

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Greenbelt Division)**

In re:)	
)	Case No. 03-30465
)	
USGen New England, Inc.,)	Chapter 11
)	Hon. Paul Mannes
Debtor.)	
)	

**EMERGENCY MOTION FOR EXPEDITED HEARING ON
(1) MOTION FOR 120-DAY ADJOURNMENT OF THE HEARING
WITH RESPECT TO THE DEBTOR'S MOTION FOR ORDER
PURSUANT TO 11 U.S.C. §§ 105 AND 365(a) AUTHORIZING THE
DEBTOR TO REJECT CERTAIN EXECUTORY CONTRACTS BETWEEN
THE DEBTOR AND BEAR SWAMP GENERATING TRUST NO. 1 LLC
AND THE DEBTOR AND BEAR SWAMP GENERATING TRUST NO. 2
LLC AND (2) MOTION FOR EXPEDITED DISCOVERY**

Bear Swamp Generating Trust No. 1 LLC, Bear Swamp Generating Trust No. 2 LLC (each an “Owner Lessor” and, collectively, the “Owner Lessors”), Bear Swamp I LLC and Bear Swamp II LLC (each an “Owner Participant,” collectively, the “Owner Participants” and, collectively with the Owner Lessors, the “Bear Swamp Entities”) hereby move (the "Emergency Motion") this Court for entry of an Order granting an expedited hearing on their (1) Motion for 120-day Adjournment of the Hearing with Respect to the Debtor's Motion for Order Pursuant to 11 U.S.C. §§ 105 and 365(a) Authorizing the Debtor to Reject Certain Executory Contracts Between the Debtor and Bear Swamp Generating Trust No. 1 LLC and the

Debtor and Bear Swamp Generating Trust No. 2 LLC (the "Motion to Adjourn"), and (2) Motion for Expedited Discovery, each filed contemporaneously herewith. In support of this Emergency Motion, the Bear Swamp Entities represent as follows.¹

RELIEF REQUESTED

1. Late in the day on August 29, 2003, at the start of the Labor Day weekend and without any consultation with the Bear Swamp Entities, USGen NE filed the Rejection Motion seeking to reject six agreements (the "Contracts") – two 48 year facility lease agreements, two facility site sublease agreements, and two participation agreements – related to the Bear Swamp pumped storage hydroelectric facility, one of the Debtor's most significant assets. USGen NE seeks a September 24, 2003 hearing on the Rejection Motion.

2. The Bear Swamp Entities seek to adjourn the hearing on the Rejection Motion from September 24, 2003 to a date to be determined by the Court in early 2004 to afford the Bear Swamp Entities an opportunity to conduct fair and reasonable discovery necessary to challenge the Rejection Motion. In the alternative, the Bear Swamp Entities seek expedited discovery in connection with the Rejection Motion.

¹Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Motion to Adjourn.

3. The Court's July 16, 2003 Order for Complex Chapter 11 Bankruptcy Case (the "Complex Case Order") recognizes that a movant may require relief that cannot be delayed until the next regularly scheduled omnibus hearing. Complex Case Order at ¶ 4(d). Consistent with the procedures set forth in the Complex Case Order, by this Emergency Motion, the Bear Swamp Entities request that the Court hear the Motion to Adjourn and the Motion for Expedited Discovery at a date and time prior to the September 24, 2003 hearing on the Rejection Motion.

CAUSE EXISTS FOR EXPEDITED HEARING

4. As set forth in the Motion to Adjourn and the Motion for Expedited Discovery, the Debtor has failed to exercise due care and proposed the Rejection Motion in bad faith as rejection of the Contracts does not benefit the Debtor's creditors. The Motion to Adjourn seeks a relatively brief adjournment of the hearing on the Rejection Motion to afford the Bear Swamp Entities an opportunity to conduct fair and reasonable discovery into the evidentiary bases for the Rejection Motion. This discovery cannot reasonably be completed prior to September 24, 2003.

5. Nevertheless, to be prepared in the event that the Court determines not to adjourn the September 24, 2003 hearing, the Bear Swamp Entities filed the Motion for Expedited Discovery, pursuant to which the Bear Swamp Entities seek expedited discovery to challenge the Rejection Motion. As more fully

set forth in the Motion for Expedited Discovery, should the Court determine to hear the Rejection Motion on September 24, 2003, the Bear Swamp Entities must be permitted to expedite discovery to ensure that the Debtor is required to respond to reasonable discovery requests before the hearing on the Rejection Motion.

6. Respectfully, the Court must consider the Motion to Adjourn and the Motion for Expedited Discovery prior to September 24, 2003 in order to grant meaningful and effective relief pursuant thereto. For example, if the Court is inclined to adjourn the hearing on the Rejection Motion, it is in the best interests of all interested parties that the Court do so prior to September 24, 2003, thereby saving the parties considerable time and expense in preparing for a major contested hearing on an expedited basis. Alternatively, if the Court is inclined to deny the Motion to Adjourn and hear the Rejection Motion on September 24, 2003, it is absolutely imperative that the Court order expedited discovery prior thereto.

7. The Bear Swamp Entities understand that the Court's agenda for the September 24, 2003 hearing is lengthy and that the Court has a limited amount of time on that date. The Bear Swamp Entities also believe that the hearing on the Rejection Motion will take a substantial amount of the Court's time given the relief requested and the issues in dispute. For the Rejection Motion to be properly considered, therefore, the motion will need to be set on a date when all evidence can be presented and all arguments considered.

8. The Bear Swamp Entities served copies of this Emergency Motion, together with copies of the Motion to Adjourn and Motion for Expedited Discovery, upon all of the parties on the service list by email where email addresses were available, and all other parties by overnight delivery. The Bear Swamp Entities believe that the notice provided is sufficient under the circumstances.

WHEREFORE, the Bear Swamp Entities respectfully request that the Court (i) schedule an emergency hearing on the Motion to Adjourn and the Motion for Expedited Discovery at the earliest date the Court's calendar permits prior to September 24, 2003, (ii) direct that any written response to the Motion to Adjourn and/or the Motion for Expedited Discovery be filed and served by facsimile on counsel to the Bear Swamp Entities, counsel to the Official Committee of Unsecured Creditors, and the United States Trustee not less than 24 hours prior to the hearing date fixed by the Court, and (iii) grant such other and further relief as is just and proper.

Dated: Bethesda, Maryland
September 5, 2003

Respectfully Submitted,

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