loss"), the rent for such Car will terminate upon the receipt by Lessor of reimbursement for such Car as specified in this Section 8. If the Event of Loss occurs as a result of any damage described in clause (a), (b) or (c) of Section 7.D.ii., the reimbursement amount will be an amount equal to the Stipulated Loss Value for such Car. If the Event of Loss occurs as a result of any damage other than damage described in the immediately preceding sentence, the reimbursement amount will be the settlement value of such Car calculated using AAR Rule 107. Within sixty (60) days of such Event of Loss, Lessee shall pay to Lessor the applicable reimbursement amount for such Car, unless Lessor shall have previously received from a railroad the settlement value for such Car calculated using AAR Rule 107. Lessor will remit to Lessee any amount it subsequently receives from a railroad under AAR Rule 107 or any insurance proceeds from property insurance carried by Lessee pursuant to Section 13 in respect of a Car up to the amount previously paid to Lessor by Lessee as a reimbursement amount in respect of such Car. In the case of an Event of Loss Lessor has the right, but is not obligated, to substitute for any such Car another Car of substantially the same age, type, quality and capacity with the consent of Lessee.

9. **Renewal.** Unless otherwise provided in the applicable Rider, Lessee shall have no right to renew this Agreement with respect to any Car other than with the mutual agreement of Lessor and Lessee.

10. **Return Conditions.** Lessee must return the Car(s) to Lessor at a location agreed by Lessor and Lessee in the same or as good as delivered condition, ordinary wear and tear excepted. Lessee shall be liable for any item which is removed, broken, altered, missing, damaged (including bent top cords and gates if any), except to the extent, in each case, Lessor is or was responsible for the cost of repair of such item pursuant to the applicable Lease, or replaced with a non–standard item (unless such replacement was done by Lessor). Lessee will return Car(s) free from all charges, liens, and encumbrances (other than Lessor Liens) and free from all lettering and stenciling (other than any marks and numbers required by the applicable Rider) and all accumulations or deposits from commodities transported in the Car(s). Lessee must remove all modifications made by Lessee that are readily removable without causing damage to the Car(s) and without diminishing the value, utility or remaining economic useful life of the Car(s) (in each case as if such modification had not been made) at Lessee's cost and expense, and Lessee will pay for the repair of any damage resulting from the removal of any such modifications in accordance with Section 7.D.; provided that such removal shall not (i) diminish the fair market value, residual value, utility or remaining economic useful life of the Car to which such modifications relate below what the fair market value, residual value, utility or remaining economic useful life thereof would have been without the addition of such modifications or (ii) cause such Car to become "limited use property" within the meaning of Revenue Procedure 2001–28 or Revenue Procedure 2001–29. If Lessee has not removed any such modification prior to the return of the related Car as provided herein, title to such modification shall pass to Lessor as of the date of such return. Lessee must reimburse Lessor for any expense incurred in cleaning, removal, and disposal of any remaining accumulation or deposits from such Car. Lessor may, at Lessee's expense, return the Car(s) to Lessee for cleaning. No rental credits will be issued while Car(s) are being cleaned, and rent will continue until such Car(s) are returned to Lessor empty and clean at a location agreed by Lessor and Lessee.

11. **Representations and Warranties of Lessee.** Lessee represents and warrants to Lessor as follows as of the date of this Agreement and as of the date of execution of each Rider:

A. Lessee is a corporation duly organized and validly existing under the laws of the State of Delaware, has all requisite corporate power and authority to carry on its business in all material respects as now conducted, to own or hold under lease its property and to enter into, and perform its obligations under, the Operative Agreements to which it is a party, and is duly qualified and is in good standing as a foreign corporation in each other jurisdiction where the failure to so qualify, due to the character of its properties or the nature of its activities, could reasonably be expected to have a material adverse effect on its financial or business condition or would materially and adversely affect the ability of Lessee to perform its obligations under the Operative Agreements to which it is a party;

B. Lessee is duly authorized by all necessary corporate action to execute and deliver the Operative Agreements to which it is a party and to fulfill and comply with the

terms, conditions and provisions thereof; this Agreement and each Assignment of Purchase Agreement (if any) have been, and each Rider has been or will be, on the date required to be delivered hereby, duly executed and delivered by Lessee; and this Agreement and each Assignment of Purchase Agreement (if any) are, and each Rider, when so duly executed and delivered, will be, valid, legal and binding agreements of Lessee, enforceable against Lessee in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting the rights of creditors generally and by general principles of equity, including, without limitation, concepts of good faith and fair dealing, materiality, reasonableness and the possible unavailability of specific performance or injunctive relief (regardless of whether such enforceability is considered in a proceeding in equity or at law);

C. There are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against or affecting Lessee or any of its property or rights before any court or governmental authority that (i) question the validity of any Operative Agreement to which it is a party or Lessee's ability to perform its obligations under any Operative Agreement to which it is a party or (ii) if adversely determined, would materially and adversely affect the ability of Lessee to perform its obligations under any Operative Agreement to which it is a party;

D. Neither the execution and delivery of the Operative Agreements to which it is a party, nor its compliance with the terms and provisions thereof that are applicable to Lessee, (i) conflicts with, results in a breach of, constitutes a default under (with or without the giving of notice or the lapse of time or both), or violates any of the terms, conditions or provisions of, (A) the Certificate of Incorporation or the Bylaws of Lessee or (B) any bond, debenture, note, mortgage, indenture, agreement, lease or other instrument to which Lessee is now a party or by which it or its property is bound or affected, where such conflict, breach, default or violation, in the case of any of the instruments described in this subclause (B), would have a material adverse effect on the financial or business condition of Lessee or would materially and adversely affect the ability of Lessee to perform its obligations under any Operative Agreement to which it is a party, or (ii) results in the creation or imposition of any lien upon any Car pursuant to the terms of any such certificate, by-laws, bond, debenture, note, mortgage, indenture, agreement, lease or other instrument (other than pursuant to the terms of the Operative Agreements);

E. Neither the execution and delivery by Lessee of the Operative Agreements to which it is a party, nor the fulfillment of, or compliance with, the terms and provisions of the Operative Agreements that are applicable to Lessee, conflicts with, or results in a breach of, or violates, any of the terms, conditions or provisions of any law, rule, regulation, order, injunction or decree of any governmental authority applicable to Lessee, the breach or violation of which would (i) have a material adverse effect on Lessee, Lessor or any Car, (ii)

materially and adversely affect Lessee's ability to perform its obligations under any Operative Agreement to which it is a party, or (iii) result in the imposition of any criminal liability on Lessee or Lessor;

F. All federal, state, local and foreign income tax returns required to be filed by Lessee have, in fact, been filed, and all taxes which are shown to be due and payable in such returns have been paid except to the extent such taxes are being contested in good faith by appropriate proceedings timely initiated and diligently prosecuted. No material controversy in respect of additional income taxes due is pending or, to the knowledge of Lessee, threatened, which controversy if determined adversely would materially and adversely affect Lessee's ability to perform its obligations under any Operative Agreement to which it is a party;

G. No Event of Default or event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default, has occurred and is continuing;

H. No consent, approval or authorization of any governmental authority (other than approval to be obtained by appropriate submissions to the United States Surface Transportation Board and filings with the office of the Registrar General of Canada) is required (i) for Lessee's execution, delivery and performance of the Operative Agreements to which it is a party, or (ii) to the knowledge of Lessee, for Lessor's execution, delivery and performance of the Operative Agreements to which it is a party solely by reason of the status of Lessee, the nature of the Cars, or Lessee's proposed operation or use of the Cars (including without limitation, use by Lessee's affiliates or any sublessee), provided that Lessee makes no representation or warranty whether Lessor's performance of its obligations under the Operative Agreements to which it is a party, when taken in conjunction with any activities of Lessor that are not required pursuant to such documents, may require such consent, approval or authorization other than, in each case, any such consent, approval or authorization which is not yet required to be obtained; and Lessee has complied with all applicable provisions of law requiring the designation, declaration, filing, registration and/or qualification with any governmental authority in connection with the execution and delivery and performance of any Operative Agreement to which it is a party except where such non-compliance will not have a material adverse effect on the Lessee's ability to perform its obligations under any Operative Agreement to which it is a party;

I. Lessee has not created any lien (other than pursuant to this Agreement or any Rider) on any Car. Lessee has not taken any action that would interfere in any way with Lessor's title to the Cars, and no party has any claim to the Cars by, through or under Lessee;

J. (i) the "location" (as such term is used in Section 9-307 of the Uniform Commercial Code) of the Lessee is the State of Delaware, (ii) the place where its records concerning the Cars and all of its interests in, to and under all documents relating to the Cars are and will be kept is located at 211 Carnegie Center,

Princeton, New Jersey 08540, (iii) "NRG Power Marketing Inc." is Lessee's true legal name as registered in the jurisdiction of its organization and (iv) Lessee agrees to give the other parties hereto at least 30 days' prior written notice of any change in its location as a registered organization from its present location or its jurisdiction of organization from the jurisdiction as set forth herein;

K. To the extent Lessee has assigned certain rights under an equipment purchase agreement (a "Purchase Agreement") to Lessor pursuant to an Assignment of Purchase Agreement, Lessee has provided to Lessor a true, correct and complete copy of such Purchase Agreement covering the Car(s) to be leased by Lessor pursuant to this Agreement and the applicable Rider and such Purchase Agreement has not been amended, restated, modified or rescinded since the date such copy was delivered to Lessor.

L. No change has occurred since the Reference Date in the financial or business condition of either Lessee or NRG Energy, Inc. (the "Guarantor") that materially and adversely affects the Guarantor's or the Lessee's ability to perform its respective obligations under any Operative Agreement to which it is a party;

M. The audited consolidated balance sheets of Guarantor and its consolidated subsidiaries as of the fiscal year ended on the Balance Sheet Date, and their related audited consolidated statements of income and cash flows for the fiscal years ended on said dates have been prepared in accordance with generally accepted accounting principles in the United States ("GAAP"), consistently applied, and present fairly the financial position of Guarantor and its consolidated subsidiaries on a consolidated basis as of such dates and the results of operations of Guarantor and its consolidated subsidiaries on a consolidated basis for such period;

N. Neither Guarantor nor any of its subsidiaries is in default in any payment of principal or interest, regardless of amount, due in respect of any indebtedness for borrowed money in an aggregate principal amount exceeding $50,000,000. No default by Lessee or any of its subsidiaries has occurred and is continuing (which default cannot be cured within any applicable grace period) under any instrument or agreement pursuant to which any indebtedness for borrowed money in excess of $50,000,000 has been issued that results in such indebtedness becoming due prior to its scheduled maturity or that enables or permits the holders of such indebtedness to cause such indebtedness to become due prior to its scheduled maturity; and

O. Lessee has not, directly or indirectly, used the services of any broker, agent or finder in regard to any of the transactions contemplated hereby.

12. <u>**Representations and Warranties of Lessor**</u>. Lessor represents and warrants to Lessee as follows as of the date of this Agreement and as of the date of execution of each Rider:

A. Lessor is a corporation duly organized and validly existing under the laws of the State of Delaware; has all requisite corporate power and authority to carry on its business in all material respects as now conducted, to own or hold under lease its property and to enter into, and perform its obligations under, the Operative Agreements to which it is a party, and is duly qualified and is in good standing as a foreign company in each other jurisdiction where the failure to so qualify, due to the character of its properties or the nature of its activities, could reasonably be expected to have a material adverse effect on its business, results of operations, assets or financial condition or would materially and adversely affect the ability of Lessor to perform its obligations under any Operative Agreement to which it is a party;

B. Lessor is duly authorized by all necessary corporate action to execute and deliver the Operative Agreements to which it is a party and to fulfill and comply with the terms, conditions and provisions thereof; this Agreement and the Assignment of Purchase Agreement (if any) have been, and each Rider has been or will be, on the date required to be delivered hereby, duly executed and delivered by Lessor; and this Agreement and the Assignment of Purchase Agreement (if any) are, and each Rider, when so duly executed and delivered, will be, valid, legal and binding agreements of Lessor, enforceable against Lessor in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting the rights of creditors generally and by general principles of equity, including, without limitation, concepts of good faith and fair dealing, materiality, reasonableness and the possible unavailability of specific performance or injunctive relief (regardless of whether such enforceability is considered in a proceeding in equity or at law);

C. There are no actions, suits or proceedings pending or, to the knowledge of Lessor, threatened against or affecting Lessor or any of its property or rights before any court or governmental authority that (i) question the validity of any Operative Agreement to which it is a party or Lessor's ability to perform its obligations under any Operative Agreement to which it is a party or (ii) if adversely determined, would materially and adversely affect the ability of Lessor to perform its obligations under any Operative Agreement to which it is a party;

D. Neither the execution and delivery of the Operative Agreements to which it is a party, nor its compliance with the terms and provisions thereof that are applicable to Lessor, (i) conflicts with, results in a breach of, constitutes a default under (with or without the giving of notice or the lapse of time or both), or violates any of the terms, conditions or provisions of, (A) the Certificate of Incorporation or Bylaws of Lessor or (B) any bond, debenture, note, mortgage, indenture, agreement, lease or other instrument to which Lessor is now a party or by which it or its property is bound or affected, where such conflict, breach, default or violation, in the case of any of the instruments described in this subclause (B), would have a material adverse effect on the business, results of operations, assets

or financial condition of Lessor or would materially and adversely affect the ability of Lessor to perform its obligations under any Operative Agreement to which it is a party, or (ii) results in the creation or imposition of any lien upon any Car pursuant to the terms of any such certificate, by–laws, bond, debenture, note, mortgage, indenture, agreement, lease or other instrument;

E. Neither the execution and delivery by Lessor of the Operative Agreements to which it is a party, nor the fulfillment of, or compliance with, the terms and provisions of the Operative Agreements that are applicable to Lessor, conflicts with, or results in a breach of, or violates, any of the terms, conditions or provisions of any law, rule, regulation, order, injunction or decree of any governmental authority applicable to Lessor, the breach or violation of which would (i) have a material adverse effect on Lessee, Lessor or any Car, (ii) materially and adversely affect Lessor's ability to perform its obligations under any Operative Agreement to which it is a party, or (iii) result in, or increase the risk of, the imposition of any criminal liability on Lessee or Lessor;

13. **Insurance**. Upon acceptance of each Car, Lessee, at its own cost and expense, shall keep such Car insured under an "all risk" property insurance policy (the "Property Policy") for the value of such Car and in no event (other than with respect to Lessee's deductible of $500,000) for less than an amount equal to the greater of (i) the Stipulated Loss Value for such Car and (ii) the settlement value of such Car (calculated using AAR Rule 107), and shall maintain Commercial General Liability and/or Excess Liability insurance policies (the "Liability Policies") which, when combined, shall have limits of not less than $10,000,000 for each occurrence and in the aggregate. All such insurance shall be placed with first class insurers and underwriters that have an A.M. Best rating of A (excellent) or better, shall specify Lessor as loss payee on the Property Policy and as an additional insured on the Liability Policies and shall provide that such insurance may not be canceled as to Lessor or altered in any way that would affect the interest of Lessor without at least thirty (30) days prior written notice to Lessor (ten (10) days in the case of nonpayment of premium). All insurance shall be primary, without right of contribution from any other insurance carried by Lessor. The "all risk" property insurance policy shall contain a "breach of warranty" provision if, at any time from and after the date of this Agreement, Lessee has obtained an "all risk" property insurance policy containing a "breach of warranty" in any other lease transaction and shall provide that all amounts payable by reason of loss or damage to the Car shall be payable to Lessor. Lessee shall provide Lessor with evidence satisfactory to Lessor of the required insurance five (5) Business Days prior to the applicable Delivery Date.

14. **Financial Covenants**. The financial covenants set forth in Section 6.10 (Consolidated Interest Coverage Ratio) and Section 6.11 (Consolidated Leverage Ratio) of that certain Credit Agreement as amended and restated as of December 24, 2004 among NRG Energy, Inc., Lessee, the Lenders party thereto, and Credit Suisse First Boston, acting through its Cayman Islands Branch, as administrative agent, joint lead book runner, joint lead arranger, and co–documentation agent, and Goldman Sachs Credit Partners L.P., as joint lead book runner, joint lead arranger, and co–documentation agent, (as such Credit Agreement may be amended, restated, supplemented or otherwise modified from time to time the "Senior Credit Agreement") are hereby incorporated by reference (together with all applicable defined terms relating thereto) as if

fully set forth herein provided that any modification or deletion to such financial covenants shall be effective only upon receipt by Lessor of notice of such amendment pursuant to Section 29.B.

15. Closing Conditions.

A. Conditions on the Closing Date. The obligation of each of Lessee and Lessor to perform its obligations hereunder shall be subject to the satisfaction or waiver of the following conditions precedent on or prior to the Closing Date (except that the obligation of any party hereto shall not be subject to such party's own performance or compliance):

(i) This Agreement and the Guaranty dated as of February 18, 2005 by the Guarantor (the "Guaranty") shall have been duly executed and delivered by the parties thereto;

(ii) All proceedings taken in connection with the Closing Date and all documents and instruments to be delivered thereon or relating thereto shall be reasonably satisfactory to each party, and each party shall have received copies of such documents as such party may reasonably request in connection therewith, all in form and substance reasonably satisfactory to such party and its counsel;

(iii) (A) Lessor shall have received the opinions, each dated the Closing Date and in form and substance satisfactory to the Lessor, of (1) Timothy O'Brien, Esq., General Counsel to Lessee and Guarantor; and (2) Skadden, Arps, Slate, Meagher & Flom LLP, special counsel to Lessee and Guarantor; and (B) Lessee shall have received the opinions, each dated the Closing Date and in form and substance satisfactory to the Lessee, of (1) Oliver W. R. Champagne, Esq., General Counsel to Lessor; and
(2) Winston & Strawn LLP, special counsel to Lessor;

(iv) Lessor shall have received (A) copies of Lessee's Certificate of Incorporation, certified by the Secretary of State of the State of Delaware no earlier than the fifteenth day prior to the Closing Date, and Bylaws, accompanied by an Officer's Certificate, dated the Closing Date, of such corporation, stating that such documents are in full force and effect and have not been amended since the respective dates thereof, (B) certificate of existence from the Secretary of State of the State of Delaware dated no earlier than the fifteenth day prior to the Closing Date, with respect to Lessee, (C) a Certificate of the Secretary of Lessee, dated the Closing Date, certifying that Lessee's Board of Directors has duly adopted resolutions authorizing the execution, delivery and performance by such corporation of the Operative Agreements to which it is a party and that such resolutions are in full force and effect and have not been amended since the date of their adoption, and certifying as to the incumbency of the officers of Lessee executing each of the Operative Agreements;

(v) Lessor shall have received (A) copies of Guarantor's Certificate of Incorporation, certified by the Secretary of State of the State of Delaware no earlier than the fifteenth day prior to the Closing Date, and Bylaws, accompanied by an Officer's Certificate, dated the Closing Date, of such corporation, stating that such documents are in full force and effect and have not been amended since the respective dates thereof, (B) certificate of existence from the Secretary of State of the State of Delaware dated no earlier than the fifteenth day prior to the Closing Date, with respect to Guarantor, (C) a Certificate of the Secretary of Guarantor, dated the Closing Date, certifying that the Guarantor's Board of Directors has duly adopted resolutions authorizing the execution, delivery and performance by such corporation of the Operative Agreements to which it is a party and that such resolutions are in full force and effect and have not been amended since the date of their adoption, and certifying as to the incumbency of the officers of Guarantor executing each of the Operative Agreements; and

(vi) Lessee shall have received (A) copies of Lessor's Certificate of Incorporation, certified by the Secretary of State of the State of Delaware no earlier than the fifteenth day prior to the Closing Date, and Bylaws, accompanied by an Officer's Certificate, dated the Closing Date, of such corporation, stating that such documents are in full force and effect and have not been amended since the respective dates thereof, (B) certificate of existence from the Secretary of State of the State of Delaware dated no earlier than the fifteenth day prior to the Closing Date, with respect to Lessor, (C) a Certificate of the Secretary of Lessor, dated the Closing Date, certifying that the Lessor's Board of Directors has duly adopted resolutions authorizing the execution, delivery and performance by such corporation of the Operative Agreements to which it is a party and stating that such resolutions are in full force and effect and have not been amended since the date of their adoption, and certifying as to the incumbency of the officers of Lessor executing each of the Operative Agreements.

B. Conditions on Each Delivery Date. The obligation of each of Lessee and Lessor to perform its obligations hereunder and under any Rider shall be subject to satisfaction or waiver of the following conditions precedent on or prior to each Delivery Date (except that the obligation of any party hereto shall not be subject to such party's own performance or compliance):

(i) The applicable Rider shall have been duly executed and delivered by the parties thereto;

(ii) With respect to each Initial Rider, Memoranda of the Lease and each Rider to be executed and delivered on or prior to such Delivery Date shall have been filed with the Surface Transportation Board, pursuant to 49 U.S.C. § 11301, and the Registrar General of Canada, pursuant to Section 105 of

the Canada Transportation Act and the financing statements shall have been filed in the appropriate offices in the State of Delaware;

(iii) All taxes, if any, payable by Lessee on or prior to such Delivery Date in connection with the execution, delivery, recording or filing of this Agreement and any Rider shall have been paid in full;

(iv) The Lessor shall have received evidence of Lessee's compliance with the terms and conditions set forth in Section 13 of this Agreement with respect to insurance for the Cars to be delivered on such Delivery Date;

(v) The representations and warranties of each of the parties contained in this Agreement and in any Rider and of the Guarantor in the Guaranty shall be true and correct in all material respects on such Delivery Date with the same effect as though made on and as of such Delivery Date, and an Officer's Certificate, dated such Delivery Date, of each of such parties to that effect shall have been delivered to such party;

(vi) With respect to each Initial Rider, on such Delivery Date Lessor shall have received the opinions, each dated such Delivery Date and in form and substance satisfactory to the Lessor, of (A) Alvord and Alvord, special Surface Transportation Board counsel; and (B) McCarthy Tetrault LLP, special Canadian counsel;

(vii) (x) Good and valid title to each Car delivered on such Delivery Date shall be transferred to Lessor, free of all liens (other than the applicable Lease and Lessor Liens) and (y) the Capitalized Lessor's Cost of each Car shall not exceed the actual cost as confirmed by copies of manufacturer invoices certified by Lessee plus applicable sales tax;

(viii) On such Delivery Date, neither Lessee nor Guarantor has suffered any material adverse changes in its financial or business, condition since the date of Lessee's or Guarantor's, as the case may be, most recent audited financial statements publicly filed or delivered to Lessor;

(ix) No Event of Default or event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default, shall exist prior to or immediately after giving effect to the transactions contemplated by this Agreement and each Rider;

(x) All consents and approvals of third parties (including governmental authorities) required in connection with the execution, delivery and performance of this Agreement and each Rider by the parties thereto shall have been received and shall be in full force and effect on such Delivery Date, other than such consents and approvals the non–attainment of which

will not have a material adverse effect on Lessee's ability to perform its obligations under any Operative Agreement to which it is a party;

(xi) No change shall have occurred after the date of the execution and delivery of this Agreement in applicable law or regulations thereunder or interpretations thereof by regulatory authorities that, in the reasonable opinion of Lessor or Lessee, would make it illegal for such party to enter into any transaction contemplated by this Agreement or the applicable Rider relating to the Cars to be delivered on such Delivery Date;

(xii) No action or proceeding shall have been instituted nor shall governmental action be threatened before any court or governmental agency, nor shall any order, judgment or decree have been issued or proposed to be issued by any court or governmental agency at the time of such Delivery Date, to set aside, restrain, enjoin or prevent the completion and consummation of this Agreement or the transactions contemplated hereby;

(xiii) No change in tax law shall have occurred on or prior to such Delivery Date that in the reasonable opinion of Lessor affects or could affect in any adverse respect the tax treatment to Lessor of the transactions contemplated by this Agreement, unless an appropriate adjustment with respect thereto is made pursuant to Section 4B hereof in a manner acceptable to Lessor; and

(xiv) All proceedings taken in connection with such Delivery Date and all documents to be delivered thereon or relating thereto shall be reasonably satisfactory to such party and its counsel, and such party and its counsel shall have received copies of such documents as such party or its counsel may reasonably request in connection therewith or as the basis for such counsel's opinions to be delivered in connection with such Delivery Date, all in form and substance reasonably satisfactory to such party and its counsel.

16. Taxes. Lessee shall pay, and shall indemnify, reimburse, and hold Lessor (on a net after tax basis (taking into account any tax savings available to Lessor)) harmless from and against, all fees, taxes, withholdings, assessments and other governmental charges, however designated, together with any penalties, fines or interest, if any, thereon, (collectively, the "Impositions") which are at any time levied, assessed or imposed against Lessor, Lessee, this Agreement, any Rider, the Car(s) or any part thereof by any Federal, state, local or foreign government or taxing authority upon, with respect to, as a result of, or measured by (i) the Car(s) (or any part thereof), or this Agreement or any Rider or the interest of the Lessor therein, or (ii) the purchase, ownership, delivery, leasing, possession, maintenance, use, operation, return, sale or other disposition of the Car(s) or any part thereof, or (iii) the rentals, receipts or earnings payable under this Agreement or any Rider or otherwise arising from the Car(s) or any part thereof; excluding in each case, however, (s) Impositions by any foreign government or taxing authority except to the extent imposed as a result of the use or presence of any Car, or the presence or activities of

Lessee, in such jurisdiction, (t) Impositions relating to any Car with respect to any period after the termination of the lease of such Car and the return of such Car in accordance with this Agreement, (u) Impositions resulting from the gross negligence or willful misconduct or breach of any covenant of Lessor, (v) Impositions attributable to any transfer, assignment, lien, pledge or financing by Lessor, other than as required by this Agreement, as requested by Lessee or pursuant to Lessor's exercise of any remedies pursuant to Section 19.B. of this Agreement or any Rider; (w) Impositions relating to maintenance, modifications or repairs for which Lessor is responsible under Section 7. A. or 20 of this Agreement, (x) Federal, state or local Impositions based on or measured by the gross or net income of Lessor, other than Impositions which are (or are in the nature of) use or rental Impositions, (y) Federal, state and local property taxes (including ad valorem taxes, to the extent such taxes are in lieu of property taxes) incurred, assessed against or levied upon the Car(s) and (z) Impositions imposed by the State of Illinois upon the purchase of Cars(s) from the Seller (such Impositions specified in clauses (s) through (z), "Lessor Taxes"). Lessee agrees to notify Lessor of any assessments of which Lessor is not otherwise aware and to cooperate with Lessor in any contest, in each case, relating to any Lessor Taxes. Lessor shall have no duty to contest any Lessor Taxes and will not be liable or accountable to Lessee therefore. Lessor shall cooperate with Lessee to permit the pursuit of any contest with respect to any Impositions for which Lessee is liable under this Section 16. Notwithstanding the foregoing, Lessee shall not be required to indemnify Lessor for any use or rental Impositions imposed by the State of Illinois, and Lessor shall reimburse Lessee for any use or rental Impositions imposed by the State of Illinois and paid by the Lessee with respect to the Cars, this Agreement or the transactions contemplated by this Agreement (and any such Impositions referred to in this sentence shall be treated as Lessor Taxes). Lessor also shall reimburse Lessee for any claims made by Seller against Lessee with respect to sales Impositions imposed upon the purchase of the Cars. Lessee will complete and file on a timely basis any returns and filings required in any taxing jurisdiction with respect to use and rental taxes imposed with respect to the Cars, this Agreement or the transactions contemplated by this Agreement (other than with respect to any such use or rental Impositions imposed on Lessor by the State of Illinois, provided, however, that Lessee shall provide to Lessor such information and assistance as Lessor shall reasonably request with respect to any such returns or filings in Illinois). Lessee's and Lessor's obligations under this paragraph shall survive the expiration or earlier termination of this Agreement and any Rider.

17. Indemnity. A. Lessee shall indemnify Lessor (on a net after tax basis (taking into account any tax savings available to Lessor)) from any losses, liabilities, expenses (including without limitation, the reasonable cost of investigating and defending against any claim for damages), fines or penalties, including losses related to damage caused to or by materials placed in the Car(s) (collectively, "Claims"), which may at any time be imposed upon, incurred by or asserted or awarded against Lessor in connection with: (a) the lease, sublease, use, operation, possession, storage, abandonment or return of the Car(s) during the term of this Agreement, and (b) any present or future applicable law, rule or regulation (including without limitation, common law and environmental law) related to the release, removal, discharge or disposition, whether intentional or unintentional, of any materials from or placed in a Car during the term of this Agreement, except in each case (i) any Impositions, or any Tax Benefits (it being understood that any obligation of Lessee with respect to Tax Benefits is set forth in Sections 17.B. and C. of this Agreement), or (ii) any Claims which accrue on the Car(s) while such Car is in a repair shop

chosen by Lessor, or for which a railroad(s) has assumed full responsibility or (iii) any Claims that Lessor has assumed or agreed to pay under this Agreement or any Rider (including, without limitation, any maintenance and repairs that are not Lessee's responsibility under Section 7.B., any modifications contemplated by Section 20 or any expenses set forth in Section 23) or (iv) any Claims relating to any Car with respect to any period after the termination of the lease of such Car and the return of such Car in accordance with this Agreement (other than Claims in connection with Lessor's exercise of remedies after an Event of Default has occurred and is continuing) or (v) any Claims resulting from the gross negligence or willful misconduct or breach of any covenant of Lessor or (vi) any Claims for the expenses of any transfer, assignment, lien, pledge or financing by Lessor (other than Claims in connection with Lessor's exercise of remedies after an Event of Default has occurred and is continuing).

B. Lessee hereby represents, warrants and covenants that: (i) each of the Cars is not, and will not at any time during the term of this Lease be treated as, tax-exempt use property within the meaning of Section 168(h) of the Code; and (ii) at no time during the term of this Lease will Lessee take or omit to take, nor will it permit any sublessee or assignee to take or omit to take, any action (unless such action or omission is required by Lessor or by this Lease or any Rider), which will result in the disqualification of any Car for, or recapture of, all or any portion of the tax benefits with respect to such Car set forth in the "Tax Benefits" section of the applicable Rider (other than any tax benefits associated with foreign tax credits, the "Tax Benefits").

C. If as a result of a breach of any representation, warranty or covenant of the Lessee contained in this Lease or any Rider (i) tax counsel of Lessor shall provide a written opinion that there is no reasonable basis for Lessor to claim on its Federal income tax return all or any portion of the Tax Benefits with respect to the Car(s), or (ii) any Tax Benefit claimed on the Federal income tax return of Lessor is disallowed or adjusted by the Internal Revenue Service, or (iii) any Tax Benefit is recalculated or recaptured (any such determination, disallowance, adjustment, recalculation or recapture being a "Loss"), then Lessee shall pay to Lessor, as an indemnity and as additional rent, a lump-sum amount that shall equal the present value (discounted at 4.0%) of all additional federal income taxes (plus interest, penalties and additions to tax) currently payable and anticipated to be payable in future years by Lessor as a result of such indemnified Loss (and any payment due hereunder), less (but not below zero) the present value (discounted at 4.0%) of all anticipated future tax savings of Lessor resulting from such indemnified Loss or the event giving rise thereto (for purposes of this calculation, additional federal income taxes anticipated to be payable or reduced will be computed on the same basis); provided, however, that no indemnity shall be payable under this clause (C) if such Loss with respect to any Car(s) occurs as a result of (1) a change in the Internal Revenue Code of 1986, as amended, or any regulation thereunder that occurs and is effective after the Delivery Date for such Car(s), (2) any event that requires Lessee to pay Stipulated Loss Value, a settlement value, any lease termination amount, or any reimbursement or AAR Rules settlement amount, in each case, if Lessee shall have made such payment to Lessor, (3) any transfer or assignment by Lessor other than any transfer or assignment in connection with Lessor's exercise of remedies pursuant to Section 19.B. or (4) any breach by Lessor of any covenant in this Agreement or any Rider. Such amount shall be payable within 30 days of demand accompanied by a statement describing in reasonable detail such Loss and the computation of such amount (but no earlier than the date such additional taxes are or are deemed payable by Lessor). The indemnity shall be computed on the same assumptions,

including Federal and state tax rates as were used by Lessor in originally evaluating the transaction other than any assumption rendered untrue as a result of such Loss.

D. If as a result of a violation by Lessee of its U.S. use covenant in Section 5 hereof during the first eight calendar years of the lease term for the applicable Rider, Lessor's tax liability increases as a result of the foreign tax credits available for use by Lessor in such year being less than the foreign tax credits that would have been available for such year had the aggregate use of the Cars subject to such Rider outside the United States not exceeded 15% in such calendar year, Lessee shall indemnify Lessor for an amount equal to such reduction in foreign tax credits, plus any interest, penalties and additions to tax. If during any other calendar year, the aggregate use of the Cars subject to such Rider outside the United States exceeds 15% in any calendar year and the Lessor's tax liability is reduced as a result of an increased ability to utilize foreign tax credits, Lessor shall pay Lessee an amount equal to such increase in foreign tax credits, but in no event an amount greater than the indemnity paid by Lessee under this paragraph with respect to such Cars. In the event of any dispute as to the amount due under this Section 17.D., the parties shall agree to a mutually satisfactory verification procedure, provided, however, that in no event shall Lessee have the right to review Lessor's tax returns.

E. All references to Lessor in this Section 17 include Lessor, the consolidated taxpayer group of which Lessor is a member, any other entity which has an ownership interest in, is owned by or is under common ownership with, Lessor and, for purposes of Section 17.A., the respective or collective officers, directors, agents and employees of each. All rights, privileges and indemnities contained in this Section 17 shall survive the expiration or other termination of this Lease, the rights, privileges and indemnities of Lessor contained herein are expressly made for the benefit of, and shall be enforceable by Lessor, its successors and assigns.

F. Lessee will make available and furnish upon request by the Lessor for inspection and copying by the Lessor such records that are regularly maintained by the Lessee in the ordinary course of its business relating to the Car(s) as may be reasonably necessary in order for the Lessor to fulfill its tax return, filing, audit, protest and litigation obligations and to calculate the amount of any indemnity under Section 16 or 17 of this Agreement.

G. Subject to reasonable customary conditions, Lessor will cooperate in good faith with any request by Lessee that Lessor contest any Loss for which Lessor is seeking indemnification hereunder, provided that Lessor shall control and make all decisions with respect to any such contest.

H. If any Lessor tax savings are taken into account in computing the amount payable by Lessee to Lessor (or any amount payable by Lessor to Lessee) under this Section 17, and any of such tax savings are subsequently disallowed or, as a result of a change of law, not available to Lessor as anticipated in making such computation, Lessee shall make a further payment to Lessor to indemnify and reimburse Lessor (on an after tax basis) for the loss of such tax savings.

18. Transfer or Assignment of Interest; Subleasing; Restrictions on Liens.

A. Transfer, Assignment or Subleasing by Lessee.

(i) At any time during the Term of the applicable Lease, Lessee may permit the use of any of the Car(s) by any of its affiliates consistent with its normal business practices; provided, that such affiliate is a United States person within the meaning of section 7701(a)(30) of the Internal Revenue Code of 1986, as amended, and such use shall not extend beyond the term of this Agreement and the applicable Rider and Lessee continues to remain liable to Lessor for any and all obligations and liabilities arising from the use, control or operation of the Car by such affiliate.

(ii) Lessee may sublease all but not less than all of the Cars described in any Rider; provided that (a) no Event of Default has occurred and is continuing, (b) at any time prior to the fifth anniversary of the Lease Term Commencement Date (1) no more than five (5) Train Sets are subject to one or more subleases at any time and (2) the term of such sublease shall not be greater than 36 months (or, if less, the remaining Term of the applicable Lease), (c) such sublease shall terminate prior to the Lease Term Expiration Date, (d) such sublease shall be expressly subject and subordinate to this Agreement and related Rider, (e) the sublease shall expressly prohibit any further assignment or subleasing of the Car by the sublessee, (f) the sublessee shall not be primarily engaged in the leasing of railcars, (g) Lessee shall take, or cause to be taken, such action reasonably necessary to collaterally assign to Lessor all of Lessee's right, title and interest in and to such sublease, (h) no sublease shall provide the sublessee with a purchase option in respect of the Car(s) or any renewal option which extends beyond the end of the Term, or if applicable, the earlier date to which such sublease may extend pursuant to clause (ii)(b) above, (i) no provision in such sublease relating to the use or operation of any Car shall be less restrictive than the comparable provision in this Agreement or the related Rider, (j) such sublease shall not result in Lessee being liable for any indemnity obligation set forth in Section 17.C. or D or increase the risk that any such indemnity obligation will arise, (k) to the knowledge of Lessee after due inquiry, the sublessee is not an adverse plaintiff or defendant in any then-existing litigation against the Lessor, and (1) such sublease shall expressly prohibit the transportation of any commodity not expressly permitted under this Agreement or the related Rider.

(iii) At all times during the Term of the applicable Lease, regardless of any permitted use or sublease permitted under this Section 18.A., Lessee shall continue to remain liable to Lessor for any and all obligations and liabilities arising from the use, control or operation of the Car by any party. Except as set forth above, Lessee shall not transfer, assign its interest in, or

sublease any Car under this Agreement without Lessor's prior written consent.

B. Transfer or Assignment by Lessor. Lessor may, without the consent of Lessee, assign, pledge, mortgage, lease, transfer or otherwise dispose, either in whole or in part, its rights under this Agreement or any Rider, or the right to enter into any Rider, and Lessor may assign, pledge, mortgage, lease, transfer or otherwise dispose of title to the Car(s) (it being understood that Lessor may, without the consent of Lessee, agree with or arrange for a third party to perform Lessor's maintenance and repair obligations under this Agreement as contemplated by Section 7.A.). Notwithstanding such assignment, pledge, mortgage, lease, transfer or other disposition, Lessor shall remain responsible for its obligations as and to the extent set forth in this Agreement and the applicable Rider in the event that such assignee or transferee fails to perform its obligations under this Agreement and the applicable Rider after demand by Lessee, unless Lessee consents in writing to release Lessor from its responsibilities under this Agreement and the applicable Rider, such consent not to be unreasonably withheld. Upon notice of such assignment by Lessor, Lessee agrees that it will pay all rent and other amounts payable under each Rider to the lessor named therein. Each Rider, incorporating by reference the terms and conditions of this Agreement, constitutes a separate instrument of lease, and the lessor named therein or its assignee shall have all rights as "Lessor" thereunder separately exercisable by such named lessor or assignee as the case may be exclusively and independently of Lessor or any other assignee with respect to any other Rider executed pursuant hereto. Lessee further agrees to confirm in writing receipt of a notice of assignment as may be requested by assignee. Lessee hereby waives and agrees not to assert against any such assignee any defense, set-off, recoupment claim or counterclaim which Lessee has or may at any time have against Lessor or any other person for any reason whatsoever relating to any event arising prior to the effectiveness of such assignment or transfer.

C. Restrictions on Liens. No title or interest in any Car will vest in Lessee except the right to use the Car(s) in accordance with the terms of this Agreement. Neither Lessee nor any sublessee will directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to any Car, Lessor's title thereto or any interest therein or in, to or under this Agreement or any interest of Lessor in any rent or any sublease. Lessee shall promptly, at its own expense, take or cause to be taken such action as may be necessary to duly discharge any lien when such lien arises and shall promptly furnish evidence of such discharge to Lessor.

19. **Default.**

A. Events of Default. The occurrence of any of the following events will be an Event of Default with respect to this Agreement or any Rider:

(i) (A) The nonpayment by Lessee of rent (except as provided in clause (B)) or any amount payable under Section 8 hereof, which is not cured within five (5) Business Days after the date such payment is due; (B) the nonpayment by Lessor of any portion of rent as to which Lessee reasonably believes that it is entitled to a rent abatement under Section *7.E.* and has given written notice of such belief to Lessor, which is not cured within fifteen (15) Business Days after receipt of notice that payment has not been made when due, and (C) the nonpayment by Lessee of any other sum required to be paid under this Agreement or any Rider which is not cured within five (5) Business Days after receipt of notice that payment has not been made when due;

(ii) The breach by Lessee of any term or condition of Sections 14 or 18 or failure of Lessee to maintain insurance required by this Agreement;

(iii) The breach by Lessee of any other term or condition of this Agreement which is not cured within thirty (30) days of receipt of written notice of such breach;

(iv) Any representation or warranty by Lessee or Guarantor contained in any Operative Agreement or in any certificate or document required to be delivered hereunder or thereunder shall have been incorrect in a material respect when made and shall remain uncured for a period of thirty (30) days after receipt of written notice of incorrectness;

(v) The general assignment for the benefit of creditors made by Lessee or Guarantor, or the failure of Lessee or Guarantor to pay, or the statement in writing by Lessee or Guarantor that it is unable to pay, or Lessee's or Guarantor's inability to pay its debts generally as its debts become due, or the filing by Lessee or Guarantor of a voluntary petition under any bankruptcy statute;

(vi) An involuntary petition is filed under any bankruptcy statute against Lessee or Guarantor or any receiver, trustee, custodian or similar official is appointed to take possession of the properties of Lessee or Guarantor, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within 60 days from the date of such filing or appointment;

(vii) An Event of Default has occurred under any other Rider; or (viii) a Guaranty Event of Default (as defined in the Guaranty) has occurred and is continuing under the Guaranty.

B. Lessor Remedies.

(i) Upon the occurrence and continuation of any Event of Default, then, to the extent permitted by applicable law, Lessor shall have the right to exercise any one or more of the following remedies:

(a) To proceed by appropriate court action to enforce performance by Lessee of its obligations hereunder or to recover damages for breach thereof;

(b) To take possession of any Car, wherever located, without notice, legal process, prior judicial hearing or liability for trespass or other damage (all of which Lessee hereby voluntarily and intelligently waives) and, thereafter, hold, sell, operate or lease such Cars free of claims by Lessee, without interrupting the other business of Lessee;

(c) By notice to Lessee, to terminate all Leases with respect to which the same entity or an affiliate of such entity is Lessor and declare all rent then owing to Lessor hereunder and under such Riders immediately due and payable (whereupon Lessee shall promptly pay the same);

(d) To pursue any other remedy available to Lessor at law or in equity; and

(e) To draw under any letter of credit issued to Lessor pursuant to the Guaranty as described in Section 16(f) of the Guaranty.

(ii) If Lessor elects not to sell, re-lease, or otherwise dispose of all or any of the Cars and holds such Cars for the Lessee for the remaining Term, Lessor may recover, in addition to all rent accrued and unpaid as of the date of Lessor's recovery of possession of the Cars, the difference between (a) the present value, as of such date, of the rent for the remainder of the Term respecting such Cars and (b) the present value, as of such date, of the fair market rental value (as determined by an appraiser selected by Lessor in its sole discretion) for the remainder of the Term respecting such Cars. Present value shall be computed using a discount rate equal to the yield on an actively traded U.S. Treasury issue selected by Lessor, as displayed on the "USD" screen or comparable screen of the Bloomberg Financial Markets Service, having a maturity equal to the then remaining length of the Term provided, however, that if such remaining Term is not equal to the maturity of an actively traded U.S. Treasury issue, such yield shall be obtained by linear interpolation from the yields of actively traded U.S. Treasury issues having the greater maturity closest to and the lesser maturity closest to such remaining Term (the "Default Discount Rate").

(iii) If Lessor sells, leases, or otherwise disposes of all or any of the Cars, Lessor may recover from Lessee, in addition to any rent accrued and unpaid as of the date of Lessor's recovery of possession of the Cars, the

present value computed by using a discount rate equal to the Default Discount Rate of the difference between (i) the rent for the remainder of the Term respecting such Cars and (ii) except in the case of a substantially similar lease, the fair market rental value (as determined by an appraiser selected by Lessor in its sole discretion) for such Cars for the remainder of the Term, or (iii) in the case of a lease of Cars which is substantially similar to this Agreement for a substantially similar term, the total rent for the lease term of such substantially similar lease.

(iv) Time of performance of Lessee's obligations hereunder is of the essence. All remedies of Lessor hereunder are cumulative, and may, to the extent permitted by law, be exercised concurrently or separately and the exercise of any one remedy shall not be deemed to be an election of such remedy to the exclusion of any other remedy or to preclude the exercise of any other remedy at any other time. Failure on the part of Lessor to exercise, or delay in exercising, any right or remedy hereunder or Lessor's failure at any time to require performance by Lessee of any of the provisions hereof shall not operate as a waiver thereof; nor shall any single or partial exercise of Lessor of any right or remedy hereunder preclude any other further exercise thereof or the exercise of any other right or remedy. Lessee shall be liable for all expenses incurred by Lessor in exercising the remedies provided hereunder, including, but not limited to, court costs and expenses of internal counsel, based upon time spent. Lessee shall pay to Lessor interest on any overdue payments under Section 17 or amounts due under this Section 19 after demand therefor and until paid at a rate per annum equal to the lesser of the Past Due Rate and the maximum amount permitted by applicable law.

20. Mandated Modifications. If the DOT, any other governmental agency, or organization having jurisdiction over the operation, safety or use of railroad equipment, requires modifications to the Car(s) subject to this Agreement in order to qualify the Car(s) for operation in railroad interchange, Lessor shall perform such modifications at its own cost and expense (subject to the final sentence of this Section 20), and Lessee must pay an additional monthly charge of $1.75 per Car for each $100 expended by Lessor on the Car. Such obligation by Lessee arises on the date the Car is released from the shop after application of the modifications ("Modifications"). If Lessor reasonably determines that the cost of making Modifications is uneconomic (other than solely as a result of an increase following the date of the applicable Rider in the labor or material cost of such repairs), Lessor shall so notify Lessee, whereupon such Car(s) shall be deemed to have suffered an Event of Loss.

21. Substitution of Car(s). Unless as otherwise set forth in the applicable Rider, Lessor may substitute for any Car another Car of the same type and capacity with the prior consent of Lessee which consent shall not be unreasonably withheld. The rent for the substituted Car will commence upon delivery of such Car to Lessee.

22. Transaction Expenses. Each of Lessee and Lessor shall be responsible for its own costs and expenses incurred in connection with the transactions contemplated by this Agreement and each Rider. Lessor shall be responsible for the costs and expenses of any filings with the Surface Transportation Board and the Registrar General of Canada and of the opinions of Alvord and Alvord and McCarthy Tetrault LLP with respect thereto.

23. Notice. All notices and other communications permitted or required by the provisions of this Agreement shall be in writing and shall be sent certified mail, return receipt requested, or faxed with a confirmation sheet confirming receipt attached, to the following addresses:

If to Lessee:

NRG Power Marketing Inc.

211 Carnegie Center
Princeton, New Jersey 08540
Attn: Director, Coal & Emissions
Fax: (609) 524-4540

Copy: General Counsel
Fax: (609) 524-4589

If to Lessor:

General Electric Railcar Services Corporation

161 North Clark
7th Floor
Chicago, Illinois 60601
Attn: Risk Management
Fax: (312) 853-5023

with a copy to:

General Electric Railcar Services Corporation
161 North Clark
7th Floor
Chicago, Illinois 60601
Attn: Vice President – Sales
Fax: (312) 853-5518

24. Exclusion of Warranties. LESSEE ACKNOWLEDGES AND AGREES THAT, AS BETWEEN LESSOR AND LESSEE (I) EACH CAR IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY AND ACCEPTABLE TO LESSEE, (II) LESSEE IS SATISFIED THAT EACH CAR IS SUITABLE FOR ITS PURPOSES, (III) LESSOR IS NOT A MANUFACTURER IN PROPERTY OF SUCH KIND, (IV) EACH CAR IS LEASED HEREUNDER SUBJECT TO ALL APPLICABLE LAWS AND GOVERNMENTAL REGULATIONS NOW IN EFFECT OR HEREAFTER ADOPTED, AND (V) LESSOR LEASES TO LESSEE AND LESSEE TAKES EACH CAR "AS-IS", "WHERE-IS" AND "WITH ALL FAULTS", AND LESSEE ACKNOWLEDGES THAT LESSOR HAS NOT MADE, AND LESSOR HEREBY EXPRESSLY DISCLAIMS, ANY AND ALL WARRANTIES OR REPRESENTATIONS EITHER EXPRESS OR IMPLIED, AS TO THE

VALUE, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, DESIGN, OPERATION, MERCHANTABILITY THEREOF OR AS TO THE TITLE, OF THE CARS, THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREOF OR CONFORMITY THEREOF TO SPECIFICATIONS, OR ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT THERETO, NOR DOES LESSOR HAVE ANY LIABILITY FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF THIS AGREEMENT OR IN CONNECTION WITH ANY CAR, it being agreed that all such risks, as between Lessor and Lessee, are to be borne by Lessee, provided that the foregoing shall not affect the obligations for maintenance and repair to which Lessor expressly agrees in this Agreement or any Rider.

25. Entire Agreement; Counterparts; Severability. This Agreement represents the entire agreement and may not be modified, altered, or amended, except by an agreement in writing signed by the parties. On or after September 30, 2005 but not later than October 31, 2005, Lessor and Lessee agree that any Initial Rider may be amended solely for the purpose of modifying the number of Cars subject to such Rider. This Agreement may be executed in any number of counterparts, each executed counterpart constituting an original and in each case such counterparts shall constitute but one and the same instrument. To the extent that any Rider would constitute chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest therein may be created through the transfer or possession of this Agreement in and of itself without the transfer or possession of the original of a Rider executed pursuant to this Agreement and incorporating this Agreement by reference; and no security interest in this Agreement and a Rider may be created by the transfer or possession of any counterpart of a Rider other than the original thereof, which shall be identified as the document marked "Original" and all other counterparts shall be marked "Duplicate". Any provision of this Agreement or any Rider which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. To the extent permitted by applicable law, Lessee hereby waives any provision of any law which prohibits or renders unenforceable any provisions hereof in any respect.

26. Compliance with Laws. Lessee agrees to comply with all federal, state, and local laws, rules, and regulations promulgated by any governmental authority or industry agency or authority which has proper jurisdiction to regulate the leasing, operation, maintenance, or use of the Car(s). Lessor agrees to comply with such laws, rules and regulations applicable to railcar owners or Lessors promulgated by such authority or agency which has proper jurisdiction to regulate the ownership and leasing and maintenance procedures applicable to the Car(s).

27. Applicable Law. The terms of this Agreement will be governed by the internal laws of the State of Illinois (without reference to conflicts of law provisions).

28. Survival. The representations, warranties and agreements of Lessee herein shall be deemed to be continuing and to survive the execution and delivery of this Agreement, each Rider and any other Operative Agreement to which Lessee or Lessor is a party. With respect to each Rider, the obligations of Lessee and Lessor under Sections 7, 8, 10, 16, 17, 20 and 22 hereof, together with any of Lessee's or Lessor's obligations under the other provisions of this Agreement (as

incorporated therein) which have accrued but not been fully satisfied, performed or complied with prior to the expiration or earlier cancellation or termination of such Rider, shall survive the expiration or earlier cancellation or termination thereof.

29. **Financial Statements; Reports; Insurance Certificate Grant of Security Interest; Further Assurances.**

A. Lessee will furnish to Lessor: (i) within ninety (90) days after the end of each fiscal year of Guarantor a consolidated balance sheet of Guarantor and its consolidated subsidiaries as at the end of such year, and the related statement of income, stockholder's equity and cash flows showing the financial position of Guarantor and its consolidated subsidiaries as of the close of such fiscal year prepared in accordance with GAAP, all in reasonable detail and certified by independent certified public accountants of recognized standing selected by Guarantor (it being agreed that if Guarantor files a Form 10-K with the United States Securities and Exchange Commission (the "SEC"), that delivery of such Form 10-K shall be deemed to satisfy the requirements of this subsection (i)), (ii) within forty-five (45) days after the end of each of the first three fiscal quarters of Guarantor's fiscal year, an unaudited consolidated balance sheet of Guarantor and its consolidated subsidiaries as at the end of such fiscal quarter, and the related statement of income, stockholder's equity and cash flows showing the financial position of Guarantor and its consolidated subsidiaries as of the close of such fiscal quarter, prepared in accordance with GAAP and certified to accuracy by an officer of Guarantor (it being agreed that if Guarantor files a Form 10-Q with the SEC, that delivery of such Form 10-Q shall be deemed to satisfy the requirements of this subsection (ii)), (iii) concurrently with any delivery of financial statements under this paragraph A, a certificate (or a copy of the certificate (or relevant portion thereof) delivered under the Senior Credit Agreement) setting forth computations demonstrating compliance with the covenants contained in Section 14 and setting forth the calculations of all applicable terms defined therein, (iv) on each anniversary date of this Agreement a certificate of insurance covering the Cars, and (v) promptly from time to time such other information regarding the operations, business affairs and financial condition of Lessee or Guarantor as Lessor may reasonably request.

B. Lessee shall immediately notify Lessor upon Lessee or Guarantor obtaining actual knowledge of: (i) each Event of Loss or accident involving or allegedly involving any Car, (ii) any lien which shall have attached to any Car by or through Lessee or any sublessee, (iii) the occurrence of any Event of Default or any event which, with the giving of notice or lapse of time or both, would constitute an Event of Default known to Lessee, and (iv) each written amendment to the Senior Credit Agreement relating to the financial covenants contained in Section 14 hereof, but in any case not more than five (5) days after the effectiveness of such amendment.

C. (i) Lessee and Lessor intend that: (1) each Rider, incorporating by reference the terms of this Agreement, constitutes a true "lease" as such terms are defined in

Article 2A of the UCC and not a sale or retention of a security interest; and (2) Lessor is and shall remain the owner of each Car, and Lessee shall not acquire any right, title or interest in or to any Car except the right to use it in accordance with the terms of this Agreement and the applicable Rider, (i) In order to secure the prompt payment of rent and all of the other amounts from time to time outstanding with respect hereto and to each Rider, and the performance and observance by Lessee of all of the provisions hereof and thereof and of all of the other Operative Agreements, Lessee hereby collaterally assigns, grants, and conveys to Lessor, a security interest in and lien on all of Lessee's right, title and interest in and to all of the following (whether now existing or hereafter created, and including any other collateral described on any rider hereto; the "Collateral"): (1) (if contrary to the parties' intentions a court determines that this Agreement and any Rider is not a true "lease" under the UCC) the Cars described in such Rider or otherwise covered thereby and all additions, attachments, accessories and accessions thereto whether or not furnished by the Seller; (2) all subleases, chattel paper, accounts, security deposits, and general intangibles relating thereto, and any and all substitutions, replacements or exchanges for any Car or other collateral, in each such case in which Lessee shall from time to time acquire an interest; and (3) any and all insurance and/or other proceeds of the property and other collateral in and against which a security interest is granted hereunder. The collateral assignment, security interest and lien granted herein shall survive the termination, cancellation or expiration of each Rider until such time as Lessee's obligations thereunder and under the other Operative Agreements are fully and indefeasibly discharged. In furtherance of the forgoing, Lessee irrevocably authorizes Lessor to file UCC financing statements, and other filings with respect to the Cars or any Collateral. Without Lessor's prior written consent, Lessee agrees not to file any corrective or termination statements or partial releases with respect to any UCC financing statements filed by Lessor pursuant to this Agreement. (d) If contrary to the parties' intentions a court determines that any Rider is not a true "lease", the parties agree that in such event Lessee agrees that: (1) with respect to the Cars, in addition to all of the other rights and remedies available to Lessor hereunder upon the occurrence of an Event of Default, Lessor shall have all of the rights and remedies of a first priority secured party under the UCC; and (2) any obligation to pay rent or any other amount payable hereunder or under any Rider, to the extent constituting the payment of interest, shall be at an interest rate that is equal to the lesser of the maximum lawful rate permitted by applicable law or the effective interest rate used by Lessor in calculating such amounts.

30. Definitions and Rules of Construction. A. The following terms when used in this Agreement or in any Rider have the following meanings:

(i) "applicable law" or "law": any law, rule, regulation, ordinance, order, code, common law, interpretation, judgment, directive, decree, treaty, injunction, writ, determination, award, permit or similar norm or decision of any governmental authority;

(ii) "Balance Sheet Date": (i) for purposes of this Agreement, December 31, 2003, and (ii) for purposes of any Rider, the Balance Sheet Date set forth in such Rider.

(iii) "Business Day": (i) for purposes of delivery, inspection and acceptance of Cars hereunder, any day other than a Saturday, a Sunday or a day on which commercial banking institutions are authorized or required by law, regulation or executive order to be closed in Princeton, NJ, Chicago, EL, or Danville, Illinois, and (ii) for all other purposes, any day other than a Saturday, a Sunday or a day on which commercial banking institutions are authorized or required by law, regulation or executive order to be closed in Princeton, NJ or Chicago, IL. Any obligation required to be performed by any party hereunder or under any Rider on a date which is not a Business Day shall be performed on the next succeeding Business Day.

(iv) "Fair Market Rental Value": in connection with any Renewal Term set forth in any Rider and with respect to any Car, means the cash rent obtainable for such Car in an arm's length lease between an informed and willing lessee under no compulsion to lease and an informed and willing lessor under no compulsion to lease as the same shall be specified by agreement between Lessor and Lessee. In making such determination, costs of removal from the location of current use shall not be a deduction from such rent and it shall be assumed that the Cars have been maintained in the condition required by this Agreement and collected in one place on the lines of Lessee as directed by Lessor. Fair Market Rental Value of any Car shall be determined, except as otherwise provided in any Operative Agreement, on the assumption that such Car has been maintained in the condition required by this Agreement and is in the condition required under Section 10 and that Lessee is in compliance with this Agreement and the applicable Rider and the other Operative Agreements;

(v) "governmental authority": any Federal, state, county, municipal, regional or other governmental authority, agency, board, body, instrumentality or court, in each case, whether domestic or foreign;

(vi) "Initial Riders": Collectively one or more Riders providing for the lease by Lessor to Lessee of up to 1500 Cars manufactured by Johnstown America for an aggregate Capitalized Lessor's Cost of up to $94,447,276.

(vii) "Lessor Lien": any lien affecting, on or in respect of, any Car, this Agreement or any Rider arising as a result of (i) claims against Lessor unrelated to the transactions contemplated by the Operative Agreements, (ii) acts of Lessor unrelated to the transactions contemplated by the Operative Agreements, (iii) acts or omissions in breach of any covenant or agreement of Lessor set forth in any of the Operative Agreements, or (iv) any claim by or through any subcontractor of Lessor relating to the

performance of maintenance, repairs, or modifications required to be performed by Lessor under the Lease, excluding, in each case, any acts or omissions of Lessor occurring after an Event of Default has occurred and is continuing;

(viii) "Reference Date": (i) for purposes of this Agreement, December 17, 2004, and (ii) for purposes of any Rider, the Reference Date set forth in such Rider.

(ix) "Train Set": (i) with respect to each Initial Rider, collectively, not less than 120 Cars nor more than 130 cars, as elected by Lessee upon delivery (provided that up to two (2) Initial Riders may be for less than 120 Cars at Lessee's election), and (ii) with respect to any other Rider, collectively 130 Cars;

(x) "UCC" or "Uniform Commercial Code": the Uniform Commercial Code as in effect in the State of Illinois or in any other applicable jurisdiction; and any reference to an article (including Article 2A) or section thereof shall mean the corresponding article or section (however termed) of any such other applicable version of the Uniform Commercial Code.

B. The following terms when used herein or in any Rider shall be construed as follows: "herein," "hereof," "hereunder," etc.: in, of, under, etc. this Agreement or such other Operative Agreement in which such term appears (and not merely in, of, under, etc. the section or provision where the reference occurs); "including": containing, embracing or involving all of the enumerated items, but not limited to such items unless such term is followed by the words "and limited to," or similar words; and "or": at least one, but not necessarily only one, of the alternatives enumerated. Any defined term used in the singular preceded by "any" indicates any number of the members of the relevant class. Any Operative Agreement or other agreement or instrument referred to herein means such agreement or instrument as supplemented and amended from time to time. Any reference to Lessor or Lessee shall include their permitted successors and assigns. Any reference to a law shall also mean such law as amended, superseded or replaced from time to time.

C. Terms used but not defined herein shall have the meanings specified in the applicable Rider.

31. True Lease. It is the intent of the parties to this Agreement that each Rider incorporating this Agreement be, such Rider shall be, a true lease for all tax purposes and that Lessor shall be entitled to any and all federal and state tax credits and benefits available to the owner of the Car(s). Lessor shall at all times be the owner of the Car(s) which are the subject of such Rider for all purposes, such Rider conveying to Lessee no right, title or interest in any Car(s) except as lessee.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto intending to be legally bound hereby have caused this Lease Agreement to be duly executed by their respective authorized representatives all as of the day and year first above written.

Accepted on Behalf Of:	Accepted on Behalf of:
NRG Power Marketing Inc.	**General Electric Railcar Services Corporation**
By: /s/ Thomas N. May	By:____________________
Name: Thomas N. May	Name:____________________
Title: Vice President	Title: ____________________
NRG Power Marketing Inc.	

IN WITNESS WHEREOF, the parties hereto intending to be legally bound hereby have caused this Lease Agreement to be duly executed by their respective authorized representatives all as of the day and year first above written.

Accepted on Behalf Of:

NRG Power Marketing Inc.

By:__________________________

Name:________________________

Title: ________________________

Accepted on Behalf of:

General Electric Railcar Services Corporation

By: /s/ James N. Muday

Name: James N. Muday

Title: Vice President

EXHIBIT 10.29

EXECUTION COPY

GENERAL ELECTRIC RAILCAR SERVICES CORPORATION

February 18, 2005

Mr. Dirk Cook
Manager Coal Transportation
NRG Power Marketing Inc.
211 Carnegie Center
Princeton, NJ 08540–6213

Subject: NRG Power Marketing Inc.

Dear Dirk:

The purpose of this letter is to convey a commitment on the part of General Electric Railcar Services Corporation ("GE Railcar"), to (a) acquire approximately 1,500 newly manufactured aluminum coal gondola cars (the "Equipment") through the assignment by NRG Power Marketing Inc. ("NRG") of its right to take delivery of the Equipment under the Johnstown American Corporation Proposal Number 04087, Revision 3, dated August 19, 2004 and accepted by NRG August 23, 2004 (the "Purchase Agreement") between NRG and Johnstown America Corporation ("Seller") and (b) to lease the Equipment to NRG pursuant to (i) the Railroad Car Full Service Master Leasing Agreement (the "Master Lease") dated as of February 18, 2005 between GE Railcar and NRG and (ii) one or more Initial Riders between GE Railcar and NRG, each to be executed as to the Equipment specified therein with payment pursuant to the Purchase Agreement to be made as provided for therein (such date of payment is hereinafter referred to as a "Funding Date"). The lease of the Equipment shall be on the terms set forth in the form of Initial Rider (attached hereto as Exhibit A). Capitalized terms used herein without definition have the meanings described to them in the Master Lease.

This commitment is subject to (a) the execution and delivery of the Master Lease, and (b) satisfaction of the conditions precedent set forth in the Master Lease on the date hereof. In addition to the conditions set forth in the Lease Documents, the commitment to enter into each Initial Rider is subject to the conditions set forth in the form of Initial Rider attached hereto as Exhibit A. The Master Lease, the Guaranty, the Purchase Agreement Assignment, and each Initial Rider executed and delivered by the parties are collectively referred to as the "Lease Documents." In addition to the conditions set forth in the Lease Documents, the commitment to make the payment due on any Funding Date is subject to the delivery and acceptance of the related Equipment on or prior to September 30, 2005.

GE Railcar's commitment is based upon the foregoing and the terms and conditions set forth in the Master Lease and the form of Initial Rider. By execution and delivery of this letter to GE Railcar, NRG commits to lease the Equipment from GE Railcar upon the terms, and subject to

---

the conditions, set forth in the Lease Documents. If this agreement is acceptable, please indicate your acceptance by signing in the space below and returning one originally executed commitment to the undersigned. This agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to its conflicts of laws.

Sincerely,

General Electric Railcar Services Corporation

____

Name:
Title:

Accepted & Agreed:

NRG Power Marketing Inc.

____

____

If this agreement is acceptable, please indicate your acceptance by signing in the space below and returning one originally executed commitment to the undersigned

Sincerely,

/s/ James N. Muday

By: James N. Muday
Title: Vice President
General Electric Railcar Services Corporation

Accepted & Agreed:

NRG Power Marketing Inc.

By: ______________________________

Name: ______________________________

Title: ______________________________

If this agreement is acceptable, please indicate your acceptance by signing in the space below and returning one originally executed commitment to the undersigned.

Sincerely,

____

By:
Title:
General Electric Railcar Services Corporation

Accepted & Agreed:

NRG Power Marketing Inc.

By: /s/ Thomas N. May

Name: Thomas N. May
Vice President
Title: NRG Power Marketing Inc.

EXHIBIT A TO COMMITMENT LETTER

g

General Electric Railcar Services Corporation
161 North Clark Street,
Chicago, IL 60601-
Phone 312-853-5235, Fax 312-853-5160

RIDER NO.________

RAILROAD CAR FULL SERVICE MASTER LEASING AGREEMENT

This Rider ("Rider") dated as of________________, 2005 is made by and between **NRG Power Marketing Inc.** ("Lessee"), and **General Electric Railcar Services Corporation** ("Lessor"), and hereby incorporates by reference all terms and conditions of that certain Railroad Car Full Service Master Leasing Agreement by and between Lessee and Lessor dated as of February 18, 2005 (the "Master Lease") and, by such incorporation, this Rider hereby constitutes a separate agreement of lease with respect to the Cars described herein. The use of the terms "Car" or "Cars" shall mean the railcars listed below.

Pursuant to the terms of that certain Purchase Agreement Assignment, Lessor has agreed to purchase and lease to Lessee up to 1500 Cars for an aggregate Capitalized Lessor's Cost of up to $94,447,276 pursuant to one or more Riders (collectively, the "Initial Riders"). The Delivery Dates for such Initial Riders shall occur on the dates as the parties may agree, but unless otherwise agreed by the parties (i) each Rider shall relate to one Train Set, (ii) the last Delivery Date shall occur no later than September 30, 2005 and (iii) the monthly rental is to be $465.00 per Car, subject to a one-time adjustment pursuant to Section 4.B of the Master Lease. In no event shall the aggregate Capitalized Lessor's Cost with respect to all of the Cars to be leased under the Initial Riders exceed the amount of $94,447,276.

Matrix

Car Description	Monthly Rental Rate	Term (Months)	#of Cars	Lease Type	Hi-U Charge (per mile)	Hi-U Threshold Miles	New Cars	Delivery Schedule Weeks
286 GRL Coal Gondola Cars 122 Ton Aluminum manufactured by Johnstown America ("Seller")	$____	120*	____	Full	$ .015	110,000	Yes	____

* Following the Interim Term

Capitalized Lessor's Cost: [________________] [to include applicable sales tax amounts].

Past Due Rate: The rate equal to the lower of (i) the Deutsche Bank Prime Rate plus 2.0% and (ii) the maximum rate permitted under applicable law.

Stipulated Loss Value: As set forth in Schedule I to this Rider.

Definitions

Capitalized terms used but not otherwise defined herein shall have the meanings specified in the Master Lease.

Car Reporting Marks

The Cars subject to this Rider shall enter Lessee's service with Lessor's reporting marks and numbers as set forth on Schedule II to this Rider.

Term

Interim Term: The period beginning on the Delivery Date through September 30, 2005.

Lease Term Commencement Date: October 1, 2005

Lease Term Expiration Date: September 30, 2015.

The lease of the Cars pursuant to this Rider shall commence on the date of this Rider upon satisfaction of the conditions set forth in Section 15B of the Master Lease.

Lessee's obligation to pay rent under this Rider with respect to each of the Cars will be deemed to have terminated on the later of the expiration date of this Rider or the day after the respective Car arrives at a location within 100 miles of the BNSF route running from the Powder River Basin to Chicago, Illinois or St. Louis, Missouri or as otherwise agreed between Lessor and Lessee. For the avoidance of doubt, all Cars leased pursuant to this Rider will be returned to a single location.

Renewal Term

So long as no Event of Default has occurred and is continuing and Lessee has not exercised its option to terminate this Rider pursuant to the provisions of the Early Termination Option set forth below, Lessee shall have the right to renew the Lease for all but not less than all of the Cars subject to this Rider for one renewal term for a term to be agreed upon by Lessee and Lessor (the "Renewal Term"), provided that Lessee has delivered to Lessor irrevocable written notice not earlier than January 1, 2015 nor later than March 30, 2015. Rent during the Renewal Term shall equal the Fair Market Rental Value of the Cars.

Early Termination Option

So long as no Event of Default has occurred and is continuing, Lessee shall have the right to terminate this Rider with respect to the lease of all but not less than all of the Cars on September 30, 2010, by returning the Cars to Lessor in accordance with Section 10 of the Master Lease and paying to Lessor a termination price of $4,850.00 per Car plus all other amounts due and owing to Lessor on and as of such date, provided that Lessee has delivered to Lessor irrevocable written notice of Lessee's exercise of its option to terminate substantially in the form of Exhibit A hereto not earlier than January 1, 2010 nor later than March 30, 2010. Upon delivery by Lessee of such notice exercising its option to terminate this Rider, Lessee shall be deemed to have exercised and delivered notice of its option to terminate each other Initial Rider with respect to the lease of all but not less than all of the Cars subject to each other Initial Rider.

Upon return of the Cars to Lessor pursuant to and in accordance with Section 10 of the Master Lease and payment of the termination price set forth above, plus all other amounts due and owing to Lessor, this Rider shall terminate.

Commodities

Lessee intends to use the Car(s) for service with the following commodities: **Coal and Synthetic Fuel**. The Lessee agrees that the class of car listed above is correct for service with the following commodities: **Coal and Synthetic Fuel**. Lessor, upon written request from Lessee, will evaluate and either approve or disapprove the shipment of alternative commodities.

Permitted Use

Lessee shall use the Cars in accordance with the terms of the Master Lease and Schedule III to this Rider.

Cleaning

Lessee assumes full responsibility for all costs associated with the removal, disposal and cleaning of commodities from any Car during and at the end of the lease term, except to the extent Lessor and Lessee expressly agree in writing.

High Mileage Utilization

For each mile reported by the railroads that each Car covered by this Rider travels in excess of the Hi-U Threshold Miles set forth in the matrix set forth on page 1, there will be an additional charge with respect to such Car in an amount equal to the Excess Mileage multiplied by the Hi-U Charge set forth in the. This charge will be calculated by Lessor and paid annually by Lessee in arrears.

For purposes of this section, Excess Mileage for any Car equals the miles for such Car reported by the railroad to Lessor minus the Hi-U Threshold Miles set forth in the matrix set forth on page 1; provided, that the Hi-U Threshold Miles shall be prorated to the extent that this Rider is in effect with respect to such Car for less than a full calendar year.

Delivery Location

Subject to availability, the Car(s) will be delivered to Lessee at Seller's shop at Danville, Illinois (the "Delivery Location").

Maintenance Locations

Pursuant to Section 7.C. of the Master Lease, Lessee shall make the Cars available to Lessor at any shop designated by Lessor on the Lessee's normal routes of movement running from the Powder River Basin to Chicago, Illinois or St. Louis, Missouri or such other locations as Lessor and Lessee may agree.

Tax Benefits

The Tax Benefits available to Lessor are as follows: (A) Lessor shall be entitled to cost recovery deductions under section 168 of the Code with respect to 100% of Capitalized Lessor's Cost computed assuming that each Item of Equipment is "7-year property," using the 200% declining balance method over a seven-year recovery period, switching to the straight-line method for the first taxable year for which using the straight-line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance and using the half-year convention, and (B) Lessor will not, at any time, be required to include in its gross income any amounts attributable to the transactions contemplated by this Agreement other than (i) Interim Rent and Basic Term Rent in the amounts and no earlier than at the times such payments are accrued in accordance with Section 4A of this Agreement, (ii) any gain realized by Lessor on a sale or other disposition of the Car(s), and (iii) the receipt of any payment of the amount set forth in the paragraph titled "Early Termination Option" in this Rider.

Additional Provisions

A. Lessee hereby certifies that (i) the representations and warranties set forth in Section 11 of the Master Lease are true and correct in all material respects on and as of the date hereof, except to the extent that such representations and warranties relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date), and (ii) since February 18, 2005 there has been no amendment, modification or repeal of the certificate of incorporation, bylaws or the corporate authority of the Lessee that would adversely affect the ability of the Lessee to perform its obligations under, or the enforceability of, this Rider, the Master Lease or any other Operative Agreement to which it is a party.

B. So long as no Event of Default has occurred and is continuing, if a Car shall have been deemed to have suffered an Event of Loss pursuant to Section 7.A or 20 of the Master Lease, then Lessee shall have the right to purchase such Car at a purchase price equal to the sum of (A) the higher of (i) the Stipulated Loss Value and (ii) the fair market value for such Car plus (B) all other amounts due and owing to Lessor, in each case, on and as of such date of purchase. Lessee shall give Lessor ten (10) days irrevocable prior written notice of its election to exercise the purchase option provided for in this section. Payment of the purchase price described above shall be made on the date specified in Lessee's notice to Lessor at the place of payment specified by Lessor in immediately available funds. Upon Lessor's receipt of such purchase price for such Car, the provisions of Section 10 of the Master Lease relating to such Car shall not apply and Lessor shall deliver a bill of sale transferring and assigning to Lessee all right, title and interest of Lessor in and to such Car on an "as–is" "where–is" basis and without any representation or warranty except as to the absence of any Lessor Lien. The costs of preparing the bill of sale and all other documentation relating to any purchase by Lessee pursuant to this section, the costs of all necessary filings relating to such purchase and any transfer, sales and similar taxes relating to such purchase will be borne by Lessee. In the event of any such purchase and receipt by Lessor of all of the amounts provided in this section, the obligation of Lessee to pay rent hereunder in respect of the applicable Cars shall cease for the period after such purchase and the term of this Rider shall terminate with respect to such Cars.

C. For purposes of this Rider, the last sentence of Section 3 of the Master Lease is hereby amended and restated as follows:

The date a Car subject to a Rider is moved by a railroad from Seller's plant pursuant to Lessee's disposition instructions shall be the "Delivery Date" for such Car.

D. Section 15.B of the Master Lease is hereby amended to include the following additional conditions precedent:

i. Each Car shall be a 286 GRL Coal Gondola Car 122 Ton Aluminum manufactured by Johnstown America.

ii. The last Delivery Date with respect to the Cars covered by the Initial Riders shall occur no later than September 30, 2005.

iii. After giving effect to this Rider, the aggregate Capitalized Lessor's Cost with respect to all of the Cars leased under the Initial Riders shall be less than or equal to $94,447,276.

iv. The Purchase Agreement Assignment dated as of February 18, 2005 by and between Lessee and Lessor and acknowledged by Seller (the "Purchase Agreement Assignment")

shall have been duly executed and delivered by the parties thereto and shall be in full force and effect with respect to the Cars subject to this Rider.

D. Notwithstanding the provisions of Section 21 of the Master Lease, Lessor shall not substitute for any Car another Car, except as permitted under Section 8 of the Master Lease.

E. Section 31 of the Master Lease is hereby amended to include the following additional definitions:

"Balance Sheet Date" means December 31, 2003.

"Operative Agreements" means the Master Lease, this Rider, the Guaranty, the Purchase Agreement Assignment and the Commitment Letter, dated February 18, 2005, between the Lessor and Lessee.

"Reference Date" means December 17, 2004.

Counterparts

This Agreement may be executed in any number of counterparts, each executed counterpart constituting an original and in each case such counterparts shall constitute but one and the same instrument. To the extent that any Rider would constitute chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest therein may be created without the transfer or possession of the original of this Rider, and no security interest in this Rider may be created by the transfer or possession of any counterpart of a Rider other than the original thereof, which shall be identified as the document marked "Original" and all other counterparts shall be marked "Duplicate".

[signature page follows]

IN WITNESS WHEREOF, the parties hereto intending to be legally bound hereby have caused this Rider to be duly executed by their respective authorized representatives all as of the day and year first above written.

Accepted on behalf of:
NRG Power Marketing Inc.

By: ______________________________

Name: ______________________________

Title: ______________________________

Accepted on behalf of:
General Electric Railcar Services Corporation

By: ______________________________

Name: ______________________________

Title: Vice President

Guarantor hereby (i) certifies that the representations and warranties in Section 15 of the Guaranty are true and correct in all material respects on and as of the date hereof, except to the extent that such representations and warranties relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date), (ii) certifies that since February 18, 2005 there has been no amendment, modification or repeal of the certificate of incorporation, bylaws or the corporate authority of the Guarantor that would adversely affect the ability of the Guarantor to perform its obligations under, or the enforceability of, the Guaranty, this Rider, the Master Lease or any other Operative Agreement to which it is a party, (iii) acknowledges and consents to the terms and conditions of this Rider and (iv) reaffirms its obligations under the Guaranty.

NRG Energy, Inc.

By: ______________________________

Name: ______________________________

Title: ______________________________

Schedule 1

Stipulated Loss Values

Payment #	SLV As a Percentage Of OEC
1	100.8021021
2	100.9664223
3	101.126099
4	101.2811321
5	101.4315217
6	101.5795069
7	101.7228486
8	101.8615467
9	101.9978405
10	102.1294908
11	102.2564976
12	102.3810999
13	102.5032979
14	102.6184673
15	102.726608
16	102.8277199
17	102.9218032
18	103.0134822
19	103.0981325
20	103.1757541
21	103.2509713
22	103.3191598
23	103.3803197
24	103.4390752
25	103.4954264
26	103.5467249
27	103.5929709
28	103.6341642
29	103.6703048
30	103.7040412
31	103.7327249
32	103.7563559
33	103.7775827
34	103.7937568
35	103.8048782
36	103.8135953
37	103.8199081
38	103.8214756
39	103.8182979
40	103.810375

Schedule I

Stipulated Loss Values

Payment #	SLV As a Percentage Of OEC
41	103.7977068
42	103.7826343
43	103.7628165
44	103.7382535
45	103.7112861
46	103.6795735
47	103.6431157
48	103.6042535
49	103.562987
50	103.5082152
51	103.4399383
52	103.3581562
53	103.2628689
54	103.1651773
55	103.0539804
56	102.9292784
57	102.802172
58	102.6615605
59	102.5074437
60	102.3509226
61	102.1919971
62	102.0314006
63	101.8691331
64	101.7051946
65	101.5395851
66	101.3715712
67	101.2018864
68	101.0305305
69	100.8567702
70	100.681339
71	100.5042367
72	100.3247301
73	100.1428191
74	99.96153568
75	99.7808799
76	99.60085174
77	99.42145119
78	99.23964627
79	99.05846897
80	98.87791928

Schedule I

Stipulated Loss Values

Payment #	SLV As a Percentage Of OEC
81	98.69496522
82	98.51263878
83	98.33093994
84	98.14683675
85	97.9603292
86	97.77444926
87	97.58919692
88	97.4045722
89	97.22057508
90	97.03417361
91	96.84839974
92	96.66325349
93	96.47570287
94	96.28877987
95	96.10248447
96	95.91378471
97	95.7226806
98	95.5322041
99	95.3423552
100	95.15313391
101	94.96454024
102	94.7735422
103	94.58317177
104	94.39342896
105	94.20128178
106	94.00976221
107	93.81887025
108	93.62557394
109	93.42987326
110	93.23480019
111	93.04035474
112	92.84653689
113	92.65334665
114	92.45775205
115	92.26278506
116	92.06844568
117	91.87170195
118	91.67558582
119	91.4800973
120	91.28220442

Schedule II

Car Reporting Marks

Schedule II–Page 1

Exhibit 10.30

NRG ENERGY, INC.

SUMMARY OF DIRECTOR COMPENSATION

Annual Retainers

- Nonmanagement directors receive 60 percent of their compensation in the form of cash and the remaining 40 percent in the form of vested but deferred stock units.
- Nonmanagement directors other than the nonexecutive Chairman receive total annual compensation of $110,000.
- The nonexecutive Chairman receives $270,000 in annual compensation.
- Members of the Audit Committee receive an additional $5,000 per year and the Chair of the Audit Committee receives an additional $50,000 per year.
- The President and Chief Executive Officer does not receive separate compensation for Board service.
- Additional compensation may be paid for service on special committees or under other exceptional circumstances.

Additional Compensation in 2004

- In 2004, the Audit Committee members received an additional $10,000 for the extraordinary number (19) of meetings held in 2004.
- Directors who served on the Special Committee formed in connection with a transaction in early 2004 were each paid an additional $20,000 for their services on that committee.
- Directors who served on a Special Committee formed in connection with the sale of shares by MatlinPatterson Global Opportunities Partners L.P. and one of its affiliates to NRG were each paid an additional $5,000.

EXHIBIT 21

Subsidiary Information for NRG Energy, Inc.

Subsidiary Name	State of Incorporation
Arthur Kill Power LLC	Delaware
Astoria Gas Turbine Power LLC	Delaware
Bayou Cove Peaking Power, LLC	Delaware
Berrians I Gas Turbine Power LLC	Delaware
Big Cajun I Peaking Power LLC	Delaware
Big Cajun II Unit 4 LLC	Delaware
Brimsdown Power Limited	United Kingdom
Cabrillo Power I LLC	Delaware
Cabrillo Power II LLC	Delaware
Cadillac Renewable Energy LLC	Delaware
Camas Power Boiler Limited Partnership	Oregon
Camas Power Boiler, Inc.	Oregon
Capistrano Cogeneration Company	California
Central and Eastern Europe Power Fund, Ltd.	Bermuda
Chickahominy River Energy Corp.	Virginia
Commonwealth Atlantic Power LLC	Delaware
Conemaugh Fuels, LLC	Delaware
Conemaugh Power LLC	Delaware
Coniti Holding B.V.	Netherlands
Connecticut Jet Power LLC	Delaware
Croatia Power Group	Cayman Islands
Devon Power LLC	Delaware
Dunkirk Power LLC	Delaware
Eastern Sierra Energy Company	California
El Segundo Power II LLC	Delaware
El Segundo Power, LLC	Delaware
Energy Investors Fund, L.P.	Delaware
Energy National, Inc.	Utah
Enfield Energy Centre Limited	United Kingdom
Enfield Holdings B.V.	Netherlands
Enfield Operations (UK) Limited	United Kingdom
Enfield Operations, L.L.C.s	Delaware
Enifund, Inc.	Utah
Enigen, Inc.	Utah
Entrade Holdings B.V.	Netherlands
ESOCO Molokai, Inc.	Utah
ESOCO, Inc.	Utah
Fernwärme GmbH Hohenmölsen-Webau	Germany
Flinders Coal Pty Ltd	Australia
Flinders Labuan (No. 1) Ltd.	Labuan
Flinders Labuan (No. 2) Ltd.	Labuan
Flinders Osborne Trading Pty Ltd	Australia
Flinders Power Finance Pty Ltd	Australia
Flinders Power Partnership	Australia
GALA-MIBRAG-Service GmbH	Germany
Gladstone Power Station Joint Venture (unincorporated)	Australia
Granite II Holding, LLC	Delaware
Granite Power Partners II, L.P.	Delaware

Subsidiary Information for NRG Energy, Inc.

Subsidiary Name	State of Incorporation
Gröbener Logistick GmbH — Spedition, Handel und Transport	Germany
Hanover Energy Company	California

Huntley Power LLC	Delaware
Indian River Operations Inc.	Delaware
Indian River Power LLC	Delaware
Ingenieurbüro für Grundwasser GmbH	Germany
Itiquira Energetica S.A.	Brazil
Jackson Valley Energy Partners, L.P.	California
James River Cogeneration Company	North Carolina
James River Power LLC	Delaware
Kaufman Cogen LP	Delaware
Keystone Fuels, LLC	Delaware
Keystone Power LLC	Delaware
Kladno Power (No. 1) B.V.	Netherlands
Kladno Power (No. 2) B.V.	Netherlands
Kraftwerk Schkopau Betriebsgesellschaft mbH	Germany
Kraftwerk Schkopau GbR	Germany
Lambique Beheer B.V.	Netherlands
Latin Power I-C L.D.C.	Cayman Islands, British West Indies
Latin Power II-C L.D.C.	Cayman Islands, British West Indies
Latin Power II-C L.D.C.	Cayman Islands, British West Indies
Latin Power II-Corporation A	Cayman Islands, British West Indies
Latin Power II-Corporation B	Cayman Islands, British West Indies
Latin Power II-P L.D.C.	Cayman Islands, British West Indies
Latin Power I-P L.D.C.	Cayman Islands, British West Indies
Long Beach Generation LLC	Delaware
Louisiana Generating LLC	Delaware
LS Power Management, LLC	Delaware
LSP-Nelson Energy, LLC	Delaware
LSP-Pike Energy, LLC	Delaware
Meriden Gas Turbines LLC	Delaware
MIBRAG B.V.	Netherlands
MIBRAG Industriekraftwerke Betriebs GmbH	Germany
MIBRAG Industriekraftwerke GmbH & Co. KG	Germany
MIBRAG Industriekraftwerke Vermögensverwaltungs- und Beteiligungs GmbH	Germany
MIBRAG Industriekraftwerke Vertriebs GmbH	Germany
Middletown Power LLC	Delaware
Minnesota Waste Processing Company, L.L.C.	Delaware
Mitteldeutsche Braunkohlengesellschaft mbH	Germany
Montan Bildungs- und Entwicklungsgesellschaft mbH	Germany
Montville Power LLC	Delaware
MUEG Mitteldeutsche Umwelt- und Entsorgung GmbH	Germany
NEO California Power LLC	Delaware
NEO Chester-Gen LLC	Delaware
NEO Corporation	Minnesota
NEO Freehold-Gen LLC	Delaware
NEO Landfill Gas Holdings Inc.	Delaware
NEO Power Services Inc.	Delaware
NEO-Montauk Genco Management LLC	Delaware
Northbrook Acquisition Corp.	Delaware

Subsidiary Information for NRG Energy, Inc.

Subsidiary Name	State of Incorporation
Northbrook Carolina Hydro II, L.L.C.	Delaware
Northbrook Carolina Hydro, L.L.C.	Delaware
Northbrook Energy, L.L.C.	Delaware
Northbrook New York, LLC	Delaware
Norwalk Power LLC	Delaware
NR(Gibraltar)	Gibraltar
NRG Affiliate Services Inc.	Delaware
NRG Andean Development Ltda.	Bolivia
NRG Arthur Kill Operations Inc.	Delaware
NRG Asia-Pacific, Ltd.	Delaware
NRG Astoria Gas Turbine Operations Inc.	Delaware
NRG Audrain Generating LLC	Delaware
NRG Audrain Holding LLC	Delaware
NRG Australia Holdings (No. 4) Pty Ltd.	South Wales, Australia
NRG Bayou Cove LLC	Delaware
NRG Bourbonnais Equipment LLC	Delaware
NRG Bourbonnais LLC	Illinois
NRG Brazos Valley GP LLC	Delaware
NRG Brazos Valley LP LLC	Delaware
NRG Cabrillo Power Operations Inc.	Delaware
NRG Cadillac Inc.	Delaware
NRG Cadillac Operations Inc.	Delaware
NRG California Peaker Operations LLC	Delaware
NRG Capital II LLC	Delaware
NRG Caymans Company	Cayman Islands
NRG Caymans-C	Cayman Islands
NRG Caymans-P	Cayman Islands
NRG Collinsville Operating Services Pty Ltd	Australia
NRG ComLease LLC	Delaware
NRG Connecticut Affiliate Services Inc.	Delaware
NRG Development Company Inc.	Delaware
NRG Devon Operations Inc.	Delaware
NRG do Brasil Ltda.	Brazil
NRG Dunkirk Operations Inc.	Delaware
NRG El Segundo Operations Inc.	Delaware
NRG Energy Center Dover LLC	Delaware
NRG Energy Center Harrisburg LLC	Delaware
NRG Energy Center Minneapolis LLC	Delaware
NRG Energy Center Paxton LLC	Delaware
NRG Energy Center Pittsburgh LLC	Delaware
NRG Energy Center Rock Tenn LLC	Delaware
NRG Energy Center San Diego LLC	Delaware
NRG Energy Center San Francisco LLC	Delaware
NRG Energy Center Smyrna LLC	Delaware
NRG Energy Center Washco LLC	Delaware
NRG Energy Development GmbH	Germany
NRG Energy Insurance, Ltd.	Cayman Islands
NRG Energy Jackson Valley I, Inc.	California
NRG Energy Jackson Valley II, Inc.	California
NRG Energy Ltd.	United Kingdom

Subsidiary Information for NRG Energy, Inc.

Subsidiary Name	State of Incorporation
NRG Energy, Inc.	Delaware
NRG Flinders Operating Services Pty Ltd	Australia
NRG Gladstone Operating Services Pty Ltd	Australia
NRG Gladstone Superannuation Pty Ltd	Australia
NRG Granite Acquisition LLC	Delaware
NRG Huntley Operations Inc.	Delaware
NRG Ilion Limited Partnership	Delaware
NRG Ilion LP LLC	Delaware
NRG International Holdings (No. 2) GmbH	Switzerland
NRG International Holdings GmbH	Switzerland
NRG International II Inc.	Delaware
NRG International III Inc.	Delaware
NRG International LLC	Delaware
NRG Kaufman LLC	Delaware
NRG Latin America Inc.	Delaware
NRG Marketing Services LLC	Delaware
NRG McClain LLC	Delaware
NRG Mesquite LLC	Delaware
NRG Mextrans Inc.	Delaware
NRG MidAtlantic Affiliate Services Inc.	Delaware
NRG MidAtlantic Generating LLC	Delaware
NRG Middletown Operations Inc.	Delaware
NRG Montville Operations Inc.	Delaware
NRG Nelson Turbines LLC	Delaware
NRG New Jersey Energy Sales LLC	Delaware
NRG New Roads Holdings LLC	Delaware
NRG North Central Operations Inc.	Delaware
NRG Northeast Affiliate Services Inc.	Delaware
NRG Northeast Generating LLC	Delaware
NRG Norwalk Harbor Operations Inc.	Delaware
NRG Operating Services, Inc.	Delaware
NRG Oswego Harbor Power Operations Inc.	Delaware
NRG PacGen Inc.	Delaware
NRG Pacific Corporate Services Pty Ltd	Australia
NRG Peaker Finance Company LLC	Delaware
NRG Power Marketing Inc.	Delaware
NRG Processing Solutions LLC	Delaware
NRG Rockford Acquisition LLC	Delaware
NRG Rockford Equipment II LLC	Illinois
NRG Rockford Equipment LLC	Illinois
NRG Rockford II LLC	Illinois
NRG Rockford LLC	Illinois
NRG Rocky Road LLC	Delaware
NRG Saguaro Operations Inc.	Delaware
NRG Services Corporation	Delaware
NRG South Central Affiliate Services Inc.	Delaware
NRG South Central Generating LLC	Delaware
NRG South Central Operations Inc.	Delaware
NRG Sterlington Power LLC	Delaware
NRG Telogia Power LLC	Delaware

Subsidiary Information for NRG Energy, Inc.

Subsidiary Name	State of Incorporation
NRG Thermal LLC	Delaware
NRG Thermal Services LLC	Delaware
NRG Victoria I Pty Ltd	Australia
NRG Victoria II Pty Ltd	Australia
NRG Victoria III Pty Ltd	Australia
NRG West Coast LLC	Delaware
NRG Western Affiliate Services Inc.	Delaware
NRGenerating (Gibraltar)	Gibraltar
NRGenerating Energy Trading Ltd.	United Kingdom
NRGenerating German Holdings GmbH	Switzerland
NRGenerating Holdings (No. 2) GmbH	Switzerland
NRGenerating Holdings (No. 21) B.V.	Netherlands
NRGenerating Holdings (No. 24) B.V.	The Netherlands
NRGenerating Holdings (No. 5) B.V.	Netherlands
NRGenerating Holdings GmbH	Switzerland
NRGenerating II (Gibraltar)	Gibraltar
NRGenerating III (Gibraltar)	Gibraltar
NRGenerating International B.V.	Netherlands
NRGenerating IV (Gibraltar)	Gibraltar
NRGenerating Luxembourg (No. 1) S.a.r.l.	Luxembourg
NRGenerating Luxembourg (No. 2) S.a.r.l.	Luxembourg
NRGenerating Luxembourg (No. 6) S.a.r.l.	Luxembourg
NRGenerating, Ltd.	United Kingdom
O Brien Cogeneration, Inc. II	Delaware
ONSITE Energy, Inc.	Oregon
Oswego Harbor Power LLC	Delaware
P.T. Dayalistrik Pratama	Indonesia
Pacific Crockett Holdings, Inc.	Oregon
Pacific Generation Company	Oregon
Pacific Generation Holdings Company	Oregon
Pacific-Mt. Poso Corporation	Oregon
Project Finance Fund III, L.P.	Delaware
Rocky Road Power, LLC	Delaware
RWE Umwelt Westsachsen GmbH	Germany
Saale Energie GmbH	Germany
Saale Energie Services GmbH	Germany
Sachsen Holding B.V.	Netherlands
Saguaro Power Company, a Limited Partnership	California
Saguaro Power LLC	Delaware
San Joaquin Valley Energy I, Inc.	California
San Joaquin Valley Energy IV, Inc.	California
San Joaquin Valley Energy Partners I, L.P.	California
Somerset Operations Inc.	Delaware
Somerset Power LLC	Delaware
Statoil Energy Power/Pennsylvania, Inc.	Pennsylvania
Sterling (Gibraltar)	Gibraltar
Sterling Luxembourg (No. 4) s.a.r.l.	Luxembourg
STS Hydropower Ltd.	Michigan
Sunshine State Power (No. 2) B.V.	Netherlands
Sunshine State Power B.V.	Netherlands

Subsidiary Information for NRG Energy, Inc.

Subsidiary Name	State of Incorporation
Tacoma Energy Recovery Company	Delaware
Telogia Power Inc.	Delaware
Termo Santander Holding (Alpha), L.L.C.	Delaware
TermoRio S.A.	Brazil
The PowerSmith Cogeneration Project, Limited Partnership	Delaware
Tosli (Gibraltar) B.V.	Netherlands
Tosli Acquisition B.V.	Netherlands
Turners Falls Limited Partnership	Delaware
UEG Mitteldeutsche Umwelt-Entsorgung GmbH	Germany
Vienna Operations Inc.	Delaware
Vienna Power LLC	Delaware
WCP (Generation) Holdings LLC	Delaware
West Coast Power LLC	Delaware

EXHIBIT 23.1

Consent of Independent Registered Public Accounting Firm

The Board of Directors
NRG Energy, Inc.:

We consent to the incorporation by reference in the registration statement on Form S-8 (No. 333-114007) of NRG Energy, Inc. of our report dated March 29, 2005, with respect to the consolidated balance sheet of NRG Energy, Inc. as of December 31, 2004, and the related consolidated statements of operations, stockholders' equity/(deficit) and comprehensive income/(loss) and cash flows for the year then ended, and the related financial statement schedule, management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2004 and the effectiveness of internal control over financial reporting as of December 31, 2004, which reports appear in the December 31, 2004, annual report on Form 10-K of NRG Energy, Inc.

/s/ KPMG LLP

KPMG LLP

Philadelphia, Pennsylvania
March 29, 2005

Exhibit 23.2

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 (No. 333-114007) of NRG Energy, Inc. of our reports dated March 10, 2004, except as to Notes 6, 23 and 33 which are as of December 6, 2004, relating to the NRG Energy, Inc. consolidated financial statements and financial statement schedules, which appear in this Form 10-K.

/s/ PricewaterhouseCoopers LLP
PricewaterhouseCoopers LLP
Minneapolis, Minnesota
March 29, 2005

Exhibit 23.3

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 (No. 333-114007) of NRG Energy, Inc. of our report dated March 11, 2005, relating to the consolidated financial statements of West Coast Power LLC, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP
PricewaterhouseCoopers LLP
Houston, Texas
March 29, 2005

Exhibit 31.1

CERTIFICATION

I, David W. Crane, certify that:

1. I have reviewed this annual report on Form 10–K of NRG Energy, 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 officers 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(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 officers 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.

/s/ David W. Crane

David W. Crane
Chief Executive Officer
(Principal Executive Officer)

Date: March 29, 2005

Exhibit 31.2

CERTIFICATION

I, Robert C. Flexon, certify that:

1. I have reviewed this annual report on Form 10-K of NRG Energy, 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 officers 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(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 officers 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.

/s/ Robert C. Flexon

Robert C. Flexon
Chief Financial Officer
(Principal Financial Officer)

Date: March 29, 2005

EXHIBIT 31.3

CERTIFICATION

I, James J. Ingoldsby, certify that:

1. I have reviewed this annual report on Form 10-K of NRG Energy, 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 officers 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(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 officers 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.

/s/ James J. Ingoldsby

James J. Ingoldsby
Controller
(Principal Accounting Officer)

Date: March 29, 2005

EXHIBIT 32

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES–OXLEY ACT OF 2002**

In connection with the Annual Report of NRG Energy, Inc. (the Company) on Form 10–K for the year ended December 31, 2004, as filed with the Securities and Exchange Commission on the date hereof (Form 10–K), each of the undersigned officers of the Company certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes–Oxley Act of 2002, that, to such officer's knowledge:

(1) The Form 10–K fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Form 10–K fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates and for the periods expressed in the Form 10–K.

Date: March 29, 2005

/s/ David W. Crane

David W. Crane,
Chief Executive Officer
(Principal Executive Officer)

/s/ Robert C. Flexon

Robert C. Flexon
Chief Financial Officer
(Principal Financial Officer)

/s/ James J. Ingoldsby

James J. Ingoldsby
Controller
(Principal Accounting Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to NRG Energy, Inc. and will be retained by NRG Energy, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

WEST COAST POWER LLC

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Members of West Coast Power LLC:

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of operations, members' equity and comprehensive income and cash flows present fairly, in all material respects, the financial position of West Coast Power LLC (the "Company") at December 31, 2004 and 2003, and the results of its operations and its cash flows for the three years ended December 31, 2004 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with the Standards of the Public Company Accounting Oversight Board (United States). Those standards 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.

As discussed in Note 9, the Company is the subject of substantial litigation. The Company's ongoing liquidity, financial position and operating results may be adversely impacted by the nature, timing and amount of the resolution of such litigation. The consolidated financial statements do not include any adjustments, beyond existing accruals applicable under Statement of Financial Accounting Standards No. 5, "Accounting for Contingencies", that might result from the ultimate resolution of such matters.

As discussed in Note 2, effective January 1, 2002, the Company adopted the provisions of Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets". As discussed in Note 2, effective January 1, 2003, the Company adopted the provisions of Statement of Financial Accounting Standards No. 143, "Accounting for Asset Retirement Obligations".

PricewaterhouseCoopers LLP
Houston, Texas
March 11, 2005

WEST COAST POWER LLC

CONSOLIDATED BALANCE SHEETS
(in thousands)

	December 31, 2004	December 31, 2003
ASSETS		
Current Assets		
Cash and cash equivalents	$ 208,730	$ 124,245
Accounts receivable, net of allowance for doubtful accounts of $1,032 and $391,819, respectively	113,794	57,844
Inventory	21,318	25,626
Prepaid expenses	52,121	41,000
Assets from risk–management activities	33,231	8,740
Total Current Assets	429,194	257,455
Property, Plant and Equipment	596,776	610,534
Accumulated depreciation	(203,060)	(157,017)
Property, Plant and Equipment, Net	393,716	453,517
Total Assets	$ 822,910	$ 710,972
LIABILITIES AND MEMBERS' EQUITY		
Current Liabilities		
Accounts payable	$ 1,694	$ 1,032
Accounts payable, affiliates	33,529	19,242
Accrued liabilities and other current liabilities	10,132	26,241
Liabilities from risk–management activities	36,790	8,740
Total Current Liabilities	82,145	55,255
Asset retirement obligation	5,223	7,632
Total Liabilities	87,368	62,887
Total Members' Equity	735,542	648,085
Total Liabilities and Members' Equity	$ 822,910	$ 710,972

See the notes to the consolidated financial statements.

WEST COAST POWER LLC

CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands)

	Year Ended December 31,		
	2004	2003	2002
Revenues	$ 725,626	$ 695,964	$ 585,307
Affiliate operating costs, exclusive of depreciation shown separately below	(316,632)	(302,954)	(456,526)
Non–affiliate operating costs, exclusive of depreciation shown separately below	(42,191)	(62,372)	(29,039)
Depreciation and amortization expense	(39,456)	(31,693)	(27,227)
Goodwill impairment	—	(38,998)	—
Impairment charges	(24,348)	—	(13,451)
Gain on sale of assets	689	—	—
General and administrative expenses	(198)	(28,858)	(10,638)
Operating income	303,490	231,089	48,426
Interest expense	(82)	(176)	(15,410)
Interest income	2,539	1,327	1,129
Income before cumulative effect of change in accounting principle	305,947	232,240	34,145
Cumulative effect of change in accounting principle	—	1,030	—
Net income	$ 305,947	$ 233,270	$ 34,145

See the notes to the consolidated financial statements.

WEST COAST POWER LLC

CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(in thousands)

	Accumulated Other Comprehensive Income (Loss)	Members' Equity	Comprehensive Income
Balance at December 31, 2001	$ (4,527)	$ 653,152	
Net income	—	34,145	$ 34,145
Amounts reclassified into income	4,527		
Other comprehensive income	4,527	4,527	4,527
Comprehensive income			$ 38,672
Contributions	—	13,516	
Distributions	—	(64,525)	
Balance at December 31, 2002	$ —	$ 640,815	
Net income	—	233,270	$ 233,270
Comprehensive income			$ 233,270
Distributions	—	(226,000)	
Balance at December 31, 2003	$ —	$ 648,085	
Net income	—	305,947	$ 305,947
Comprehensive income			$ 305,947
Contributions	—	5,000	
Distributions	—	(217,245)	
Other distributions	—	(6,245)	
Balance at December 31, 2004	$ —	$ 735,542	

See the notes to the consolidated financial statements.

WEST COAST POWER LLC

CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31,		
	2004	2003	2002
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 305,947	$ 233,270	$ 34,145
Adjustments to reconcile net income to net cash flows from operating activities:			
Depreciation and amortization	39,456	31,693	27,227
Goodwill impairment	—	38,998	—
Impairment charges	24,348	—	13,451
Risk–management activities	3,559	—	—
Gain on sale of assets	(689)	—	—
Cumulative effect of change in accounting principle	—	(1,030)	—
Other, non–cash and adjustments	(1,313)	—	—
Changes in working capital:			
Accounts receivable, net	(55,950)	3,127	164,278
Inventory	1,281	1,164	11,617
Prepaid expenses	(11,584)	(30,338)	2,226
Accounts payable	14,949	(20,690)	(17,269)
Accrued liabilities and other current liabilities	(18,654)	20,571	5,729
Other	(1,512)	3,744	2,489
Net cash provided by operating activities	299,838	280,509	243,893
CASH FLOWS FROM INVESTING ACTIVITIES:			
Capital expenditures	(1,386)	(25,709)	(21,652)
Decrease (increase) in restricted cash	—	69,362	(69,362)
Proceeds from asset sales, net	3,278	—	—
Net cash provided by (used in) investing activities	1,892	43,653	(91,014)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Repayments of borrowings	—	(10,000)	(140,057)
Contributions	—	—	13,516
Distributions	(217,245)	(226,000)	(64,525)
Net cash used in financing activities	(217,245)	(236,000)	(191,066)
Net increase (decrease) in cash and cash equivalents	84,485	88,162	(38,187)
Cash and cash equivalents, beginning of period	124,245	36,083	74,270
Cash and cash equivalents, end of period	$ 208,730	$ 124,245	$ 36,083
Supplemental Disclosure of Cash Flow Information:			
Interest paid	82	178	4,336
Other non–cash investing and financing activity:			
Contribution of El Segundo Power II LLC by NRG	5,000	—	—

See the notes to the consolidated financial statements.

WEST COAST POWER LLC

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1—Organization and Operations of the Company

Effective June 30, 1999, Dynegy Power Corp. ("DPC"), an indirect wholly owned subsidiary of Dynegy Holdings Inc. ("Dynegy"), and NRG Energy, Inc. ("NRG"), a subsidiary of Xcel Energy, Inc (collectively, the "Sponsors") formed WCP (Generation) Holdings LLC ("Holdings") and West Coast Power LLC ("WCP", "we", "us" or "our"), both of which are Delaware limited liability companies. The Sponsors have an equal interest in Holdings and share in profits and losses equally. WCP is wholly owned by Holdings and serves as a holding company for El Segundo Power, LLC ("ESP"), El Segundo Power II LLC ("ESP II"), Long Beach Generation LLC ("LBG"), Cabrillo Power I LLC ("Cabrillo I") and Cabrillo Power II LLC ("Cabrillo II"). NRG became an independent public company upon its emergence from bankruptcy on December 5, 2003 and no longer has any material affiliation or relationship with Xcel Energy.

Upon formation of WCP, the assets and liabilities of ESP, LBG, Cabrillo I and Cabrillo II (collectively, the "LLCs") were contributed to WCP by the Sponsors and were recorded at their historical costs because the transfer represented a reorganization of entities under common control. Operations are governed by the executive committee, which consists of two representatives from each Sponsor.

From March 2001 through December 2004, WCP's facilities operated under a contract with the California Department of Water Resources ("CDWR") Sales to CDWR represented a substantial portion of WCP's capacity.

ESP owns a 670–megawatt ("MW") plant located in El Segundo, California, consisting of two operating steam electric generating units. The facility has operated as a merchant plant, selling energy and ancillary services through the deregulated California wholesale electric market and other western markets. In December 2004, the California Independent System Operator ("Cal ISO"), pursuant to its tariff, designated ESP units 3 and 4 as Reliability Must Run ("RMR") units for the calendar year 2005. On December 21, 2004 ESP filed with the Federal Energy Regulatory Commission ("FERC), an application for approval of its rates as an RMR designated facility. ESP made the election to collect rates as a "Condition 2" plant, effective January 1, 2005. On February 11, 2005 FERC issued an order that accepted the rates for filing, subject to refund, set the matter for hearing, and held the hearing in abeyance to permit the parties to continue to engage in negotiations and resolve any outstanding issues. ESP expects that FERC will issue an order approving its rates in the third quarter of 2005.

In October 2004, the FERC approved WCP's settlement of FERC claims relating to western energy market transactions that occurred from January 2000 through June 2001. (See Note 9 — Commitments and Contingencies for further discussion of this settlement). Included in this settlement was a payment of $22,544,942. In order to provide the funds for this settlement, Dynegy has agreed to forego approximately $17,000,000 of distributions from WCP, and NRG has agreed to forego approximately $5,500,000 of distributions and contribute El Segundo Power II LLC valued at $5,000,000 to WCP. The contribution of these assets is reflected as a contribution in the Consolidated Statements of Changes in Equity. $6,244,942 of the settlement was paid by WCP on behalf of Dynegy in accordance with the settlement agreement, and is recorded as a reduction of Dynegy's member's equity on the Consolidated Statements of Changes in Equity.

On December 30, 2004, NRG West Coast LLC, a Delaware limited liability company, assigned its right, title, and interest in El Segundo Power II LLC to Holdings, which in turn assigned its interest to WCP, as part of the funding of the settlement agreement with the FERC. On February 3, 2005, the California Energy Commission approved the certificate for the construction and operation of a proposed 630–megawatt combined–cycle facility by ESP II on the site previously used by ESP units 1 and 2. ESP II became 100% owned by WCP on December 30, 2004. No date has been set to commence construction, although California state law requires that construction commence five years after the issuance of the certificate.

On January 27, 2005, Dynegy Power Marketing Inc, an affiliate of ESP, acting as its fully authorized agent, entered into a power purchase agreement with a major California utility for a term commencing May 1, 2005 and ending December 31, 2005. As part of that agreement, ESP is required to obtain certain consents and waivers from

Cal ISO and to file for an application with FERC to change from "Condition 2" to "Condition 1" under the Cal ISO tariff.. Once all approvals are obtained, the utility will acquire all dispatch rights from ESP for the term of the agreement and assume responsibility for all Cal ISO grid reliability dispatched as permitted under the RMR contract (See Note 7 for a more detailed explanation).

LBG owns a 560-MW plant located in Long Beach, California. On January 1, 2005, after due notice to the Cal ISO, the plant was shut down and the operator began decommissioning and environmental remediation of the plant site and equipment salvage and investment recovery efforts.

Cabrillo I owns a 970-MW Plant located in Carlsbad, California, consisting of five steam electric generating units and one combustion turbine. The facility has operated as a merchant plant, selling energy and ancillary services through the deregulated California wholesale electric market and other western markets. Cabrillo I was designated as a RMR unit by the Cal ISO for 2004 and 2005. Pursuant to an uncontested settlement agreement filed in December 2004 with the Cal ISO and various interveners in FERC Docket No. ER04-308, RMR rates for the years 2004 through 2006 were agreed upon between the parties. As a part of that settlement, Cabrillo chose to collect rates as a "Condition 2" plant, effective January 1, 2005 (See Note 7 below for a more detailed explanation). On February 14, 2005, FERC issued an order approving these rates. Rates for 2006 will only be effective if the Cabrillo I units are designated RMR units by the Cal ISO in the third or fourth quarter of 2005.

Cabrillo II owns 13 combustion turbines with an aggregate capacity of 202-MW located throughout San Diego County, California. The facility has operated as a merchant plant, selling energy and ancillary services through the deregulated California wholesale electric market and other western markets. Cabrillo II combustion turbines were designated as RMR units by the Cal ISO for 2004 and 2005. Pursuant to an uncontested settlement agreement filed in December 2004 with the Cal ISO and various interveners in FERC Docket No. ER04-308, RMR rates for the years 2004 through 2006 were agreed upon between the parties. As a part of that settlement, Cabrillo II chose to continue collecting rates as a "Condition 2"plant, effective January 1, 2005 (See Note 7 below for a more detailed explanation). On February 11, 2005, FERC issued an order approving these rates. Rates for 2006 will only be effective if the Cabrillo II units are designated RMR units by the CAISO in the third or fourth quarter of 2005.

Note 2—Accounting Policies

Our accounting policies conform to GAAP. Our most significant accounting policies are described below. The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and judgments that affect our reported financial position and results of operations. We review significant estimates and judgments affecting our consolidated financial statements on a recurring basis and record the effect of any necessary adjustments prior to their publication. Estimates and judgments are based on information available at the time such estimates and judgments are made. Adjustments made with respect to the use of these estimates and judgments often relate to information not previously available. Uncertainties with respect to such estimates and judgments are inherent in the preparation of financial statements. Estimates and judgments are used in, among other things, (1) developing fair value assumptions, including estimates of future cash flows and discounts rates, (2) analyzing tangible and intangible assets for possible impairment, (3) estimating the useful lives of our assets and (4) determining amounts to accrue for contingencies, guarantees and indemnifications.

Principles of Consolidation. The accompanying consolidated financial statements include our accounts after eliminating intercompany accounts and transactions. Certain reclassifications have been made to prior-period amounts to conform with current-period financial statement classifications.

Cash and Cash Equivalents. Cash and cash equivalents consist of all demand deposits and funds invested in short-term investments with original maturities of three months or less.

Accounts Receivable and Allowance for Doubtful Accounts. We establish provisions for losses on accounts receivable if it becomes probable we will not collect all or part of outstanding balances. Trade accounts receivable

are recorded at the invoiced amount and do not bear interest. We review collectibility and establish or adjust our allowance as necessary using the specific identification method. As of December 31, 2004 and 2003, we have reserved $1,032,466 and $391,819,281, respectively, as an allowance for doubtful accounts relating to receivables owed to us by the CDWR, the Cal ISO and the California Power Exchange ("PX"). As described in Note 9, in October 2004, we settled our historical disputes with FERC parties.

Concentration of Credit Risk. We sell our electricity production to purchasers of electricity in California, which includes the Cal ISO and Dynegy Power Marketing, Inc. ("DYPM"). These industry and geographical concentrations have the potential to impact our overall exposure to credit risk either positively or negatively because the customer base may be similarly affected by changes in economic industry, weather or other conditions.

Inventory. Inventories are valued at the lower of market or cost using the last-in, first-out ("LIFO") or the average cost methods and are comprised of the following:

	December 31,	
	2004	2003
	(In thousands)	
Emissions credits (average cost)	$ 4,496	$ 5,366
Materials and supplies (average cost)	3,446	6,418
Fuel oil (LIFO)	13,376	13,842
	$ 21,318	$ 25,626

In conjunction with the retirement of the Long Beach facility, a lower of cost or market analysis was performed on the facility's materials and supplies balance. The vast majority of the materials and supplies were designed for use specifically at the Long Beach facility or are otherwise obsolete. As a result, an adjustment of $3,027,613, which is included in Operating costs on the consolidated statement of operations, was made to reduce the inventory to net realizable value as of December 31, 2004.

Emission credits represent costs paid by us to acquire additional NOx credits. We use these credits to comply with emission caps imposed by various environmental laws under which we must operate. As individual credits are used, costs are recognized as operating expense. See additional discussion below at "Other Contingencies."

Property Plant and Equipment. Property, plant and equipment, which consists primarily of power generating facilities, furniture and fixtures and computer equipment, is recorded at historical cost. Expenditures for major replacements, renewals and major maintenance are capitalized. We consider major maintenance to be expenditures incurred on a cyclical basis in order to maintain and prolong the efficient operation of our assets. Expenditures for repairs and minor renewals to maintain assets in operating condition are expensed. Depreciation is provided using the straight-line method over the estimated economic service lives of the assets, ranging from 3 to 25 years. The estimated economic service lives of our asset groups are as follows:

Asset Group	Range of Years
Power Generation Facilities	7 to 25
Furniture and Fixtures	3 to 5
Other Miscellaneous	5 to 20

Gains and losses on sales of individual assets are reflected in gain on sale of assets in the consolidated statements of operations. We assess the carrying value of our plant and equipment in accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets". If an impairment has occurred, the amount of the impairment loss recognized would be determined by estimating the related discounted cash flows of the assets and recording a loss if the resulting estimated fair value is less than the book value. For assets identified as held for sale, the book value is compared to comparable market prices or the estimated fair value if comparable market prices are not readily available to determine if an impairment loss is required.

On September 30, 2004, the WCP executive committee consented to a plan to retire the Long Beach facilities effective January 1, 2005. The revision of the expected useful life of Long Beach is a change in accounting estimate, per the guidance in APB 20, "Accounting Changes." This change is accounted for in the current and future periods if the change affects both. The remaining asset value, excluding land, as of September 30, 2004 was $9.9 million. The depreciation was accelerated so that the Long Beach facilities were fully depreciated by December 31, 2004.

Asset Retirement Obligations. We adopted SFAS No. 143, "Asset Retirement Obligations," effective January 1, 2003. Under the provisions of SFAS No. 143, we are required to record legal obligations to retire tangible, long–lived assets on our balance sheet as liabilities, which are recorded at a discount when the liability is incurred. Significant judgment is involved in estimating future cash flows associated with such obligations, as well as the ultimate timing of the cash flows. If our estimates on the amount or timing of the cash flow change, the change may materially affect earnings.

Upon adoption of SFAS No. 143, existing environmental liabilities in the amount of $5,200,000 were reversed in the first quarter 2003. The fair value of the remediation costs estimated to be incurred upon retirement of the respective assets is included in the asset retirement obligation ("ARO") and was recorded upon adoption of SFAS No. 143. Since the previously accrued liabilities exceeded the fair value of the future retirement obligations, the impact of adopting SFAS No. 143 was an increase in earnings of $1,029,756 in 2003, which is the cumulative effect of change in accounting principle in the consolidated statement of operations.

The following pro forma financial information has been prepared to give effect to the adoption of Statement No. 143 as if it had been adopted January 1, 2002:

	Year Ended December 31, 2002
Net income, as reported	$ 34,144,995
Pro forma adjustments to reflect retroactive adoption of Statement No. 143	(1,224,171)
Pro forma net income	$ 32,920,824

During 2004, the timing or fair value of the estimated cost to be incurred upon retirement related to the dismantlement and remediation changed for four of the Cabrillo II facilities. These changes resulted in an $896,809 decrease in our ARO liability. Since the change in the ARO liability associated with one of the facilities exceeded the asset retirement cost net of accumulated depreciation, an increase in earnings of $641,236 was recorded during 2004, which is included in Non–affiliate operating costs on the consolidated statements of operations.

At January 1, 2004, our ARO liabilities totaled $7,631,979, which includes monitoring charges related to El Segundo Units 1 and 2 as well as dismantlement and remediation at the Cabrillo II facilities since these assets reside on leased property. Annual depreciation of the ARO assets resulting from adoption of this standard and the accretion of the liability towards the ultimate obligation amount were $404,559 and $628,290, respectively, during 2004. Annual depreciation of the ARO assets and the accretion of the liability towards the ultimate obligation amount were $644,483 and $697,472, respectively, during 2003. During 2004, we settled $2,140,550 relating to our ARO. At December 31, 2004, our ARO liabilities totaled $5,222,910.

In addition to these liabilities, we also have potential retirement obligations for dismantlement of our other power generation facilities. Our current intent is to maintain these facilities in a manner such that they will be operated indefinitely. Liabilities will be recorded in accordance with SFAS No. 143 at such time as our operations change and a liability is incurred.

Other Contingencies. Environmental costs relating to current operations are expensed or capitalized, as appropriate, depending on whether they provide future economic benefit. Liabilities are recorded when environmental assessment indicate remedial efforts are probable and the costs can be reasonably estimated. Measurement of liabilities is based on currently enacted laws and regulations, existing technology and site–specific costs. Liabilities may be recognized on a discounted basis if the amount and timing of anticipated expenditures are fixed or reliably determinable; otherwise, such liabilities are recognized on an undiscounted basis. Liabilities incurred by providing indemnification in connection with assets sold or closed are recognized upon such sale or closure to the extent they are probable, can be estimated and have not previously been reserved. In assessing liabilities, no offset is made for potential insurance recoveries. Recognition of any joint and several liability is based upon our best estimate of our final pro rata share of such liability.

Liabilities for other contingencies are recognized in accordance with SFAS No. 5, "Accounting for Contingencies," upon identification of an exposure, which, when fully analyzed, indicates that it is both probable a liability has been incurred and the loss amount can be reasonably estimated. Non–capital costs to remedy such contingencies or other exposures are charged to a reserve, if one exists, or otherwise to current–period operations. We accrue the lesser end of the range when a range of probable loss exists.

Goodwill. Goodwill represents, at the time of an acquisition, the amount of purchase price paid in excess of the fair value of net assets acquired. We follow the guidance set forth in SFAS No. 142, "Goodwill and Other Intangible Assets," when assessing the carrying value of our goodwill. Accordingly, we evaluate our goodwill for impairment on an annual basis or when events warrant an assessment. Our evaluation is based, in part, on our estimate of future cash flows. The estimation of fair value is highly subjective, inherently imprecise and can change materially from period to period based on, among other things, an assessment of market conditions, projected cash flows and discount rate. In 2003, all goodwill was impaired (See Note 3).

Revenue Recognition. Revenues from the sale of energy and ancillary services are recorded based upon output delivered and/or service provided priced at market or by contract. Revenues received from the RMR agreement with the Cal ISO are primarily derived from availability payments and amounts based on reimbursing variable costs. Revenues identified as being subject to future resolution are accounted for as discussed above at "Allowance for Doubtful Accounts."

Federal Income Taxes. We are not a taxable entity for federal income tax purposes. Accordingly, there is no provision for income taxes in the accompanying consolidated financial statements.

Fair Value of Financial Instruments. Our financial instruments consist primarily of cash and cash equivalents, accounts receivable, accounts payable and derivative instruments to hedge commodity price and interest rate risk. The carrying amounts of cash and cash equivalents, accounts receivable and accounts payable are representative of their respective fair values due to the short–term maturities of these instruments. Additionally, we had entered into fair value hedges and electricity options. The fair value of these instruments is discussed in Note 5.

Accounting for Derivative Instruments. We may enter into various derivative instruments to hedge the risks associated with changes in commodity prices and interest rates. We use physical forward contracts to hedge a portion of our exposure to price fluctuations of natural gas and electricity.

Under SFAS No. 133, as amended, we recognize all derivative instruments on the balance sheet at their fair values, and changes in fair value are recognized immediately in earnings, unless the derivatives qualify, and are designated, as hedges of future cash flows or fair values, or qualify, and are designated, as normal purchases and sales. For derivatives treated as hedges of future cash flows, we record the effective portion of changes in the fair value of the derivative instrument in other comprehensive income until the related hedged items impact earnings. Any ineffective portion of a cash flow hedge is reported in earnings immediately. For derivatives treated as fair value hedges, we record changes in the fair value of the derivative and changes in the fair value of the hedged risk

attributable to the related asset, liability or firm commitment in current period earnings. Derivatives treated as normal purchases or sales are recorded and recognized in income using accrual accounting.

Note 3—Goodwill

We recognized a $39 million impairment charge in 2003 based on our annual goodwill impairment test. We calculated our fair value using a discounted future cash flows methodology. Fair value was negatively impacted by the expiration of the CDWR contract in December 2004 coupled with decreasing power prices and current market conditions. Please read Note 7. The impairment charge is included in goodwill impairment on the consolidated statements of operations.

Note 4—Impairment of Long-Lived Assets

In December 2004, we tested our long-lived assets for impairment in accordance with SFAS No. 144. As a result of the expiration of the CDWR contract (See Note 7), our impairment analysis of our Cabrillo II facility indicated future cash flows were insufficient to recover the carrying value of the long-lived assets. As a result, we recorded an impairment of $24,348,534, which is included in impairment and other charges on the consolidated statements of operations.

In July 2002, we were notified that land leases associated with four Cabrillo II combustion turbines would not be renewed. We determined that these turbines would be sold rather than relocated to an alternate site for continued use. As a result, an impairment charge of $13,400,000 was recognized in 2002 and represented the difference between the carrying value of the four turbines and the estimated net proceeds from their prospective sale. In addition, a $5,200,000 liability was recorded for the estimated cost of restoring the land on which the turbines are located to its original condition. This reserve was reversed upon adoption of SFAS No. 143 on January 1, 2003. Please read Note 2 — Accounting Policies — Asset Retirement Obligations. During 2004, three of these turbines were sold. We recognized a gain of $689,144.

Note 5—Derivatives and Hedging

We entered into a series of fixed price electricity purchases to hedge a portion of the fair value of our fixed price CDWR Power Purchase Agreement ("PPA"). During the years ended December 31, 2004, 2003 and 2002, there was no ineffectiveness from changes in fair value of hedge positions and no amounts were excluded from the assessment of hedge effectiveness. Additionally, no amounts were reclassified to earnings in connection with forecasted transactions that were no longer considered probable.

The value of the fair value hedges at December 31, 2004 and 2003, were approximately zero and $(8,739,539) and is included in liabilities from risk-management activities on the consolidated balance sheets. The corresponding value of the hedged risk is approximately zero and $8,739,539 and is included in assets from risk-management activities on the consolidated balance sheets.

Upon acceptance of RMR Condition 2 on December 31, 2004, we are not exposed to the variability of cash flow from sales of power on a merchant basis. Please read Note 7.

We have also entered into interest rate swap agreements, which effectively exchanged variable interest rate debt for fixed interest rate debt. The agreements were used to reduce the exposure to possible increases in interest rates. We entered into these swap agreements with major financial institutions. On June 28, 2002, we terminated the interest rate swap agreements concurrently with the refinancing of our debt. Brokerage fees of approximately $5,200,000 were expensed at the time of refinancing. No interest rate swaps were outstanding at December 31, 2004 or 2003.

Note 6—Related Parties

We purchase fuel for our plants under full requirement natural gas supply agreements ("GSAs") with Dynegy Marketing and Trade ("DMT"), one of our affiliates. Charges for fuel are based upon similar terms and conditions as could be obtained from unrelated third parties. Fuel purchases from DMT are included in affiliated operating costs in the consolidated statement of operations.

We contracted with DYPM to provide all power scheduling, power marketing and risk management for us under an energy management agreement (the "EMA"). Sales of power under the EMA through DYPM were $502,554,381, $617,370,571, and $540,114,356 for the years ended December 31, 2004, 2003, and 2002 respectively. Additionally, we contracted with DMT to provide all scheduling of fuel supply.

We entered into Operation and maintenance ("O&M") agreements with NRG Cabrillo Power Operations Inc. and NRG El Segundo Operations Inc., two of our affiliates, for Cabrillo I and Cabrillo II effective May 2001 and for ESP and LBG effective April 2000. Their fees for services primarily include recovery of the costs of operating the plant as approved in the annual budget as well as a base monthly fee. When NRG became operator, we contracted with NRG Development Company, Inc., one of our affiliates, to provide services under the Administrative Management Agreement (the "AMA"). Services they provided under the AMA included environmental, engineering, legal and public relations services not covered under the O&M agreements. Fees for such services are subject to executive committee approval if the amounts exceed a certain percentage of the applicable annual approved budget.

We entered into an administrative services management agreement (the "ASMA") with Dynegy Power Management Services, L.P., one of our affiliates, under which Dynegy Power Management Services, L.P. provides administrative services such as business management and accounting to us. Fees for such services are subject to executive committee approval if the amounts exceed a certain percentage of the applicable annual approved budget.

In addition to the related-party transactions listed above, we made $14,200,000 in interest payments in 2002 to DMT under a forbearance agreement with DMT with respect to noncompliance with the GSA. The effective interest rate on the deferred balance was prime rate plus 2%. All amounts due under the forbearance agreement have been paid and the forbearance agreement terminated. In 2004 and 2003, no interest was paid to DMT.

As described above, our affiliates provide various services for us. Charges for these services are included in our operating and general and administrative expenses in the consolidated statements of operations and consisted of the following costs:

	Years Ended December 31,		
	2004	2003	2002
		(In thousands)	
Dynegy's Related Cost			
Fuel	$ 267,844	$ 258,134	$ 401,650
EMA Charges	9,216	9,141	10,346
ASMA Charges	55	207	—
Charges included in operating costs	$ 277,115	$ 267,482	$ 411,996
ASMA fees included in general and administrative expenses	$ 1,209	$ 1,331	$ 1,298

NRG's Related Cost			
O&M and AMA charges included in operating costs	$ 39,517	$ 35,472	$ 44,531

Note 7—Power Purchase Agreement

We entered into a long-term Power Purchase Agreement with the CDWR in March 2001. From January 2002 through December 31, 2004, the CDWR contracted for fixed price firm energy and system contingent capacity and energy representing a substantial portion of WCP's capacity. Sales to CDWR constituted approximately 71%, 88%, and 93% of revenues, net of reserves, in 2004, 2003 and 2002, respectively.

The CDWR contract expired by its terms on December 31, 2004. For 2005, all of our assets will be operating under RMR Condition 2 contracts with the Cal ISO, except for the Long Beach facility, which was retired effective January 1, 2005 (See Note 2—Accounting Policies—Property, Plant and Equipment). Under the terms of these RMR contracts, Cal ISO reimburses WCP for 100% of approved costs plus a rate of return specified in the contracts. When the facilities are instructed to provide power by the Cal ISO, they are reimbursed for their variable production costs. Under RMR Condition 2, the facilities are 100% committed to the Cal ISO and, therefore, do not experience changes in market conditions through bilateral energy or capacity sales to third parties that might otherwise be entered. The RMR contracts are effective for calendar year 2005. The Cal ISO may renew or terminate the RMR contracts at its sole option on an annual basis as of the first of the following year.

In addition, ESP has entered into a power sales agreement with a major California utility for 100% of the capacity and associated energy from the El Segundo facility from May 2005 through December 2005. During the term of this agreement, the utility will be entitled to primary energy dispatch right for the facility's generating capacity. The agreement is subject to an amendment to the El Segundo RMR agreement to switch to RMR Condition I and to permit the utility to exercise primary dispatch rights under the agreement while preserving Cal ISO's ability to call on the El Segundo facility as a reliability resource under the RMR agreement, if necessary. The agreement will be accounted for as an operating lease of the facility under the requirements of EITF Issue 01-8.

Note 8—Debt

In August 1999, we entered into a credit agreement with a five-year, $322,500,000 amortizing term loan with a balloon payment and a $40,000,000 working capital facility line of credit (the "Credit Agreement"). The Credit Agreement was scheduled to mature in June 2004.

In September 1999, we entered into two interest rate swap agreements related to the Credit Agreement. One agreement effectively fixed the interest rate at 6.435% for the first $60,000,000 and matured in June 2002. The second agreement effectively fixed the interest rate at 6.230% for an incremental $40,000,000 and was scheduled to mature in June 2003. These swaps were designated as hedges of the future cash outflows associated with interest payments on the debt. The second agreement was terminated in 2002 as part of the refinancing discussed below, and the remaining deferred loss was reclassified from other comprehensive income to interest expense.

In June 2002, we refinanced our Credit Agreement with a 364-day bank facility consisting of a $100,000,000 letter of credit line, a $10,000,000 term loan commitment and a $10,000,000 working capital loan commitment (the "Refinanced Credit Agreement"). In conjunction with the refinancing, $3,400,000 of deferred financing costs related to the original Credit Agreement were expensed. We incurred additional debt issuance costs of $4,900,000 in connection with the refinancing. Such costs were capitalized and amortized over the remaining term of the Credit Agreement and are included in prepaid expenses and other current assets.

In June 2003, we replaced the Refinanced Credit Agreement with an 18-month $50,000,000 letter of credit facility. With the replacement of the Refinanced Credit Agreement, we are no longer required to maintain restricted cash funds. This agreement requires us to post equal amounts of cash collateral for all letters of credit issued. This letter of credit facility incurs fees at the rate of 0.50% on any outstanding letters of credit plus a commitment fee at the rate of 0.25% on any unused amount of the commitment.

In November 2004, the letter of credit facility was extended until December 31, 2005 and increased from $50,000,000 to $85,000,000 effective January 1, 2005. We incurred financing costs of $275,000 in connection with the renewal of the agreement. Such costs have been capitalized and will be amortized over the remaining term of the renewed agreement and are included in prepaid expenses and other current assets. At December 31, 2004, our deposit for collateral was $35,300,000. Of this deposit, $28,450,000 was issued in letters of credit.

Our interest costs on the term loans, working capital loans and interest rate swaps (including swap termination costs and amortization costs, which are included in depreciation and amortization on the consolidated statements of operations) totaled approximately $500,000, $2,900,000, and $15,400,000 for 2004, 2003, and 2002 respectively.

Note 9—Commitments and Contingencies

Set forth below is a description of our material legal proceedings. In addition to the matters described below, we are party to legal proceedings arising in the ordinary course of business. In management's opinion, the disposition of these matters will not materially adversely affect our financial condition, results of operations, or cash flows.

We record reserves for estimated losses from contingencies when information available indicates that a loss is probable and the amount of the loss is reasonably estimable under SFAS No. 5. For environmental matters, we record liabilities when remedial efforts are probable and the costs can be reasonably estimated. Please see Note 2 for further discussion. Environmental reserves do not reflect management's assessment of the insurance coverage that may be applicable to the matters at issue. We cannot guarantee that the amount of any reserves will cover any cash obligations we might incur as a result of litigation or regulatory proceedings, payment of which could be material.

With respect to some of the items listed below, management has determined that a loss is not probable or that any such loss, to the extent probable, is not reasonably estimable. In some cases, management is not able to predict with any degree of certainty the range of possible loss that could be incurred. Notwithstanding these facts, management has assessed these matters based on current information and made a judgment concerning their potential outcome, giving due consideration to the nature of the claim, the amount and nature of damages sought and the probability of success. Management's judgment may, as a result of facts arising prior to resolution of these matters or other factors, prove inaccurate and investors should be aware that such judgment is made subject to the known uncertainty of litigation.

California Market Litigation. We and numerous other power generators and marketers were the subject of numerous lawsuits arising from our participation in the western power markets during the California energy crisis. Eight of these lawsuits, which primarily alleged manipulation of the California wholesale power markets and sought unspecified treble damages, were consolidated before a single federal judge. WCP was identified as a defendant in one of those lawsuits, which was dismissed, together with another of the eight lawsuits, in the first quarter 2003 on the grounds of FERC preemption and the filed rate doctrine. The Ninth Circuit Court of Appeals affirmed this dismissal in June 2004. The plaintiffs have not appealed.

In addition to the lawsuit discussed above, WCP and/or the LLCs were named as defendants in eight other putative class actions and/or representative actions that were filed in state and federal court on behalf of business and residential electricity consumers against numerous power generators and marketers between April and October

2002. The complaints alleged unfair, unlawful and deceptive practices in violation of the California Unfair Business Practices Act and sought an injunction, restitution and unspecified damages. While some of the allegations in these lawsuits were similar to the allegations in the eight lawsuits described above, these lawsuits included additional allegations relating to, among other things, the validity of the contracts between these power generators and the CDWR. The court dismissed these actions, although the plaintiffs have appealed, and the briefing on that appeal was completed in October 2004. The Ninth Circuit affirmed the denial of remand and dismissal of these lawsuits in February 2005.

In December 2002, two additional actions naming WCP and/or the LLCs as defendants were filed with similar allegations on behalf of residents of Washington and Oregon. In May 2003, the plaintiffs voluntarily dismissed these actions and refiled them in California Superior Court as a class action complaint. The complaint, which was brought on behalf of consumers and businesses in Oregon, Washington, Utah, Nevada, Idaho, New Mexico, Arizona and Montana that purchased energy from the California market, alleges violations of the Cartwright Act and unfair business practices. We have removed the action from state court and consolidated it with existing actions pending before the United States District Court for the Northern District of California. The hearing on plaintiffs' appeal to remand to state court occurred in February 2004. The judge stayed his ruling on the appeal pending the Ninth Circuit's ruling on the six remaining lawsuits described in the first paragraph above.

In June 2004, the City of Tacoma public utility filed a lawsuit in Washington federal court against a number of energy companies, including us, alleging it paid inflated prices for electricity due to the defendants' manipulation of the California wholesale power markets. The defendants filed a motion to dismiss this case in December 2004. On February 11, 2005, defendants' motion to dismiss was granted.

We believe that we have meritorious defenses to these claims and intend to defend against them vigorously. We cannot predict with certainty whether we will incur any liability or estimate the range of possible loss, if any, that we might incur in connection with these lawsuits. However, given the nature of the claims, an adverse result in any of these proceedings could have a material adverse effect on our financial condition, results of operations and cash flows.

FERC and Related Regulatory Investigations—Requests for Refunds and RMR Complaints. In October 2004, the FERC approved in all respects the agreement announced by Dynegy and WCP in April 2004 which provides for the settlement of FERC claims relating to western energy market transactions that occurred from January 2000 through June 2001, including:

- FERC's June 2003 order to show cause why the activities of certain participants in the California power markets from January 2000 to June 2001, including WCP, did not constitute gaming and/or anomalous market behavior as defined in the ISO and PX tariffs, which matter was resolved by the January 2004 settlement providing that WCP will pay approximately $3 million into a fund for the benefit of California and Western electricity consumers, which January 2004 settlement was incorporated into the broader settlement described below; and

- FERC's July 2001 hearings and October 2003 orders relating to the establishment of (i) refunds to electricity customers, or offsets against amounts owed to electricity suppliers, during the period of October 2000 through June 2001 and (ii) a methodology to calculate mitigated market clearing prices in the ISO and the PX markets.

The parties to this settlement other than Dynegy and WCP include NRG Energy, Inc., FERC Office of Market Oversight and Investigations, Pacific Gas and Electric Company, Southern California Edison, San Diego Gas & Electric Company, the CDWR, the California Electricity Oversight Board and the California Attorney General. Other market participants are permitted to opt into this settlement and share in the distribution of the settlement proceeds. Most of these other market participants have agreed to participate in the settlement. The entitlement to

refund and/or the liability of each of the non–settling market participants will be determined by the Cal ISO. Under the terms of the settlement, WCP will have no further liability to these non–settling parties.

As part of the settlement agreement, WCP agreed to (i) forego its right to collect approximately $259 million in past–due receivables, plus interest, from the Cal ISO and the PX related to the settlement period, (ii) forego natural gas cost recovery claims against the California settling parties related to the settlement period, and (iii) place into escrow accounts a total of $22.5 million, which includes the above–referenced $3 million settlement with the FERC staff, for subsequent distribution to various California energy purchasers. In exchange, the settling parties agreed to forego (i) all claims relating to refunds or other monetary damages for sales of electricity during the settlement period, and (ii) claims alleging receipt of unjust or unreasonable rates for the sale of electricity during the settlement period.

The settlement further provides that WCP is entitled to pursue claims for reimbursement of fuel costs against non–settling market participants. WCP is currently pursuing these claims but is unable to predict the amounts that may be recovered from such parties.

The settlement does not apply to the ongoing civil litigation related to the California energy markets described above in which Dynegy and WCP are defendants. The settlement also does not apply to the pending appeal by the CPUC and the California Electricity Oversight Board of the FERC's prior decision to affirm the validity of the CDWR contract. We are currently awaiting a ruling on this appeal and related filings and cannot predict their outcome.

In Docket Nos. EL02–15–000 and EL03–22–000 there is a dispute regarding various payment provisions in previous RMR Contracts with Cabrillo I and II. Certain California parties and the California ISO have proposed to apply to the Cabrillo RMR Contracts, any changes required by the Commission in similar agreements entered into between the ISO and Mirant Corporation, a matter which is pending in Docket Nos. ER98–495–000, et al. In a settlement between Mirant and the California parties filed in February, 2005, Mirant and the California parties have requested that the FERC rule on the initial decision in the ER98–495 docket. An adverse ruling by FERC could have an material adverse impact on WCP in Dockets Nos. EL02–15–000 and EL03–22–000.

We are unable to predict with any certainty how FERC may ultimately decide ER98–495 and to what extent such ruling might have an adverse impact on WCP.

Gas Index Pricing Litigation. We are defending the following suits claiming damages resulting from the alleged manipulation of gas index publications and prices by WCP and/or the LLCs and numerous other power generators and marketers: *ABAG v. Sempra Energy et al.* (filed in state court in November 2004); *Bustamante v. The McGraw Hill Companies et al.* (class action filed in state court in November 2002); *City and County of San Francisco v. Dynegy Inc. et al.* (filed in state court in July 2004); *County of San Diego v. Dynegy Inc., Dynegy Marketing and Trade, West Coast Power, et al.* (filed in state court in July 2004); *County of San Mateo v. Sempra Energy et al.* (filed in state court in December 2004); *County of Santa Clara v. Dynegy Inc., Dynegy Marketing and Trade, West Coast Power, et al.* (filed in state court in July 2004); *Fairhaven Power Company v. Encana Corp. et al.* (class action filed in federal court in September 2004); *Nurserymen's Exchange v. SempraEnergy et al.* (filed in state court in October 2004); *Older v. Dynegy Inc. et al.* (filed in federal court in September 2004); *Sacramento Municipal Utility District (SMUD) v. Reliant Energy Services, et al.* (filed in state court in November 2004); *Texas–Ohio Energy, Inc. v. CenterPoint Energy Inc., et al.* (class action filed in federal court in November 2003); and *Utility Savings & Refund v. Reliant Energy Services, et al.* (class action filed in federal court in November 2004). In each of these suits, the plaintiffs allege that we and other energy companies engaged in an illegal scheme to inflate natural gas prices by providing false information to gas index publications, thereby manipulating the price. All of the complaints rely heavily on the FERC and CFTC investigations into and report concerning index–reporting manipulation in the energy industry. The plaintiffs generally seek unspecified actual and punitive damages relating to costs they claim to have incurred as a result of the alleged conduct.

Pursuant to various motions filed by the parties to the litigation described above, the gas index pricing lawsuits pending in state court have been consolidated before a single judge in state court in San Diego. These cases are now entitled the "Judicial Counsel Coordinated Proceeding (JCCP) 4221, 4224, 4226, and 4228, the Natural Gas Anti-Trust Cases, I, II, III, & IV", which we refer to as the "Coordinated Gas Index Cases." A case management conference is expected in the next 60 days.

As to the gas index pricing lawsuits that have been filed in federal court, in *Texas-Ohio*, the defendants filed a motion to dismiss in May 2004, on which the court held a hearing in January 2005. We are awaiting the court's ruling. The remaining federal court cases are pending transfer, or have already been transferred, to the federal judge in Nevada who is also currently presiding over the *Texas-Ohio* matter.

We are analyzing all of these claims and intend to defend against them vigorously. We cannot predict with certainty whether we will incur any liability or to estimate the damages, if any, that might be incurred in connection with these lawsuits. We do not believe that any liability that we might incur as a result of this litigation would have a material adverse effect on our financial condition, results of operations or cash flows.

U.S. Attorney Investigations. The United States Attorney's office in the Northern District of California issued a Grand Jury subpoena requesting information related to our activities in the California energy markets in November 2002. We have been, and intend to continue, cooperating fully with the U.S. Attorney's office in its investigation of these matters, including production of substantial documents responsive to the subpoena and other requests for information. We cannot predict the ultimate outcome of this investigation.

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ATTACHMENT 3

Charter of the Nuclear Oversight Committee of the Board of Directors of NRG Energy, Inc.

CHARTER OF THE
NUCLEAR OVERSIGHT COMMITTEE
OF THE BOARD OF DIRECTORS
OF NRG ENERGY, INC.

1. Purpose. The Board of Directors (the "Board") of NRG Energy, Inc. (the "Company") shall appoint a Nuclear Oversight Committee (the "Committee") to provide oversight with respect to the Company's ownership and operation, directly or indirectly, of its undivided interest in the South Texas Project Electric Generating Station, Unit Nos. 1 and 2 ("STP") and its interest in STP Nuclear Operating Company ("STPNOC"), and such other interests in nuclear power plant facilities as the Company may hold from time to time.

2. Members. The Board shall appoint the Committee, which shall consist of all of the members of the Board who are citizens of the United States of America and who otherwise meet the requirements of applicable law to serve on the Committee, and will designate one member as chairperson. A majority of the members of the Committee, including the chairperson, shall be independent directors. For purposes hereof, an independent director is a director who meets the definition of "independent director" under the listing standards of the New York Stock Exchange and is affirmatively determined to be "independent" by the Board. Each member of the Committee shall serve for a term commencing on the earlier of the adoption of this Charter or the date of election to the Board and ending when such member's term as a director expires or such director becomes ineligible by law to serve on the Committee.

3. Duties and Responsibilities. The duties and responsibilities of the Committee shall be as follows:

(a) Except as otherwise provided in Section 4 of this charter, the Committee shall have sole discretion and decision-making authority on behalf of the Company as to all matters involving Safety Issues with respect to its ownership interest in STP, STPNOC, and other any nuclear power plant facilities in which the Company may hold any interests. Any powers that the Board generally might otherwise have with respect to matters involving Safety Issues are, except as otherwise expressly provided in this charter, permanently and irrevocably delegated to the Committee. For purposes hereof, Safety Issues are matters which concern any of the following:

(i) implementation or compliance with any Generic Letter, Bulletin, Order, Confirmatory Order or similar requirement issued by the Nuclear Regulatory Commission ("NRC");

(ii) prevention or mitigation of a nuclear event or incident or the unauthorized release of radioactive material,

(iii) placement of a nuclear power plant in a safe condition following any nuclear event or incident;

(iv) compliance with the Atomic Energy Act of 1954, as amended ("AEA"), the Energy Reorganization Act, or any NRC rule or applicable successor legislation or rule;

(v) compliance with a specified NRC license and its technical specifications; or

(vi) compliance with a specific Updated Final Safety Analysis Report, or other licensing basis document;

provided that any matter which the Committee shall vote in accordance with this charter that is not substantially or primarily one of nuclear safety shall not constitute a Safety Issue, so that, for purposes of illustration only, any plant expenditure of a material nature intended to extend the economic operational life or improve the economic performance of the nuclear power plant in question shall not be considered a Safety Issue.

(b) The Committee shall report to the Board periodically with respect to its activities.

(c) The Committee shall perform such other responsibilities as may be further delegated to it by the Board from time to time that are consistent with its purpose and this charter.

4. Certain Decisions Reserved to the Board of Directors. Notwithstanding Section 3 of this charter, with respect to any nuclear power facility in which the Company has a direct or indirect interest, the full Board shall have, after consultation with the Committee, the following rights:

(a) the right to vote as to whether or not to close a facility and begin its decommissioning, and as to whether to seek relicensing;

(b) the right to decide to sell, lease, or otherwise dispose of the Company's interest in a nuclear power plant facility;

(c) the right to take any action which is ordered by the NRC or any other agency or court of competent jurisdiction.

5. Subcommittees. The Committee may form subcommittees for any purpose that the Committee deems appropriate and may delegate to such subcommittees such power and authority as the Committee deems appropriate; provided, however, that no subcommittee shall consist of fewer than three members; provided, further, that no such subcommittee shall be delegated the power and authority to act for the Committee unless such subcommittee consists of a majority of independent directors.

6. Outside Advisors. The Committee, and any subcommittee, shall have the authority to retain at the expense of the Company such outside counsel, experts, and other advisors as it determines appropriate to assist it in the full performance of its functions.

7. Meetings. The Committee, and any subcommitteee will meet as often as may be deemed necessary or appropriate, in its judgment, either in person or telephonically, and at such times and places as the Committee determines. The majority of the members of the Committee (or any subcommittee) shall constitute a quorum. The Committee, and any subcommittee, shall maintain minutes of its meetings and records related to those meetings and shall report periodically to the full Board (or the Committee, as the case may be) with respect to its activities.

8. Access to Restricted Information. To the extent that the Company, by virtue of its ownership of any direct or indirect interest in any nuclear power facility, obtains any so-called "Restricted Data" as to which access is restricted pursuant to the provisions of the AEA, or any rules, regulations or orders of the NRC, access to such information shall be limited solely to the members of the Committee, and the members of Committee shall not, without the permission of the NRC, reveal any such information to any foreign citizen or other person with whom it shall be unlawful to share any such information.

9. Amendments. Notwithstanding Article VIII of the Company's By-laws, the provisions of this Charter shall not be materially changed, amended, or repealed without the prior consent of the NRC, unless and until (i) the provisions of the Atomic Energy Act are amended to remove the current provisions thereof restricting foreign ownership, control, or domination of nuclear power facilities, or (ii) the Company shall, with the prior written consent of the NRC, have transferred or disposed of all of its interests, direct or indirect, in the licenses for any nuclear power facilities. In the event that either such condition shall have been met, the Company shall, prior to amending or repealing the provisions of this Charter, notify the NRC of its intent to effect such amendment or repeal.

ATTACHMENT 4

Projected Income Statements of Texas Genco, LP and Texas Genco LLC (Non-Proprietary Version)

ATTACHMENT 4

PROJECTED INCOME STATEMENTS OF TEXAS GENCO, LP AND TEXAS GENCO LLC

Texas Genco, LP

Projected Income Statement *

	2006	2007	2008 (millions)	2009	2010
Assumed STP Capacity					
Assumed STP Capacity Factor					
Total MWhrs Available					
Weighted Average Price					
Revenues					
Nuclear Fuel					
Gross Margin					
Operation and Maintenance					
General and Administrative					
Taxes Other Than Income					
Nuclear Fuel Amortization Add-back					
EBITDA					
Depreciation & Amortization					
EBIT					
Interest Expense					
EBT					
Tax Expense					
Net Income					

* Projections do not include any purchase accounting allocations for the planned acquisition by NRG Energy, Inc.

ATTACHMENT 4
PROJECTED INCOME STATEMENTS OF TEXAS GENCO, LP AND TEXAS GENCO LLC

Texas Genco LLC

Projected Income Statement *

	2006	2007	2008 (millions)	2009	2010
Revenues					
Fuel and Purchased Power					
Gas Plant Capacity Payments					
Gross Margin					
Operation and Maintenance					
General and Administrative					
Taxes Other Than Income					
Fuel-Related Amortization Add-back					
EBITDA					
Depreciation & Amortization					
EBIT					
Interest Expense					
EBT					
Tax Expense					
Net Income					

* Projections do not include any purchase accounting allocations for the planned acquisition by NRG Energy, Inc.

ATTACHMENT 5

10 CFR 2.390 Affidavit of Jack A. Fusco
and
10 CFR 2.390 Affidavit of David Crane

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
STP Nuclear Operating Company	)	Docket Nos. 50-498
	)	50-499
South Texas Project Units 1 and 2	)	

AFFIDAVIT

I, Jack A. Fusco, President and Chief Executive Officer of Texas Genco LLC and President of Texas Genco GP, LLC, which is the General Partner of Texas Genco, LP, do hereby affirm and state:

1. I am authorized to execute this affidavit on behalf of Texas Genco LLC and Texas Genco, LP.

2. Texas Genco LLC and Texas Genco, LP are providing information in support of an Application for Order Approving Indirect Transfer of Control of Licenses. The documents being provided in Attachment 4A contain proprietary financial information and financial projections related to the ownership and operation of Texas Genco LLC and Texas Genco, LP's generation assets, including the South Texas Project Electric Generating Station. These documents constitute proprietary commercial and financial information that should be held in confidence by the NRC pursuant to the policy reflected in 10 CFR §§ 2.390(a)(4) and 9.17(a)(4), because:

   i. This information is and has been held in confidence by Texas Genco LLC and Texas Genco, LP.

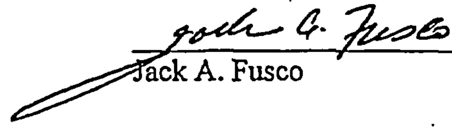
   ii. This information is of a type that is customarily held in confidence by Texas Genco LLC and Texas Genco, LP, and there is a rational basis for doing so because the information contains sensitive financial information concerning projected revenues and operating expenses of Texas Genco LLC and Texas Genco, LP.

   iii. This information is being transmitted to the NRC voluntarily and in confidence.

   iv. This information is not available in public sources and could not be gathered readily from other publicly available information.

   v. Public disclosure of this information would create substantial harm to the competitive position of Texas Genco LLC and Texas Genco, LP by disclosing its internal financial projections.

3. Accordingly, Texas Genco LLC and Texas Genco, LP request that the designated documents be withheld from public disclosure pursuant to the policy reflected in 10 CFR §§ 2.390(a)(4) and 9.17(a)(4).

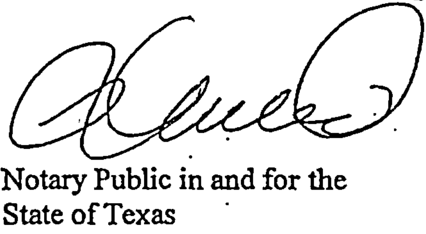


Jack A. Fusco

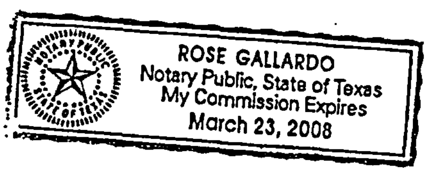
STATE OF TEXAS)

COUNTY OF Harris)

Subscribed and sworn to me, a Notary Public, in and for the State of Texas, this 13 day of October, 2005.



Notary Public in and for the
State of Texas



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
STP Nuclear Operating Company	)	Docket Nos. 50-498
	)	50-499
South Texas Project Units 1 and 2	)	

AFFIDAVIT

I, David Crane, President and Chief Executive Officer of NRG Energy, Inc., do hereby affirm and state:

1. I am authorized to execute this affidavit on behalf of NRG Energy, Inc.

2. NRG Energy, Inc. is providing information in support of its Application for Order Approving Indirect Transfer of Control of Licenses. The documents being provided in Attachment 4A contain financial projections related to its proposed ownership and operation of generation assets, including the South Texas Project Electric Generating Station. These documents constitute proprietary commercial and financial information that should be held in confidence by the NRC pursuant to the policy reflected in 10 CFR §§ 2.390(a)(4) and 9.17(a)(4), because:

   i. This information is and has been held in confidence by NRG Energy, Inc.

   ii. This information is of a type that is customarily held in confidence by NRG Energy, Inc., and there is a rational basis for doing so because the information contains sensitive financial information concerning projected revenues and operating expenses of NRG Energy, Inc.

   iii. This information is being transmitted to the NRC voluntarily and in confidence.

   iv. This information is not available in public sources and could not be gathered readily from other publicly available information.

   v. Public disclosure of this information would create substantial harm to the competitive position of NRG Energy, Inc. by disclosing its internal financial projections.

3. Accordingly, NRG Energy, Inc. requests that the designated documents be withheld from public disclosure pursuant to the policy reflected in 10 CFR §§ 2.390(a)(4) and 9.17(a)(4).

David Crane

STATE OF NEW JERSEY)
)
COUNTY OF Mercer)

Subscribed and sworn to me, a Notary Public, in and for the State of New Jersey, this 13th day of October, 2005.

Notary Public in and for the
State of New Jersey

DAWN M. DEE
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APR. 26, 2007