THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT. THUS, THE FILING AND DISSEMINATION OF THIS PROPOSED DISCLOSURE STATEMENT SHOULD NOT BE CONSTRUED AS AN AUTHORIZED SOLICITATION OF VOTES ON THE DEBTOR'S FIRST AMENDED PLAN OF LIQUIDATION UNDER 11 U.S.C. SECTION 1125 OR OTHERWISE.

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

In re:	)	
	)	
USGen New England, Inc.,	)	Case No. 03-30465 (PM)
	)	
Debtor.	)	Chapter 11
	)	

February 17, 2005

DISCLOSURE STATEMENT FOR THE FIRST AMENDED PLAN OF LIQUIDATION FOR USGEN NEW ENGLAND, INC.

IMPORTANT DATES	
Date by which Objections to Confirmation of the Plan Must Be Filed and Served:	__________, 2005 at 4:00 p.m. (EST)
Date by which Ballots Must Be Received:	__________, 2005 at 4:00 p.m. (EST)
Hearing on Confirmation of the Plan:	__________, 2005 at __:___ __.m. (EST)

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Appendix 1	Debtor’s First Amended Plan of Liquidation, with Exhibits
Appendix 2	Liquidation Analysis

ARTICLE I

INTRODUCTION

USGen New England, Inc. ("USGenNE" or the "Debtor") filed a Chapter 11 petition on July 8, 2003 (the "Petition Date") with the United States Bankruptcy Court for the District of Maryland, Greenbelt Division (the "Bankruptcy Court"). On July 8, 2003 and thereafter, USGenNE's affiliate and indirect parent, National Energy & Gas Transmission, Inc., f/k/a PG&E National Energy Group, Inc. ("NEGT"), and certain of its affiliates (collectively, the "Affiliate Debtors"), also filed Chapter 11 petitions with the Bankruptcy Court and are the subject of separately administered Chapter 11 cases. On July 17, 2003, the Official Committee of Unsecured Creditors (the "Committee") was formed in the Debtor's Chapter 11 Case.

On February 17, 2005, the Debtor filed its First Amended Plan of Liquidation dated February 17, 2005 (the "Plan"), a copy of which is annexed hereto as Appendix 1. **The Plan provides that holders of Allowed Class 3 General Unsecured Claims[1] will be paid one hundred (100%) percent of their Claims plus Post-Petition Interest of four (4%) percent per annum (or Modified Post-Petition Interest, if applicable) from the Petition Date to the Distribution Date. As a result of the Distributions to be made under the Plan, all Allowed Claims of Creditors will be deemed to have been fully paid, satisfied and extinguished, and such Creditors will have no further recourse against the Debtor, its bankruptcy estate, or the Retained Estate.** The Plan will be funded by the proceeds of the sales of the Debtor's fossil and hydroelectric generating assets and Cash on hand from operations. The Plan contemplates a liquidation of the Debtor, and the use of sale and liquidation proceeds to fund Distributions to Creditors and Interest holders.

THE DEBTOR URGES YOU TO VOTE TO ACCEPT THE PLAN. **THE COMMITTEE, BY SEPARATE LETTER ACCOMPANYING THIS DISCLOSURE STATEMENT, STRONGLY RECOMMENDS THAT YOU VOTE IN FAVOR OF THE PLAN.**

The Plan provides that holders of Class 3 Claims are impaired even though such holders shall be entitled to receive one hundred (100%) percent of their Allowed Claims, plus Post-Petition Interest at four (4%) percent per annum (or Modified Post-Petition Interest, if applicable). NOTWITHSTANDING THE PROVISIONS OF THE PLAN WHICH CHARACTERIZE CLASS 3 AS IMPAIRED, IN THE EVENT THIS PLAN IS NOT CONFIRMED BY FINAL ORDER OF THE BANKRUPTCY COURT, THE DEBTOR EXPRESSLY RESERVES THE RIGHT TO FILE A PLAN WHICH PROVIDES THAT CLASS 3 IS UNIMPAIRED AND SHALL RECEIVE A ONE

[1] Unless defined in this Disclosure Statement, each capitalized term used in this Disclosure Statement has the definition ascribed to such term in the Plan.

HUNDRED (100%) PERCENT DISTRIBUTION WITH POST-PETITION INTEREST AT LESS THAN THE FOUR (4%) PERCENT AS NOW PROVIDED.

PLEASE NOTE THAT THE PLAN DOES NOT ADDRESS THE REORGANIZATION OR LIQUIDATION OF THE AFFILIATE DEBTORS. THE AFFILIATE DEBTORS ARE IN THE PROCESS OF FILING OR HAVE PREVIOUSLY FILED THEIR OWN CHAPTER 11 PLANS; INDEED, NEGT'S PLAN WAS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE THEREOF HAS OCCURRED. THE PLAN DOES PROVIDE THAT EQUITY INTEREST HOLDERS WILL RECEIVE A DISTRIBUTION ON ACCOUNT OF THE SHAREHOLDER PARTICIPATION, AND A FURTHER DISTRIBUTION AFTER FULL PAYMENT TO ALL CREDITORS IN ACCORDANCE WITH THE TERMS OF THE PLAN.

This Disclosure Statement has been drafted by the Debtor, and as such, the document expresses the views of the Debtor with respect to the Chapter 11 Case and the Plan which the Debtor seeks to confirm. Accordingly, it should be noted that other parties in interest in the Chapter 11 Case may not necessarily agree with certain of the statements contained herein.

A. Purpose of the Disclosure Statement

This Disclosure Statement is intended to aid Creditors and Interest holders in making an informed judgment regarding acceptance or rejection of the Plan. If you have any questions regarding the Plan, the Debtor urges you to contact its counsel, Blank Rome LLP, 405 Lexington Avenue, New York, New York 10174-0208, (212) 885-5000 (Attn: Edward J. LoBello, Esq.) or Committee counsel, Reed Smith LLP, One Liberty Place, Philadelphia, Pennsylvania 19103, (215) 241-7946 (Attn: Claudia Z. Springer, Esq.).

While the Bankruptcy Court has approved this Disclosure Statement as containing "adequate information" to enable Creditors and Interest holders to vote on the Plan, the Bankruptcy Court's approval of this Disclosure Statement does not constitute approval or disapproval of the Plan. The Bankruptcy Court will consider approval of the Plan only after completion of voting on the Plan and within the context of a confirmation hearing.

B. Voting on the Plan

THE DEBTOR AND THE COMMITTEE SUPPORT THE PLAN AND URGE YOU TO VOTE TO ACCEPT THE PLAN.

1. **Eligibility to Vote**

The Plan classifies Claims and Interests in the following classes:

Class	Description
Class 1	Secured Claims
Class 2	Priority Claims
Class 3	General Unsecured Claims
Class 4	Interests

Only Classes that are both Impaired and eligible to receive a Distribution are entitled to vote. Under the Plan, holders of Class 3 Claims and Class 4 Interests are Impaired and entitled to vote. Holders of Claims in Classes 1 and 2 are conclusively presumed to have accepted the Plan because they are unimpaired.

2. **Voting Procedures**

Holders of Class 3 Claims and Class 4 Interests are entitled to vote on the Plan and will receive, along with the Disclosure Statement, a Bankruptcy Court-approved ballot (a "Ballot") and a notice setting forth, among other things, the time frame within which acceptances and rejections of the Plan must be received. Holders of Class 1 and Class 2 Claims will receive the Plan along with the Disclosure Statement. If you believe you are entitled to receive and have not received the Plan package or the solicitation package, contact the Debtor's Balloting Agent, Bankruptcy Services, LLC, 757 Third Avenue, 3rd Floor, New York, NY 10150-5014, (646) 282-2500 (Attn: Dave Malo).

3. **Vote Solicitation**

The process of soliciting votes on the Plan must be conducted in accordance with the following restriction:

NO ONE SHOULD RELY ON ANY REPRESENTATIONS CONCERNING THE DEBTOR, ITS ASSETS OR ITS PAST AND FUTURE OPERATIONS, EXCEPT THOSE CONTAINED IN THIS DISCLOSURE STATEMENT OR OTHERWISE AUTHORIZED BY THE BANKRUPTCY COURT.

If you believe your vote is being solicited outside the judicially approved and statutorily defined disclosure requirements and voting procedures, please immediately contact the Debtor's counsel, Blank Rome LLP, 405 Lexington Avenue, New York, New York 10174-0208, (212) 885-5000 (Attn: Edward J. LoBello, Esq.) or Committee counsel, Reed Smith LLP, One Liberty Place, Philadelphia, Pennsylvania 19103, (215) 241-7946 (Attn: Claudia Z. Springer, Esq.).

4. **Acceptance of Plan**

Under the Bankruptcy Code, an impaired class of claims entitled to vote has accepted a plan if, of those voting, the holders of at least two-thirds ($^{2}/_{3}$) in dollar amount and more than one-half ($^{1}/_{2}$) in number of claims accept, and an impaired class of interests entitled to vote has accepted a plan if, of those voting, the holders of at least two-thirds ($^{2}/_{3}$) in amount of interests accept.

5. **Hearing on Confirmation of Plan**

The Bankruptcy Court has scheduled a hearing to consider confirmation (*i.e.*, approval) of the Plan on May 12, 2005, at __:___ __.m. (prevailing Eastern Time), in Courtroom 3D of the United States Bankruptcy Court, 6500 Cherrywood Lane, Greenbelt, Maryland 20770. The Confirmation Hearing may be adjourned from time to time without further notice other than by announcement in the Bankruptcy Court on the scheduled hearing date.

C. General Overview

The key elements of the Plan include, among other things, the following:

?? Closing of Each of the Sale Transactions; Distributions to Creditors and Interest Holders. The Plan is being funded by the proceeds previously generated from the Debtor's ongoing operations during the Chapter 11 Case, together with the proceeds generated from the consummation of each of the Sale Transactions with the Purchasers. The Debtor will utilize such proceeds and liquidate any remaining assets to fund Distributions to holders of Allowed Claims and Interests. The Plan is premised on the Debtor's ability to pay each holder of an Allowed Claim in each Class in full, together with Post-Petition Interest from the Petition Date to the Distribution Date. As a result of the Distributions to be made under the Plan, all Allowed Claims of Creditors will be deemed to have been fully paid, satisfied and extinguished, and such Creditors will have no recourse against the Debtor, its bankruptcy estate, or the Retained Estate.

?? Series of Integral and Interrelated Compromises. The Plan is premised upon a series of interrelated compromises concerning, among other things, (i) the Bear Swamp Adversary Proceeding, (ii) the Post-Petition Interest rate applicable to Class 3 General Unsecured Claims under the Plan, (iii) the Committee Proofs of Claim, (iv) the Shareholder Proofs of Claim, and (v) the Shareholder Participation. Each of the compromises is integral and necessary to the implementation of the Plan. If any one of these compromises is not approved and consummated, the global settlement chain as embodied in the Plan will be broken, and the Plan could not be implemented.

?? Winding Up of Affairs of Debtor; Appointment of Plan Administrator. The Plan is a liquidating plan. Post-confirmation, the Debtor and the

Plan Administrator (with the involvement of the Committee until the Effective Date) shall, *inter alia*, take all steps and execute all instruments and documents necessary to effectuate the Distributions to be made under the Plan and the winding up of the residual affairs of the Debtor.

?? Distribution to Equity. The Plan contemplates that on the Effective Date the Shareholder will continue to retain their Interests in USGenNE. On the Effective Date, the Class 4 Interest holders will receive the Shareholder Participation, without interest. Further, the proceeds remaining in the Retained Estate after (i) the payment in full of all Allowed Claims, together with Post-Petition Interest, (ii) funding of the various reserves necessary to pay all Classes of Creditors the Allowed amounts of their Claims, together with Post-Petition Interest, if applicable, and (iii) the costs and expenses associated with liquidation of the Retained Estate and the winding up of the Debtor's affairs, will be distributed to the Class 4 Interest holders.

D. Summary of Creditor and Interest Holder Recoveries

The following chart summarizes the proposed Distributions under the Plan:

CLASS	TYPE OF CLAIM OR INTEREST	DEBTOR'S ESTIMATES OF ALLOWED CLAIMS [2]	APPROXIMATE RECOVERIES BASED ON THE DEBTOR'S ESTIMATES OF ALLOWED CLAIMS
Unclassified	Administrative Claims	$7-8.5 Million	100%
Unclassified	Fee Claims	$10-15 Million	100%
Unclassified	Priority Tax Claims	$4-5 Million	100% plus Post-Petition Interest
1	Secured Claims	$0	100% plus interest
2	Priority Claims	$0	100% plus Post-Petition Interest
3	General Unsecured Claims	$1.35 Billion	100% plus Post-Petition Interest
4	Interests	N/A	Shareholder Participation plus remaining Retained Estate, if any

[2] Generally, the aggregate Claims asserted against the Debtor exceed the total amount of Allowed Claims estimated by the Debtor because, among other things, certain Claims: (a) were filed after the Bar Date; (b) were filed in duplicate; (c) were superseded by subsequent amendments to previously filed Claims; (d) may allege an obligation of an entity other than the Debtor; (e) may assert contingent Claims against the Debtor; (f) may include postpetition interest and other disallowed amounts; (g) may be invalid or subject to setoff or recoupment; or (h) are being resolved as part of settlement agreements that are integral parts of the Plan or are in the process of being documented and presented to the Bankruptcy Court for approval. **THEREFORE, THE ACTUAL AGGREGATE AMOUNT OF ALLOWED CLAIMS MAY ULTIMATELY DIFFER FROM THE DEBTOR'S ESTIMATES.**

ARTICLE II

BACKGROUND ON CERTAIN EVENTS LEADING TO, AND CERTAIN KEY DEVELOPMENTS DURING, THE CHAPTER 11 CASE

A. The Debtor's Business

The Debtor was incorporated on August 1, 1997 for the purpose of acquiring and operating the non-nuclear generating assets of New England Electric System ("NEES") (the "Acquisition"). The Debtor is an indirect, wholly-owned subsidiary of NEGT.

In 1998, USGenNE and New England Power Company ("NEP"), an affiliate of NEES, closed on a transaction whereby NEP agreed to sell, and USGenNE agreed to purchase, *inter alia*, substantially all of NEP's non-nuclear generating assets (fossil and hydroelectric generating stations) with certain related liabilities and obligations, a portfolio of power contracts with independent power producers, and supply obligations.

As of the Petition Date, the Debtor was in the business of owning and operating electric generating facilities in New England (collectively, the "Facilities") and buying and selling electricity and other energy-related products at wholesale. All of these Facilities are located and all of the Debtor's significant sales took place in New England.

The Debtor's Generating Facilities

As of the Petition Date, the Debtor owned three Fossil Facilities (Brayton Point Station, Salem Harbor Station and Manchester Street Station) that used coal, oil or natural gas for fuel (collectively, the "Fossil Assets"). The Debtor also owns two hydroelectric systems, one of which spans the Connecticut River (Connecticut River System) and one of which spans the Deerfield River (Deerfield River System) (collectively, the "Hydro Assets"). As set forth hereinbelow, the Bankruptcy Court has entered orders approving the sale of the Fossil Assets and the Hydro Assets, and the Debtor has already closed on the sale of the Fossil Assets. The Debtor also operates (but does not own) a pumped-storage facility (Bear Swamp) which generates electricity by directing water through tunnels connecting a reservoir located at the top of a mountain to another reservoir located at the bottom of the mountain on the Deerfield River.

Brayton Point Station. Brayton Point Station ("Brayton Point") is a 1,594 MW fossil-fired generating facility located on a 250-acre waterfront site in Somerset, Massachusetts. The facility has three coal-fired units (Units 1, 2 and 3) with generating capacity of 253 MW, 253 MW and 633 MW, respectively, one oil/gas-fired unit (Unit 4) with a generating capacity of 445 MW, and four diesel units each rated at 2.5 MW. Units 1, 2 and 3, in addition to their 100% coal fired capability, can also be fired with natural gas up to 60 MW of equivalent heat input capacity. Unit 4 can be fired on 100%

oil or 100% natural gas or a blend of those two fuels. Unit 1 entered commercial operation in 1963 followed by Unit 2 in 1964, Unit 3 in 1969 and Unit 4 in 1974. In the current market, Units 1, 2 and 3 consistently clear the daily real time and day ahead markets and as such operate at baseload with annual capacity factors near 80%. Unit 4 provides peaking or intermediate energy to the market. Strategically located in Mount Hope Bay with ocean access, Brayton Point is capable of receiving fuel from the world market. The station can receive coal by self-unloading belted or geared vessels as well as bulker ships and barges. Oil can be received by either tanker or barge. In addition to fuel received by vessels, Brayton Point is connected to the Algonquin interstate gas pipeline.

Salem Harbor Station. Salem Harbor Station ("Salem Harbor") is a 745 MW fossil-fired generating facility located on a 65-acre waterfront site in Salem, Massachusetts. The facility consists of three units (Units 1, 2 and 3) with generating capacity of 84 MW, 80 MW and 150 MW, respectively, that are capable of burning coal, oil or a combination of the two, and one unit (Unit 4) capable of generating 431 MW which burns only oil. The station is capable of producing both baseload and peaking energy. Deliveries of coal and oil are made at a deepwater port located at the facility. The facility is located within the Boston/Northeast Massachusetts load pocket. The independent system operator for the New England market ("ISO-NE") has determined that the station is necessary to maintain system reliability for both the North Shore and Greater Boston Import Area through at least 2007.

Manchester Street Station. Manchester Street Station ("Manchester Street") is a 495 MW combined-cycle natural gas-fired facility located in Providence, Rhode Island. Previously a coal, oil and gas steam facility, Manchester Street was completely repowered in 1995 by its previous owner, NEES. The facility, which has three units that burn natural gas as their primary fuel, is capable of firing oil as emergency back-up fuel. Manchester Street has a proven capability to follow load and cycle daily in response to rapidly changing intraday pricing in the New England Power Pool ("NEPOOL"). The plant occupies a 21.6-acre waterfront site in a commercial and industrial area on the southern edge of downtown Providence. The station is connected to the Algonquin interstate pipeline, through which it interconnects to a variety of other interstate gas pipelines supplying the Northeast.

Connecticut River System. The Connecticut River System is a portfolio of 26 hydroelectric generation units, representing a total of 480 MW, located on the Connecticut River in Vermont and New Hampshire. In combination with the Deerfield River System (described below), the Connecticut River System is the largest conventional hydro system in New England and each facility operates under one of four Federal Regulatory Commission ("FERC") licenses that cover the system as a whole. The system includes the Moore and Comerford Stations, the largest conventional hydro stations in New England. All of the Connecticut River System facilities have significant periods remaining on their existing FERC licenses, with the earliest license expiring in 2018. The facilities represent a source of low cost renewable electric generation with significant dispatch flexibility and superior availability. All Connecticut River System

stations are controlled remotely from the Connecticut River Control Center in Wilder, Vermont.

Deerfield River System. The Deerfield River System is bundled into a single FERC license and includes 15 hydroelectric generation units, representing a total of 83 MW, located on the Deerfield River in Vermont and Massachusetts. In combination with the Connecticut River System (described above), the Deerfield River System is the largest conventional hydroelectric system in New England. The facilities provide low cost renewable hydroelectric generation with significant dispatch flexibility and superior availability. The Deerfield River System FERC license expires in 2037. All of the assets are controlled remotely from the Deerfield River Control Center in Monroe Bridge, Massachusetts.

Bear Swamp Facility. The Bear Swamp Facility is located on approximately 1,300 acres along the Deerfield River and has a generating capacity of 590 MW. It includes an underground powerhouse with a lower dam and reservoir and an upper reservoir. It is used to provide peaking power (*i.e.*, power used when demand is greatest). Water flows through an underground conveyance from the upper reservoir to the lower reservoir which powers electric generators. When electricity prices are low (*i.e.*, at night when demand for electricity is low), water is pumped from the lower reservoir to the upper reservoir. There is a small hydroelectric facility, the Fife Brook Station, located at the lower reservoir of Bear Swamp. It has a capacity of 10 MW.

B. Summary of Pre-petition Indebtedness

The Debtor originally financed the approximately $1.6 billion cost of the Acquisition through a combination of approximately $1.1 billion in equity from its parent and the remainder in bank debt. Currently, the Debtor's bank debt is an unsecured $100 million working capital and revolving credit facility with JPMorgan Chase Bank, N.A., as Agent, and other banks, which was scheduled to mature on August 30, 2003 (the "Credit Facility"). As of June 30, 2003, the Debtor had borrowings under the Credit Facility in the approximate amount of $75 million and amounts outstanding under letters of credit issued under the Credit Facility of approximately $13 million.

Shortly after the Acquisition, the Debtor engaged in a sale-leaseback transaction by which the Debtor sold its Bear Swamp Facility for $479 million and then leased the facility back from its owners on a long-term basis. Proceeds from the sale were used to reduce the bank debt and for other general corporate purposes. As of the Petition Date, total payments required to be made by the Debtor for the remaining term of the Bear Swamp leases (43 years) were in excess of $800 million. On July 2, 2003, the Debtor did not make the semi-annual lease payment of approximately $16 million under the Bear Swamp leases.

At the time of the Acquisition, the Debtor assumed from NEES several gas transportation agreements, coal transportation arrangements and certain arrangements

to transport electric power from Canada into New England (the "Commodities Transportation Arrangements"). Under the Commodities Transportation Arrangements, the Debtor was obligated to pay certain fixed costs related to the respective commodity transportation services, regardless of the Debtor's need for such services. As of the Petition Date, many of the Commodities Transportation Arrangements had significant above-market costs.

Also at the time of the Acquisition, the Debtor entered into contracts to supply wholesale standard offer service (the "WSOAs") with the following subsidiaries of NEES: Massachusetts Electric Company and Nantucket Electric Company (together, "MECO") (for Massachusetts customers) and Narragansett Electric Company ("NECO") (for Rhode Island customers).[3] The Debtor sold power under the WSOAs at contractually-established rates to each of MECO and NECO to the extent that a portion of the retail customers of MECO and NECO purchase standard offer service electricity from them. As at the Petition Date, approximately two-thirds of the Debtor's electrical power output was sold under the WSOAs, with most of the balance sold into the wholesale energy spot market. The WSOA with MECO expired at the end of 2004, and the WSOA with NECO was transferred to an affiliate of Dominion Energy New England, Inc. as part of the Fossil Transaction. In order to guarantee certain minimum revenues under the WSOA's fuel adjustment provisions, the Debtor entered into certain forward contracts with one of the Affiliate Debtors, NEGT Energy Trading – Power, L.P., f/k/a PG&E Energy Trading – Power, L.P. ("ET Power"). As market prices for energy and fuel commodities continued to rise, the hedges resulted in significant amounts being owed by the Debtor to ET Power.

As part of the Acquisition, the Debtor also acquired the rights and obligations of NEP to purchase power at contractually-established rates under various power purchase agreements between NEP and various independent power producers (the "PPAs"). In addition to the power it purchases under the arrangements with NEP, the Debtor also purchases power directly from several other independent power producers, again at contractually-established rates. Virtually all of the PPAs, including those involving NEP, have above-market costs.

C. Certain Events Leading to the Debtor's Chapter 11 Filing

The Debtor's decision to seek relief under Chapter 11 of the Bankruptcy Code was due to a confluence of factors. *First*, the Debtor's indirect parent, NEGT, was in acute financial difficulty and itself filed for relief under Chapter 11 of the Bankruptcy Code. NEGT was required to do so because of a combination of the following non-exclusive reasons: (i) NEGT's default under its credit facility, (ii) Standard & Poors and Moody's downgrades of NEGT's credit ratings, and (iii) NEGT's resulting defaults under

[3] The Debtor had also entered into a WSOA with Granite State Electric Company (for New Hampshire customers), which as at the Petition Date was no longer in effect.

certain master trading agreements entered into between various of its energy trading subsidiaries and counterparties, which contracts it had guaranteed. Thus, NEGT was unable to take any action, as it had done in the past, to address the Debtor's deteriorating financial condition.

Second, the Debtor's financial condition deteriorated as a result of a host of factors. In particular, (i) the Debtor was required to repay the approximately $88 million expected to come due under the Credit Facility at the end of August, 2003, (ii) the Debtor had to use substantial working capital to prepay its fuel requirements as a result of the Debtor's deteriorating credit situation, (iii) the Debtor was required to make increasing lease payments under the Bear Swamp leases (scheduled to increase to over $45 million per year in 2004), (iv) the MECO WSOA -- the Debtor's largest sales contract and revenue source -- was scheduled to expire at the end of 2004, exposing the Debtor to market volatility at a time when supply was expected to exceed demand, potentially resulting in depressed prices, (v) the Debtor was required to continue to pay the substantially above-market costs related to the PPAs and the Commodity Transportation Arrangements, and (vi) the Debtor owed significant sums to ET Power under the WSOA hedges.

Third, the Debtor may have been required to make substantial capital investments at its Brayton Point and Salem Harbor Facilities in order to meet new environmental requirements imposed by the federal and state governments with respect to air emissions and water discharges. These investments could have exceeded $400 million through approximately 2006. Given the Debtor's then existing obligations, its financial condition, and the financial condition of NEGT, the Debtor did not have access to the capital needed to make these investments. If the requisite capital investments were not made, it may have been necessary for the Debtor to cease operating these Facilities.

In an attempt to address these stark economic realities, USGenNE sought a buyer for certain of its assets and/or the outright sale of USGenNE and its business as a means to raise capital. However, despite its marketing efforts, as of the Petition Date USGenNE was unable to close on a sale of its assets at a positive net value. Specifically, in January 2002, NEGT engaged Goldman Sachs as an advisor and conducted a formal two-stage auction of the Salem Harbor Station, the Manchester Street Station and the Bear Swamp Facility. While over 25 companies reviewed the materials, signed confidentiality agreements and conducted some measure of due diligence, only one reasonable bid was received, and it was for the Manchester Street Station only. USGenNE fully negotiated the deal but the buyer decided not to proceed at the last minute.

Separately, in the fall of 2002, NEGT engaged Lehman Brothers as an advisor to explore the sale of all or part of NEGT. That process resulted in one prospective buyer conducting detailed due diligence and negotiating for the sale of the Debtor, but definitive agreements were never executed.

Also, in July 2002, the Debtor received an offer to sublease the Bear Swamp Facility for 17 years at a significantly reduced number than the Debtor's then existing lease payments. The sublease required consent from the lessor, which the Debtor did not seek to obtain.

Ultimately, the Debtor determined that the restructuring of its obligations could best be achieved through a Chapter 11 filing.

D. Board of Directors

Prior to the Petition Date, USGenNE's Board of Directors was comprised of P. Chrisman Iribe, Bruce R. Worthington and Peter A. Darbee. Effective as of the Petition Date, Messers. Iribe, Worthington and Darbee resigned from the Board, and Ernest K. Hauser and independent director, James Toopes, joined the Board.

E. Overview of the Chapter 11 Case

On July 8, 2003, the Debtor filed a voluntary Chapter 11 petition with the Bankruptcy Court. Since then, the Debtor has continued in possession of its properties and in the management of its business as a debtor in possession. The Chapter 11 Case was assigned to and has been presided over by the Honorable Paul Mannes, United States Bankruptcy Judge.

1. First Day Pleadings and Orders

The Debtor devoted substantial efforts early in this case towards stabilizing the operation of its business and strengthening employee, vendor and customer relationships that had deteriorated prior to the Petition Date. These efforts included obtaining critical "first day" relief to allow the Debtor's business to continue with minimal disruption to operations. Motions, applications and other pleadings filed by the Debtor in furtherance of this goal and approved by the Bankruptcy Court included the following:

First Day Affidavit. The Debtor filed an affidavit of Ernest K. Hauser, President of the Debtor, that summarized the Debtor's history, the circumstances and events that precipitated the Chapter 11 filing, and the justification for the relief sought in the other first-day pleadings.

Cash Management Motion. In the absence of special relief from the Bankruptcy Court, under applicable provisions of the bankruptcy laws, the Debtor would have been required to transfer all of its cash to new bank accounts that the Debtor would have been required to establish, and mark all checks sent by the Debtor with the legend "debtor-in-possession." In addition, the Debtor would have been required to maintain its liquid assets only in accounts supported by a bond, or backed by the full faith and credit of the United States. In large Chapter 11 cases, compliance with these rules generally is expensive and/or impracticable, and does not advance the underlying purpose of such

rules. Accordingly, the Debtor obtained the Bankruptcy Court's authorization to maintain the Debtor's pre-bankruptcy cash management practices and investment policy, subject to the Debtor's obligation to strictly delineate between pre- and post-Petition Date transactions and obligations.

Utilities Motion. In light of the nature and size of its business, the Debtor required, sought and obtained an order which prohibited its utility providers from altering or terminating utility services (including electricity, electrical interconnection, natural gas, water, heat, waste removal, sewage, telephone and telecommunications, and similar services) to it due to its Chapter 11 filing or to the fact that prepetition debts to such utility providers were not paid when due, unless the providers demonstrated the need for additional adequate assurance of payment pursuant to procedures proposed in the motion.

Extension of Time to File Schedules. Given the complex nature of the Debtor's business affairs and the need to operate the Debtor's business while the necessary information was compiled, the Debtor required, sought and was granted an extension of time to file its schedules of assets and liabilities and statement of financial affairs (the "Schedules"). The Debtor filed its Schedules on August 22, 2003.

Critical Vendor Motion. The Debtor's business was dependent upon a relatively small number of critical vendors whose goods or services could not be replaced in the near term. Several of the critical vendors represented the Debtor's only viable source of certain critical goods and services. Failure to satisfy the Claims of critical vendors may have rendered the Debtor unable to continue operations, and thus the delay or interruption in the Debtor's ability to obtain these critical goods and services would have had a significant and materially adverse effect on the Debtor's estate. Therefore, the Debtor required, sought and obtained an order authorizing, but not directing, the Debtor to pay pre-petition Claims of a few discrete vendors and suppliers of critical goods and services, provided that such vendors agreed to maintain or reinstate customary trade terms during the pendency of the case.

Enforcement of Automatic Stay and Non-Discrimination. Due to the size and complexity of the Debtor's Chapter 11 Case and the substantial number of Creditors of the Debtor, there was a risk that parties unfamiliar with the effect and scope of the automatic stay would undertake impermissible collection activities on account of the Debtor's pre-petition obligations. Further, the Debtor held in excess of 350 permits and licenses issued by various state and federal agencies which were essential to the Debtor's business and in particular to the operation of the Facilities. The Debtor needed to ensure that the governmental/regulatory agencies responsible for the issuance and renewal of the permits and licenses did not revoke, suspend, or refuse to issue or renew, as the case may be, the permits and licenses or otherwise violate the "anti-discrimination" provisions of section 525 of the Bankruptcy Code. Thus, the Debtor required, sought and obtained an order to enforce the automatic stay and the nondiscrimination provisions of the Bankruptcy Code.

Retention Applications. The Debtor obtained orders of the Bankruptcy Court authorizing it to retain bankruptcy counsel and various special counsel, including Blank Rome LLP as bankruptcy counsel, Winston & Strawn LLP as special regulatory counsel, and Foley Hoag LLP as special counsel for environmental, labor and other matters.

Ordinary Course Professionals Motion. In addition to the professionals referred to above, the Debtor had other professionals to perform discrete functions not directly related to the Chapter 11 Case, and/or for relatively *de minimis* fees ("Ordinary Course Professionals"). Rather than burden the Bankruptcy Court and the Ordinary Course Professionals by requiring full-scale retention applications, the Debtor obtained approval of a streamlined procedure that is commonly employed in the Bankruptcy Court with respect to Ordinary Course Professionals.

Interim Compensation Motion. Consistent with local procedure, the Debtor obtained approval of interim compensation procedures for professionals which, in general, allow professionals to bill and receive payment on a monthly basis, subject to a "holdback" that is not released to the professionals until the approval of interim fee applications, which are filed with the Bankruptcy Court three times per calendar year.

Retention of Bankruptcy Services, LLC. In cases the size of the Debtor's, the Bankruptcy Court generally will require the debtor to retain an outside claims agent to administer and process the filing of claims against the debtor. Often, the same claims agent also assists in the transmission of notices to creditors and other parties in interest. Accordingly, the Debtor received authority to retain Bankruptcy Services, LLC as its claims and notice agent.

2. The Committee

On July 17, 2003, the United States Trustee for Region Four (Greenbelt Office) (the "United States Trustee") appointed the Committee in the Debtor's case. The Committee is comprised of co-chairs JPMorgan Chase Bank, N.A., as Agent, and El Paso Merchant Energy Group, and the current Committee members DZ Bank AG-New York Branch, HSBC Bank USA, National Association, as Indenture Trustee and Pass Through Trustee ("HSBC") for the Bear Swamp notes, Algonquin Gas Transmission, and Bear Swamp Generating Trust No. 1 LLC. The Committee retained professionals on its behalf, including Reed Smith LLP as its counsel and Loughlin Meghji and Company as its financial advisors.

The Debtor's reorganization efforts were facilitated by the active involvement of the Committee and its professionals. Consistent with its duties under section 1103 of the Bankruptcy Code, the Committee consulted with the Debtor on the administration of the Chapter 11 Case; investigated the acts, conduct, assets, liabilities, and financial condition of the Debtor, the operation of its business, and matters relevant

to the Chapter 11 Case; and participated in the formulation of the Plan. The Committee played an important role in certain aspects of the Chapter 11 Case.

3. **Retention of Additional Key Professionals**

Alvarez & Marsal, Inc. On August 20, 2003, the Bankruptcy Court entered a final order in the Chapter 11 cases of the Affiliate Debtors approving the Affiliate Debtors' motion to retain Alvarez & Marsal, Inc. ("A&M") to provide for the placement of certain restructuring managers of A&M as officers of the Affiliate Debtors. In that regard, Joseph A. Bondi, a Senior Managing Director of A&M, was appointed the Chief Restructuring Officer and Chief Executive Officer of the Affiliate Debtors and a director of NEGT. On April 19, 2004, the Bankruptcy Court entered an order (on the joint motion of the Affiliate Debtors and USGenNE) authorizing the allocation of expenses for A&M's services between the Affiliate Debtors, on the one hand, and USGenNE, on the other hand, based in part on a recognition that work performed by A&M personnel acting as officers and/or directors of the Affiliate Debtors benefits USGenNE. The services performed by Mr. Bondi and other A&M personnel have been invaluable in USGenNE's Chapter 11 Case, particularly with regard to the Debtor's sale efforts and the claims reconciliation process.

Getzler Henrich & Associates LLC. On November 3, 2003, the Bankruptcy Court entered an order authorizing the Debtor to employ Getzler Henrich & Associates LLC ("Getzler Henrich") as special financial advisor in connection with intercompany issues. Pursuant to such order, Getzler Henrich has worked directly with and obtained information directly from the Debtor's management and other personnel, and has not relied exclusively on information and analysis provided by A&M. In the event of an actual conflict or an appearance of conflict on an issue as between the Debtor and NEGT, Getzler Henrich alone has acted as the Debtor's financial advisor, and A&M has not acted on the Debtor's behalf on any such issues.

Lazard Frères & Co. LLC. On November 10, 2003, the Bankruptcy Court entered an order authorizing the Debtor to employ and retain Lazard Frères & Co. LLC ("Lazard") as its financial advisor and investment banker. Lazard had previously been retained by the Affiliate Debtors as investment banker in their Chapter 11 cases. Such order also provided for the allocation of Lazard's monthly and restructuring fees between the Affiliate Debtors and USGenNE. Lazard's services were instrumental to the success of the Sale Transactions.

Ordinary Course Professionals. On July 22, 2003, the Bankruptcy Court entered an order authorizing the Debtor to employ professionals for the performance of tasks related to the Debtor's ordinary operations and course of business. Pursuant to such order, the Debtor was authorized to and in fact employed numerous professionals whose service was required to maintain the Debtor's ordinary course operations, thus preserving the value of the Debtor's assets and estate for the benefit of Creditors and Interest holders.

4. Review and Rejection of Uneconomic Executory Contracts

Much of the Debtor's efforts early in the Chapter 11 Case concentrated on the Debtor's myriad executory contracts. The Debtor, with the assistance of its professionals, analyzed a panoply of the Debtor's burdensome PPAs and gas transportation contracts and developed a successful strategy for the rejection and/or modification of those contracts. The Debtor was required to redouble its efforts to appropriately respond to the strong positions adopted by certain creditors, such as Pittsfield Generating Company, L.P. ("Pittsfield") and Algonquin Gas Transmission Company ("Algonquin"), in the first ninety (90) days after the Petition Date.

Initially, Pittsfield sought to compel the Debtor to assume or reject its PPA early in the case, then vigorously opposed the Debtor's decision to reject. The Debtor litigated the dispute over the course of several hearings, and conducted extensive negotiations with Pittsfield and other power producers that joined in the litigation. The Debtor's efforts resulted in the successful termination and/or modification of those burdensome contracts, including the Pittsfield PPA.

The Debtor filed other rejection motions pursuant to section 365 of the Bankruptcy Code which, like the litigation involving Pittsfield, raised complex issues of federal energy law and required coordination between the Debtor and the Debtor's special regulatory counsel, and extensive hearing preparations and negotiations. Through diligent efforts, the Debtor was able to procure beneficial modifications and/or terminations of these economically burdensome contracts, resulting in significant savings to the estate. Notably, the following obligations of the Debtor on certain gas transportation contracts were eliminated: $1.35 million/month to TransCanada Pipelines; $575,000/month to ANR Pipeline; $460,000/month to Iroquois Gas Transmission; $380,000/month to Columbia Gas Transmission; and $295,000/month to Tennessee Gas Pipeline. These efforts also enabled the Debtor to build up its cash reserves, making it possible for the Debtor to pay holders of Class 3 Claims the full amount of their Allowed Claims, together with Post-Petition Interest.

5. The Bear Swamp Litigation and Proposed Settlement

The Bear Swamp litigation is, beyond question, the most intensive and complex matter to confront the Debtor during the Chapter 11 Case. In 1998, the Debtor entered into a sale–leaseback transaction with the Bear Swamp Generating Trust No. 1 LLC and Bear Swamp Generating Trust No. 2 LLC (collectively, the "Owner Trusts"), pursuant to which the Debtor sold the Bear Swamp Facility to the Owner Trusts. The Debtor continued to own the ground on which the Facility is situated and contemporaneous with the sale, the Debtor entered into (i) two Facility Site Leases with the Owner Trusts pursuant to which the Owner Trusts leased the site from the Debtor, (ii) two Facility Leases pursuant to which the Debtor leased the Facility from the Owner Trusts and (iii) two Site Subleases pursuant to which the Debtor leased back the site from

the Owner Trusts. In the Debtor's view, the Bear Swamp Leases were structured very specifically as "true leases" for all purposes.

The Owner Trusts funded the purchase of the Bear Swamp Facility with funds from two sources – (i) an equity contribution to each Owner Trust by Bear Swamp I LLC and Bear Swamp II LLC (collectively, the "Owner Participants") and (ii) proceeds from the issuance and sale of the Lessor Notes to the Pass Through Trusts. The Pass Through Trusts funded the purchase of the Lessor Notes with the proceeds from the issuance and sale of pass through certificates pursuant to an offering under Rule 144A of the Securities Exchange Act of 1933, as amended. In conjunction with the sale-leaseback transaction, the Debtor entered into Tax Indemnity Agreements with the Owner Participants to indemnify them against the loss of certain tax benefits the Owner Participants sought to derive from the leases.

Shortly after the Petition Date, the Debtor filed a motion under section 365(a) of the Bankruptcy Code to reject the Bear Swamp Leases. The aggregate annual rent under the leases ranges from $45 million to $60 million through the year 2019 with payments reducing thereafter to the end of the leases in 2047. By comparison, the Debtor had only been able to generate an annual gross margin of between $12 million and $13 million through the operation of the Bear Swamp Facility thereby incurring substantial business losses within the Bear Swamp Facility amounting to an estimated $33 million annually, based on the current level of rents.

The Bear Swamp counterparties promptly contested the Debtor's proposed rejection by filing several objections and discovery requests.

Through extensive settlement discussions spanning many weeks, the Debtor and the Committee negotiated an interim settlement agreement which was approved by the Bankruptcy Court on October 3, 2003, through which the Bear Swamp counterparties consented to a rejection of the leases and related agreements to the extent the Bankruptcy Court determined they constitute leases rather than a secured financing. The parties agreed to specifically reserve certain issues for adjudication by this Court at a later date.

In furtherance of the parties' interim settlement, on January 2, 2004 the Debtor initiated an adversary proceeding (the "Bear Swamp Adversary Proceeding") against the Owner Trusts, the Owner Participants and HSBC Bank USA ("HSBC"), as Indenture Trustee and Pass Through Trustee, through which the Bankruptcy Court was asked to make a determination with respect to the reserved issues. Specifically, the Debtor sought to have the Bankruptcy Court adjudicate the following issues: (i) to have the Bear Swamp agreements between the Debtor and the defendants determined to be executory contracts deemed rejected under section 365(a) of the Bankruptcy Code as of the date of the interim settlement agreement; (ii) to obtain a ruling that the Bear Swamp leases are leases of non-residential real property; and (iii) to have the Bankruptcy Court apply section 502(b)(6) of the Bankruptcy Code to "cap" the damages that may be

asserted by the defendants resulting from the rejection of the leases. On March 22, 2004, the Owner Trusts and Owner Participants filed an answer to the Debtor's complaint, and HSBC filed an answer and counterclaim against the Debtor.[4] The Committee moved to and ultimately intervened in the litigation in full support of the Debtor's position. Expedited extensive discovery encompassing many hundreds of thousands of pages of documents and numerous witnesses proceeded in earnest up to the week before trial. The trial occupied several full days in late June 2004, and was followed by post-trial briefing.

In late July 2004, Judge Akard announced that he felt compelled to recuse himself. Judge Akard, in consultation with Judge Paul Mannes, the presiding judge in the Chapter 11 Case, stated that Judge Mannes would be ready, willing and able to render a decision in the Bear Swamp litigation. At Judge Mannes' urging, the parties agreed to mediation of the disputes, and selected Erwin I. Katz, former United States Bankruptcy Judge for the Northern District of Illinois, as mediator. Also, when it appeared by virtue of the then pending Sale Transactions, along with Cash generated through normal operations, that the Debtor would likely be able to pay all of its Creditors in full with interest, the Debtor urged the other parties to the litigation to permit NEGT to participate in the Bear Swamp mediation sessions. Mediation sessions were led by Judge Katz and held throughout October and November 2004. After mediation initially proved unsuccessful, on December 8, 2004, the Bankruptcy Court took additional testimony and closed the record, and the parties made their final arguments. Negotiations between and among the parties nonetheless continued throughout December 2004.

During the last week of December 2004, the parties to the litigation, together with NEGT, entered into a global settlement of their disputes, subject to, among other things, the confirmation of the Plan by May 15, 2005. The settlement is set forth in full in the Plan (and defined therein as the Bear Swamp Compromise), and provides as follows:

1. The Bear Swamp Certificateholders ("BSC") and the Owner Participants will have a combined allowed unsecured claim of $485,000,000 (the "BSC Claim") (subject to allocation between BSC and the Owner Participants pursuant to the Owner Participants/BSC Term Sheet) and will assign a $72,000,000 participation in such claim to the Shareholder (the "Shareholder Participation").

2. The Shareholder will not receive any interest on the Shareholder Participation.

[4] The trial of the Bear Swamp action was assigned to the Honorable John C. Akard, a visiting United States Bankruptcy Judge from the United States Bankruptcy Court for the Northern District of Texas.

3. BSC and the Owner Participants will receive interest at the same rate as all other holders of Allowed Class 3 Claims on $413,000,000 of the combined Allowed BSC Claim (the "Net BSC Claim"). The NET BSC Claim will be divided between BSC and the Owner Participants in the manner provided in the Owner Participants/BSC Term Sheet.

4. Except as set forth in section 10.03 of the Plan or as otherwise agreed to by the Debtor and a Creditor, Post-Petition Interest will be paid to all other holders of Allowed Class 3 Claims at 4% per annum simple interest.

5. The Debtor will convey to the Land Buyer or its designee for $1.00 the land associated with the Bear Swamp Facility.

6. The Debtor, HSBC, the Owner Trusts and the Owner Participants shall fully cooperate with the sale and/or transition of the Bear Swamp Facility and the Bear Swamp Land to a new owner and/or operator, with the appropriate areas of cooperation to be agreed upon, taking into account regulatory requirements and that the Debtor will no longer have the ability to operate the Bear Swamp Facility following the close of the sale of its Hydro Assets.

7. The sales proceeds from the sale of the Bear Swamp Facility and the Bear Swamp Land will be divided between BSC and the Owner Participants in the manner provided in the Owner Participants/BSC Term Sheet.

8. NEGT will have a facility disposition risk/opportunity of 10% to the extent that the Cash proceeds of the sale of the Bear Swamp Facility and the Bear Swamp Land (net of an amount equal to all expenses of HSBC, the Owner Trusts and the Owner Participants relating to the Debtor's Chapter 11 case or to such sales) are lower or higher than $63,000,000 in the aggregate, provided that (a) professional fees and expenses for this purpose shall be capped at $25,000,000 and shall not include any success fee, fee contingent on completion of a transaction or premium fee award, or other premium billing amount, (b) the net proceeds shall be deemed to be not less than $40,000,000, and (c) a sale occurs no later than December 31, 2005. For clarity, NEGT's maximum exposure under this provision is $2,300,000, which equals 10% of the difference between $63,000,000 and $40,000,000, and NEGT's upside is 10% of the amount in excess of $63,000,000.

9. All of the Owner Participants Claims shall be deemed to have been satisfied out of their participation in the Bear Swamp Compromise pursuant to the Plan.

10. The settlement can be terminated by a majority vote of the Committee with all parties reserving all rights they may have if the Debtor is unable to pay (a) all Claims in full (including the full BSC Claim which includes

the Shareholder Participation, but excluding interest on the Shareholder Participation) and (b) simple interest at the rate of 4% per annum to all holders of Allowed Claims, unless waived by the Committee under section 10.03 of the Plan, but in no event less than 3% per annum or as otherwise agreed between the Debtor and the holder of Allowed Claim.

11. Each party's obligations under the Bear Swamp Compromise are expressly subject to the filing of a plan in form and substance satisfactory to the parties by January 31, 2005, the entry of an order of the Bankruptcy Court approving a disclosure statement (as may be amended or modified) with respect thereto no later than March 31, 2005, and the entry of an order of the Bankruptcy Court confirming such plan which is inclusive of the parties' mutual releases no later than June 15, 2005.

6. The Algonquin Litigation

The Debtor was embroiled in litigation with Algonquin beginning in August 2003 when the Debtor sought to reject its contracts with Algonquin. Algonquin challenged the Debtor's right to reject its contracts, initiated a rate case before the FERC, filed a $481 million proof of claim, and commenced a lift stay proceeding involving a $10 million letter of credit. Algonquin's actions involved the Debtor in numerous proceedings before the Bankruptcy Court and FERC, and consumed significant amounts of the Debtor's resources during the first several months of this case. Ultimately, after lengthy settlement negotiations, a global resolution of all issues with Algonquin was reached on or about April 16, 2004. Upon motion of the Debtor dated April 19, 2004, the Bankruptcy Court approved the proposed settlement with Algonquin at a hearing on May 12, 2004. The settlement (which, *inter alia*, reduced Algonquin's claim from $481 million to $4 million) was the fruit of several rounds of comprehensive negotiations that spanned many weeks.

7. Town of Rockingham Condemnation Proceeding and Settlement

On or about November 26, 2003, the Debtor commenced an adversary proceeding (subsequently joined by the Committee) against the Town of Rockingham, Vermont ("Rockingham") to enjoin Rockingham from continuing an eminent domain proceeding which had been commenced in the State of Vermont with respect to Debtor's Bellows Falls Project. The Debtor immediately filed a motion for a preliminary injunction. The Committee intervened in the action. The Bankruptcy Court held a two-day evidentiary hearing on December 17-18, 2003, in which Committee counsel participated, at the conclusion of which the parties requested that the Court postpone its ruling on the motion so that the parties could continue settlement discussions.

Ultimately, the parties reached a settlement. On or about March 8, 2004, the Debtor filed a motion pursuant to Bankruptcy Rule 9019 to approve the settlement, which the Bankruptcy Court granted on July 23, 2004. The salient terms of the

settlement are as follows: (i) the parties entered into an Option Agreement granting Rockingham an option to purchase the Bellows Falls Project, exercisable by December 1, 2004 or the option right would terminate; (ii) the purchase price shall be $72,046,000; and (iii) in consideration of the Option Agreement, Rockingham agreed not to condemn the Bellows Falls Project or to acquire the Project by any other means at any time prior to December 1, 2014.

Thereafter, on December 1, 2004, Rockingham exercised its option to purchase the Bellows Falls Project. The Debtor, Rockingham, and Rockingham's assignee, Vermont Hydro Electric Power Authority, are taking the necessary steps to obtain the requisite FERC, environmental, state and other approvals in order to close the transaction, which closing is anticipated to occur in the second quarter of 2005.

8. **Glencore Agreement and Mutual Release**

Prior to the Petition Date, USGenNE and ET Power, one of the Affiliate Debtors, entered into a master fuel agreement (the "Master Fuel Agreement") pursuant to which USGenNE agreed to buy all of its coal from ET Power. The Master Fuel Agreement is a forward contract, which can be terminated automatically upon a bankruptcy filing by one of the parties.

Consistent with the historical division of responsibilities between ET Power and USGenNE, ET Power entered into a Master Coal Purchase and Sale Agreement with Glencore Limited ("Glencore") (the "Glencore Agreement"), for the benefit of USGenNE. The Glencore Agreement required, among other things, that ET Power provide performance assurance in the form of a letter of credit or cash. Accordingly, ET Power posted a $3 million letter of credit in support of that obligation. Pursuant to the Glencore Agreement, ET Power executed a confirmation with Glencore which provided for the sale of specified quantities of coal through February 2004, at a price of $30.35 per ton.

ET Power and USGenNE also entered into a confirmation providing that ET Power's interest in the Glencore coal be transferred to USGenNE at a price of $30.35 per ton, the exact price in the Glencore Agreement. Subsequent to the Petition Date, USGenNE made its own coal purchases, and reduced its reliance on ET Power for gas management, power management and other services.

Further, in anticipation of their respective Chapter 11 filings, on July 3, 2003, ET Power, certain of its affiliates, and USGenNE entered into a mutual release (the "Mutual Release"). The Mutual Release contemplated the orderly termination and liquidation of virtually all agreements between the parties and settlement of such positions on an equitable basis, subject to further scrutiny by the respective creditors of the Affiliate Debtors and USGenNE and, to the extent required, the Bankruptcy Court. On July 3, 2003, as part of the claims resolved under the Mutual Release, ET Power credited USGenNE with $500,000, which represented the difference between the then

current market price of coal and the price of the coal under the Glencore Agreement. The effect of the Mutual Release was to shift all of the rights in the Glencore coal from USGenNE back to ET Power.

ET Power did not reject the Glencore Agreement. Instead, USGenNE prepaid Glencore for the coal on behalf of ET Power, and Glencore continued to perform according to the terms of the Glencore Agreement for the benefit of USGenNE. As a result, ET Power was the actual party in interest under the Glencore Agreement, and USGenNE had no rights with respect to the remaining term thereof. Given that the price of coal increased since the Glencore Agreement was executed, the Glencore Agreement represented an "in the money contract" for ET Power.

Thus, by agreement reached between ET Power and USGenNE, ET Power agreed to assign its interest in the Glencore Agreement to USGenNE. In consideration of this assignment, USGenNE agreed to pay ET Power a one-time payment of $700,000. Once released from the Glencore Agreement, ET Power would obtain from Glencore its $3 million letter of credit.

Each of USGenNE and ET Power performed a market analysis of the Glencore Agreement and determined that the consideration of $700,000 was reasonable. Upon the joint motion of USGenNE and the Affiliate Debtors, the Bankruptcy Court approved the assumption and assignment of the Glencore Agreement as being in the best interests of both estates pursuant to order dated April 1, 2004. USGenNE's Committee fully reviewed the facts and circumstances surrounding the Glencore Agreement and the Mutual Release and supported the relief sought by the Debtor.

9. **Claims Resolution**

The Bankruptcy Court fixed January 9, 2004 as the last date for filing Claims against the Debtor (the "Bar Date"). The total amount of timely-filed asserted Claims, excluding Claims, if any, by certain insiders and certain intercompany claimants not required to file Claims on or before the Bar Date, and adjusting for settlements which have been agreed upon (including the Bear Swamp Compromise) and Claims which have been cured, amended, or objected to, is approximately $1.45 billion at the present time. Such amount is subject to further adjustment as a result of the disposition of Disputed Claims through litigation and/or settlement.

In light of the Bear Swamp Compromise, the aggregate Claims of BSC and the Owner Participants have been reduced from in excess of $900,000,000 to $485,000,000 (which $485,000,000 is included in the above $1.45 billion estimate).

The Debtor is in the process of reviewing Claims and has commenced filing objections to disputed Claims. On November 17, 2004, the Bankruptcy Court entered an order sustaining the Debtor's first omnibus objection to Claims, which disallowed certain duplicate, amended and late-filed Claims, together with certain Claims

paid post-petition pursuant to one or more orders of the Bankruptcy Court. The Debtor continues to review Claims on a substantive basis and will file further objections to Claims at such time as is it deems appropriate.

The Debtor, including the Affiliate Debtors which were not required to file proofs of claim in advance of the Bar Date, have a number of intercompany Claims running between and among them which in the aggregate total hundreds of millions of dollars. The Debtor is not aware of any significant disputes with respect to Claims involving the Debtor and the Affiliate Debtors. Further, the Bankruptcy Court entered an order dated May 13, 2004 which fixed the Claim of ET Power against the Debtor in the amount of $81,886,746 pursuant to the Mutual Release, subject to the rights reservation set forth therein. ET Power has also asserted other Claims against the Debtor.

10. Committee Review and Filing of Committee Proofs of Claim Against NEGT

Consistent with its fiduciary duties to the estate, and with the express consent and full cooperation of the Debtor, the Committee and its professionals conducted a thorough review of possible claims by the estate against NEGT and other affiliates of the Debtor. Chief among the transactions which were researched by the Committee were the various distributions and dividends made by the Debtor to NEGT in the years prior to the Petition Date. The Debtor provided the Committee with its full cooperation in this regard, including access to a data room containing all relevant documents, and the ability to interview employees of the Debtor who may have knowledge concerning the subject transactions. Moreover, the Committee (with the Debtor's support) filed a motion with the Bankruptcy Court for authority to assert such claims on behalf of the estate in lieu of the Debtor, and the Debtor consented to the relief requested. An order granting the Committee such authority was issued by the Bankruptcy Court on May 13, 2004.

Thereafter, on July 23, 2004, the Committee determined to file two (2) claims against the NEGT estate for, among other things, distributions and dividends issued by the Debtor and ultimately received by NEGT dating back to August 31, 1999, asserted in the aggregate amount of $185,000,000, plus certain additional contingent and unliquidated amounts (the "Committee Proofs of Claim"). The Debtor and NEGT each dispute the Committee Proofs of Claim.

In light of the presumed solvency of the Debtor, neither NEGT nor the Committee has taken any action to prosecute or litigate the Committee Proofs of Claim. Moreover, by reason of the Bear Swamp Compromise, upon the Effective Date of the Plan, the Committee will withdraw and cause the dismissal of the Committee Proofs of Claim with prejudice. In the event the Effective Date does not occur, the Committee has reserved the right to prosecute the Committee Proofs of Claim.

11. New Tax Sharing Arrangement

As of the Petition Date, the Debtor was an indirectly owned subsidiary of NEGT, which in turn was an indirectly owned subsidiary of PG&E Corporation ("PG&E"). The Debtor and NEGT were members of the PG&E consolidated federal income tax return filing group (the "PG&E Group"). After joining the PG&E Group, the Debtor entered into a Tax Sharing Agreement (the "Original TSA") with its immediate parent, a limited liability company now known as National Energy Generating Company, LLC ("Generating"). The Original TSA required the Debtor to make or alternatively receive payments from Generating, as applicable, with respect to income taxes on an annual basis based on whether the Debtor and its subsidiaries would incur a tax liability or would be entitled to receive a tax refund. The Debtor and certain other members of the PG&E Group have received compensation from the PG&E Group for their tax losses.

It is believed that the Debtor incurred operating losses of approximately $57 million in 2003, and is expected to have generated a significant amount of taxable income in 2004. The Debtor will also likely generate a significant amount of tax deductions in connection with the consummation of the Plan. NEGT confirmed its plan on May 3, 2004. The Debtor became a member of a newly-formed NEGT consolidated federal income tax return filing group (the "NEGT Group") as of the end of day on October 29, 2004, the effective date of NEGT's confirmed plan of reorganization.

Due to uncertainties surrounding both the Original TSA and the separate bankruptcy cases in which the Debtor and NEGT are involved, the Debtor, NEGT and certain of its affiliates, and the Committee, which played an active role, negotiated a revised tax sharing arrangement (the "New TSA"), to define the rights and obligations of the Debtor and NEGT during the periods in which these corporations continue to file consolidated federal income tax returns either as part of the PG&E Group, or as part of the NEGT Group. On June 18, 2004, the Bankruptcy Court granted the joint motion of the Debtor and the Affiliate Debtors to approve the settlement of issues relating to the Original TSA and authorize entry into the New TSA.

The New TSA provides, among other things, as follows:

(i) the Debtor and NEGT will join in the filing of consolidated federal income tax returns in the periods following the deconsolidation of NEGT from the PG&E Group as members of the newly-formed NEGT Group;

(ii) the Debtor will be entitled to a 100% recovery of tax benefits realized within the PG&E Group (prior to deconsolidation) with respect to the utilization of the Debtor's tax losses, up to an aggregate cap amount (that is, the tax savings realized from the use of Debtor's tax losses at an assumed income tax rate of 35%);

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(iii) the Debtor will receive 35% of the tax benefits generated by the Debtor's losses utilized within the PG&E Group (prior to deconsolidation) over and above the cap amount (that is, 35% of the tax savings realized from the use of the Debtor's tax losses at an assumed income tax rate of 35%, or approximately 12% of the amount of utilized tax losses);

(iv) the Debtor will be entitled to 35% of the tax benefits associated with the Debtor's losses that are actually utilized by one or more members of the NEGT Group following NEGT's deconsolidation from the PG&E Group;

(v) the Debtor will be entitled to receive 100% (rather than 35%) of the tax benefits (up to the amount of tax actually paid by the Debtor for tax year 2004) associated with certain net operating losses generated by the Debtor in 2005; and

(vi) to the extent that the Debtor was to generate net taxable income for any tax period in which it is a member of the NEGT Group, it would be required to make a payment to NEGT equal to its tax liability for such period.

Subsequent to the execution of the New TSA, the Debtor granted a release and consent pursuant to which, among other things, (i) the Debtor agreed to release PG&E from any claims for taxes attributable to periods during which the Debtor was a member of the PG&E Group, (ii) PG&E released the Debtor from any liability for taxes attributable to periods during which the Debtor was a member of the PG&E Group, (iii) the Debtor agreed to forego any potential carryback of its net operating losses to periods prior to its deconsolidation from the PG&E Group, and (iv) the Debtor and PG&E agreed that PG&E would be entitled to certain tax refunds obtained with respect to pre-deconsolidation tax periods with respect to the PG&E Group.

12. Key Employee Retention Plan

On or about August 19, 2003, the Debtor and the Affiliate Debtors filed a joint motion to approve an amended and restated retention plan (the "Original Retention Plan") providing for payment of a retention bonus to eligible employees if they remain employed throughout the restructuring of the Debtor or the Affiliate Debtors, as applicable. The Bankruptcy Court approved the Original Retention Plan, which covers thirty-five (35) employees, on September 25, 2003. Final payment under the Original Retention Plan is due to be made by the Debtor within ten (10) days of the Effective Date of the Plan. The total costs remaining for the Debtor under the Original Retention Plan were $245,358.00 as of January 31, 2005.

In order to supplement the Original Retention Plan (which was no longer adequate because of the longer time frame for completion of the Debtor's reorganization/liquidation) and to reduce attrition, on or about June 11, 2004, the Debtor filed a motion to approve a new key employee retention plan (the "New Retention Plan"). The Court approved the New Retention Plan, which covered approximately ninety (90) employees, on June 18, 2004. The New Retention Plan (effective as of June 1, 2004) will continue as to a particular employee until severance, receipt of a qualified offer of employment from a purchaser in the event of a sale, continued employment under a stand-alone reorganization plan, or accrual of five (5) calendar quarters of retention amounts.

The New Retention Plan contains three (3) main components: (i) quarterly retention payments based on a percentage of salary that accrues quarterly. Each quarter, approximately $680,000 of retention costs will accrue (excluding the most senior executives) with approximately $240,000 paid upon accrual and approximately $440,000 deferred until severance or consummation of the reorganization; (ii) a discretionary pool available to the Debtor's President to award employees for the completion of a specific task critical to the reorganization. The pool will be equal to 10% of the total quarterly retention payments on an annual basis, or approximately $270,000; and (iii) an incentive-based restructuring bonus pool available for senior management in an amount between -0- and $550,000. The New Retention Plan, as eventually authorized by the Bankruptcy Court, was thoroughly discussed with and approved by the Committee.

13. The Marketing Process and the Sale Transactions

In addition to seeking to develop a business plan that might serve as the basis of a plan of reorganization, the Debtor and Lazard, as its financial advisor and investment banker, marketed the Debtor's assets for sale. Toward this end, the Debtor and Lazard conducted a marketing program to solicit third-party proposals and offers to purchase the Debtor's assets, contacting numerous entities (including many familiar with the Debtor's industry in general and the Debtor in particular). Thereafter, in March 2004, Lazard and the Debtor prepared and distributed a marketing package with respect to all or part of the Debtor's assets to an even wider group of potential acquirers.

After meaningful input from various creditor constituencies, including the Committee and its professionals, and with the full approval of the Committee, Lazard contacted dozens of potential strategic and financial buyers. Interested parties requested and signed confidentiality agreements. Lazard conducted a first round bid process to encourage interested parties to provide the Debtor with expressions of interest for any of the Debtor's hydroelectric or fossil fuel Facilities (or for the entire portfolio). Bidders submitted conforming initial bids by the deadline of May 27, 2004, and thereafter Lazard conducted a second round of inquiries with the finalists with final bids due on or about August 6, 2004. The Debtor and Lazard identified several of the entities that appeared the most qualified to acquire the Debtor's assets and began to coordinate extensive due

diligence with those entities. In addition, the Debtor conducted detailed management presentations at its headquarters for each of these entities and coordinated in-depth site examinations of the Debtor's generating Facilities. After conducting an extensive analysis of the competing offers received from these entities and after detailed consultation with the Committee, the Debtor selected the offer(s) of (i) Dominion Energy New England, Inc. ("Dominion") for the Debtor's Fossil Assets and (ii) TransCanada Hydro Northeast Inc. ("TransCanada") for the Debtor's Hydro Assets because they represented the best opportunity to maximize the value of the Debtor's assets.

Throughout the process, Lazard and the Debtor worked closely with the Committee and its financial and legal advisors on the sale process. The Debtor's efforts included many detailed presentations of its operational, financial and tactical activities, as well as other issues critical to the Committee's understanding of the Debtor and its liquidation or reorganization efforts. The Committee actively monitored the Debtor's negotiations and documentation of asset sales and worked with the Debtor to develop strategies and terms to maximize recoveries and minimize risks.

Both Dominion and TransCanada determined to condition their offers on the Debtor obtaining the requisite authority from the Bankruptcy Court to sell such assets pursuant to section 363 of the Bankruptcy Code rather than be subject to the substantial delays and uncertainties attendant a proposed acquisition via the Chapter 11 plan process. Consequently, the Debtor determined in its sound business judgment that a sale of the Debtor's assets, under such conditions, was the best way to preserve and maximize the value of the Debtor, protect the jobs of the remaining experienced and valued personnel, and preserve the remaining value of the Debtor's assets for the benefit of the estate, including Creditors and Interest holders.

On September 7, 2004, the Debtor filed a motion seeking (i) authorization to enter into the Fossil Asset Purchase and Sale Agreement, dated as of September 3, 2004, among the Debtor, USG Services Company LLC (an affiliate of the Debtor which serves as the entity which provides service personnel for the benefit of the Debtor), First Massachusetts Land Company, LLC (a wholly owned subsidiary of the Debtor which owns certain real property located in Salem, Massachusetts related to the Salem Harbor Facility) and Dominion, and to sell its fossil fuel generating Facilities and related assets and to assign to Dominion certain agreements relative to the Debtor's Fossil Assets and (ii) Bankruptcy Court approval of notice and bidding procedures with respect to the sale of the Fossil Assets pursuant to section 363 of the Bankruptcy Code (the "Fossil Sale Motion").

On September 29, 2004, the Debtor filed a second motion seeking (i) authorization to enter into the Hydro Asset Purchase and Sale Agreement, dated as of September 29, 2004, among the Debtor, USG Services Company LLC, and TransCanada and to sell its hydroelectric generating Facilities and related assets and to assign to TransCanada certain agreements relative to the Debtor's Hydro Assets and (ii) Bankruptcy Court approval of notice and bidding procedures with respect to the sale

of the Hydro Assets pursuant to section 363 of the Bankruptcy Code (the "Hydro Sale Motion").

Dominion and TransCanada were granted customary "stalking horse" protections approved by the Bankruptcy Court pursuant to orders dated October 8, 2004 and November 8, 2004, respectively. Thereafter, formal bankruptcy auctions were conducted pursuant to bidding procedures approved by the Bankruptcy Court, in which the Debtor sought higher or otherwise better offers for the Debtor's assets. At the conclusion of the bid procedures as approved by the Bankruptcy Court, Dominion and TransCanada were considered by the Debtor as having submitted the highest and best offers for the Fossil Assets and the Hydro Assets, respectively. Objections to the sales were filed by NEP, HSBC and several governmental authorities concerning transfer tax treatment under section 1146 of the Bankruptcy Code, which objections were resolved, withdrawn or overruled. Thereafter, the Debtor sought and obtained Bankruptcy Court: (a) approval of the purchase agreements between Dominion and the Debtor and TransCanada and the Debtor; and (b) authorization to consummate the Sale Transactions contemplated thereby pursuant to Orders of the Bankruptcy Court dated November 23, 2004 and December 15, 2004, respectively.

The Debtor closed on the Fossil Transaction effective as of January 1, 2005, and has received approximately $642,500,000 in sales proceeds with respect thereto, subject to possible further closing adjustments. The Debtor expects to close on the Hydro Transaction during the first quarter or early second quarter of 2005, and expects to receive approximately $505,000,000 in sales proceeds upon closing, also subject to standard closing adjustments.

14. **The NEP Litigation**

The Debtor and NEP are parties to a multitude of agreements emanating from the Acquisition. Subsequent to the Petition Date, on September 5, 2003, the Debtor filed a motion pursuant to section 365 of the Bankruptcy Code to reject the Quebec Interconnection Transfer Agreement, dated as of September 1, 1998, by and between NEP and the Debtor (the "QITA"). The parties thereafter entered into a Stipulation and Consent Order which provided, *inter alia,* for the rejection of the QITA and the reservation of rights by NEP to file a claim arising as a result of the rejection and the Debtor's reservation of rights to object thereto.

On September 27, 2004, NEP and certain affiliated companies (collectively, "National Grid" or the "National Grid Companies"), filed an objection to the Fossil Sale Motion, and on October 19, 2004, National Grid filed a similar objection to the Hydro Sale Motion. The gravamen of National Grid's objections to the sale motions was that (i) the motions were improper *sub rosa* plans; (ii) the motions were not the functional substitute for the adequate information that an approved disclosure statement would contain; (iii) the Debtor's proposed assumption and assignment of certain executory contracts was improper; and (iv) the motions made no provision for a

determination by FERC (or another adjudicatory body with jurisdiction) that the Debtor's cessation of performance under its asset purchase agreement and other related agreements was in the public interest. On November 17, 2004, National Grid filed an Objection to Assignment and Cure Notice with Respect to the Fossil Transaction. The Debtor and the Committee thereafter filed responses to National Grid's objection to the Fossil Sale Motion.

In connection with the Fossil Sale Motion, the Debtor and Dominion filed a joint application with the FERC pursuant to section 203 of the Federal Power Act ("FPA") for authorization for the sale of FERC jurisdictional facilities associated with the fossil generating assets and the transfer of the proposed assigned FERC jurisdictional fossil agreements. In response thereto, on November 5, 2004, National Grid filed a protest with the FERC. On October 28, 2004, the Committee filed a motion to intervene in this proceeding. Also in connection with the Fossil Sale Motion, Dominion filed applications with the FERC for a determination that certain Dominion affiliates are Exempt Wholesale Generators ("EWGs") and in response thereto National Grid filed Motions to Intervene Out Of Time and Protest.

On October 29, 2004, the Debtor and TransCanada (together with Dominion, the "Purchasers") filed a joint application with the FERC under section 203 of the FPA for authorization for the sale of FERC jurisdictional facilities associated with the Hydro Assets. In connection with the Hydro Sale Motion, TransCanada filed applications with the FERC for a determination that TransCanada is an EWG. Also in connection with the Hydro Sale Motion, TransCanada and the Debtor filed a joint application for authorization to transfer the licenses for the hydroelectric generating facilities.

The National Grid Companies filed various proofs of claim in the Debtor's Chapter 11 Case (collectively, the "National Grid Claim"). While the Debtor disputed the National Grid Claim as filed, the total amount of such claim could be as large as $400 million.

Rather than further litigate the issues presented by all of the foregoing proceedings both in the Bankruptcy Court and before the FERC, which could well have impacted a timely closing with Dominion, as well as the merits of the National Grid Claim and any subsequent amended claim, the Debtor and National Grid negotiated a global settlement thereof, embodied in a Settlement Agreement and Release (the "NEP Settlement Agreement"), as approved by the Bankruptcy Court pursuant to order dated December 22, 2004.

The NEP Settlement Agreement represented a fair and reasonable resolution of the myriad disputes the Debtor had with National Grid, including proceedings both in the Bankruptcy Court and before the FERC, as well as the merits of the National Grid Claim. Specifically, the NEP Settlement Agreement removed a major impediment to the approval by the Bankruptcy Court of the Debtor's sale of its Fossil and

Hydro Assets, as well as related FERC authorization for certain aspects of the Sale Transactions. These sales were the predicate for the Plan, which the Debtor contemplates will result in full payment (plus Post-Petition Interest) to holders of Allowed General Claims, and a distribution to Interest holders. Litigation in the Bankruptcy Court or before the FERC concerning the significant jurisdictional and other issues raised by National Grid could have substantially delayed or even derailed consummation of the Sale Transactions, to the detriment of the Debtor, its creditors and estate. The NEP Settlement Agreement also substantially reduced the National Grid Claim to a $195 million pre-petition general unsecured Claim and a $10 million administrative Claim, exclusive of certain preserved claims. Post-Petition Interest will be paid on only $17 million of the general unsecured portion of the National Grid Claim and does not accrue until April 1, 2004. This represents a substantial benefit to the Debtor's estate because the National Grid Claim could have been as large as $400 million.

15. **Plan of Liquidation**

The Plan will be funded by the proceeds previously generated from the Debtor's ongoing operations during the Chapter 11 Case, together with the proceeds generated from the consummation of each of the Sale Transactions. The Plan contemplates the liquidation of the Debtor, and the use of sale and liquidation proceeds to fund Distributions to Creditors and Interest holders.

Post-confirmation, the Debtor and the Plan Administrator shall, *inter alia*, take all steps and execute all instruments and documents necessary to effectuate the disbursements to be made under the Plan and the winding up of the Debtor.

The Committee fully supports the Plan and has provided a more detailed recommendation in a letter to Creditors accompanying this Disclosure Statement. The Plan provides that, consistent with the series of compromises set forth in the Plan and described herein, all holders of Allowed Class 3 Claims will be paid one hundred (100%) percent of their Allowed Claims, plus Post-Petition Interest, *i.e.* simple interest at four (4%) percent per annum (or Modified Post-Petition Interest, if applicable), from the Petition Date to the Distribution Date, unless such holders have agreed to forego interest or to accept a lesser interest rate, and that as a result of the Distributions to be made under the Plan, all Allowed Claims of Creditors will be deemed to have been fully paid, satisfied and extinguished and such Creditors will have no further recourse against the Debtor, its bankruptcy estate, or the Retained Estate. On the Effective Date, the Shareholder will continue to retain its interests in the Debtor. Class 4 Interest holders will receive the Shareholder Participation, without any interest, together with a Distribution of any assets remaining in the Retained Estate only after all Allowed Class 3 Claims have been paid in full with Post-Petition Interest, or Modified Post-Petition Interest, if applicable, and/or all necessary reserves have been funded.

16. **Role of the Committee**

As noted above, the Committee and its professionals played an important role in certain aspects of the Debtor's Chapter 11 Case. These included the following: (a) as the Debtor maintained continuing close business and management relationships with its parent and affiliates, the Debtor and the Committee worked together to avoid the slightest inference of a conflict of interest or any appearance of impropriety as the Debtor's Chapter 11 Case and NEGT's Chapter 11 case were administered, and consistent therewith, the Debtor and the Committee agreed that the Committee would be active in reviewing any intercompany issues, including intercompany claims; (b) the Committee participated in the hearing to enjoin Rockingham from continuing an eminent domain proceeding with respect to the Debtor's Bellows Falls Project, and participated in negotiations which ultimately resolved this matter favorably for the estate; (c) the Committee took an active role in the Bear Swamp Adversary Proceeding and mediation; (d) the Committee actively monitored the Debtor's negotiation and documentation of asset sales; and (e) the Committee participated fully in negotiations with the Debtor, NEGT, the Bear Swamp Certificateholders and the Owner Trusts regarding the terms of the Plan, including payment of post-petition interest at a rate in excess of the federal judgment rate.

ARTICLE III

THE DEBTOR'S PLAN OF LIQUIDATION

THE FOLLOWING IS A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, A COPY OF WHICH IS ANNEXED TO THIS DISCLOSURE STATEMENT AS APPENDIX 1. IN CERTAIN RESPECTS, THE PLAN DEALS WITH SOPHISTICATED LEGAL CONCEPTS. THEREFORE, YOU MAY WISH TO CONSULT WITH COUNSEL BEFORE ASSESSING YOUR RIGHTS IN RESPECT OF CONFIRMATION.

The Plan provides that Class 3 Creditors are Impaired even though holders thereof shall be entitled to receive one hundred (100%) percent of their Allowed Claims plus Post-Petition Interest at four (4%) percent per annum (or Modified Post-Petition Interest as provided in section 10.03(A) of the Plan, if applicable) from the Petition Date to the Distribution Date. The Plan further provides that as a result of the Distributions to be made under the Plan all Allowed Claims of Creditors will be deemed to have been fully paid, satisfied and extinguished such that Creditors will have no recourse against the Debtor, its bankruptcy estate, or the Retained Estate. NOTWITHSTANDING THE PROVISIONS OF THE PLAN WHICH CHARACTERIZE CLASS 3 AS IMPAIRED, IN THE EVENT THE PLAN IS NOT CONFIRMED BY FINAL ORDER OF THE BANKRUPTCY COURT, THE DEBTOR EXPRESSLY RESERVES THE RIGHT TO FILE A DIFFERENT PLAN WHICH PROVIDES THAT CLASS 3 IS UNIMPAIRED AND SHALL RECEIVE A ONE HUNDRED (100%) PERCENT DISTRIBUTION

WITH POST-PETITION INTEREST AT LESS THAN THE FOUR (4%) PERCENT AS NOW PROVIDED.

A. Classification and Treatment of Claims and Interests

Under the Plan, Claims are classified and treated as discussed below. For ease of reference, estimates assume an Effective Date for the Plan during the end of the second quarter of 2005. The actual Effective Date may vary from that date.

1. Administrative Claims (Unclassified)

a. Description. Administrative Claims are Claims that arose after the Petition Date and were incurred during the Debtor's Chapter 11 Case. The Debtor estimates, depending upon the date of the closing of the Hydro Transaction, that on the Effective Date, Administrative Claims will aggregate approximately $8,355,000, consisting primarily of approximately $5,500,000 for employee severance and retention payments, and approximately $2,855,000 for other Administrative Claims, but excluding ordinary course operating, payroll and G&A expenses. Additionally, the Debtor will remain obligated to pay post-petition claims incurred by the Debtor in the ordinary course of its business.

b. Treatment. Each holder of an Allowed Administrative Claim shall receive: (a) to the extent not already paid in full, payment in full in Cash, as soon as Practicable after the later of the Effective Date and the date such Administrative Claim becomes an Allowed Administrative Claim; (b) to the extent not yet due and payable, payment in accordance with the terms and conditions of the particular transaction giving rise to the Administrative Claim; (c) to the extent such Claims are Administrative Claims of the United States Trustee for fees pursuant to 28 U.S.C. § 1930(a)(6), payment in full in Cash in accordance with the applicable schedule for payment of such fees; or (d) treatment on such other terms as may be mutually agreed upon in writing between the holder of such Allowed Administrative Claim and the Debtor; *provided, however*, that interim and/or final payment of Allowed Administrative Claims approved by the Bankruptcy Court shall be paid at the time of and in accordance with such Bankruptcy Court approval.

c. Pre-Confirmation Administrative Bar Date. Requests for payment of Administrative Claims that have arisen or will arise in the period from the Petition Date through and including the Confirmation Date must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than the Pre-Confirmation Administrative Bar Date; *provided however*, that no request need be filed and served for Ordinary Course Payments because the Debtor will continue to pay such undisputed claims incurred in the ordinary course of business in full as and when they become due. Any Entity that is required to but fails to file such an Administrative Claim request on or before the Pre-Confirmation Administrative Bar Date **forever** shall be barred from asserting such Administrative Claim against the Debtor or the bankruptcy estate, and the

holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset or recover such Administrative Claim.

d. Post-Confirmation Administrative Bar Date. Requests for payment of Administrative Claims that will arise in the period from the Confirmation Date through and including the Effective Date must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than the Post-Confirmation Administrative Bar Date; *provided however*, that no request need be filed and served for Ordinary Course Payments because the Debtor will continue to pay such undisputed amounts in full as and when they become due. Any Entity that is required to but fails to file such an Administrative Claim request on or before the Post-Confirmation Administrative Bar Date **forever** shall be barred from asserting such Administrative Claim against the Debtor or the bankruptcy estate, and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset or recover such Administrative Claim.

2. **Fee Claims (Unclassified)**

a. Description. A Fee Claim is any Claim against the Debtor of a professional person employed under section 327 or 1103 of the Bankruptcy Code seeking compensation or reimbursement of expenses by the Bankruptcy Court in accordance with sections 328, 330 and/or 331 of the Bankruptcy Code, and/or which is entitled to priority pursuant to section 503(b)(2), 503(b)(3)(F), 503(b)(4) or 503(b)(5) of the Bankruptcy Code, including any Claim of a member of the Committee for reimbursement of expenses incurred in such member's capacity as such.

b. Treatment. Each holder of an Allowed Fee Claim shall receive, in Cash, to the extent not already paid, the amounts allowed by the Bankruptcy Court: (a) on or as soon as Practicable following the date upon which the Bankruptcy Court order allowing such Allowed Fee Claim is entered; or (b) upon such other terms as may be mutually agreed upon between the holder of such Allowed Fee Claim and the Debtor. Any and all parties requesting allowance and/or payment of a Fee Claim for any period ending on or before the Effective Date must file and serve final applications therefore no later than forty-five (45) days after the Effective Date or be forever barred from requesting allowance of such Fee Claims. The Interim Fee Order shall remain in effect until Final Orders have been entered on all final applications and shall govern payment of Fee Claims until the Effective Date, and without limitation, for the period between the Confirmation Date and the Effective Date.

3. **Priority Tax Claims (Unclassified)**

a. Description. A Priority Tax Claim is any unsecured Claim, to the extent entitled to priority in payment under section 507(a)(8) of the Bankruptcy Code. The Debtor projects that Priority Tax Claims will approximate $-0-. In fact, the Debtor obtained an order of the Bankruptcy Court dated August 6, 2003 authorizing payment of

pre-petition real estate tax claims. Currently, one Priority Tax Claim exists for $4,881,755, but the Debtor expects to successfully object thereto.

b. Treatment. As soon as Practicable after the later of (a) the Effective Date or (b) the date on which a Priority Tax Claim becomes an Allowed Claim, such Claim shall be paid in full in Cash and shall be entitled to applicable Post-Petition Interest.

4. **Class 1 - Secured Claims (Unimpaired)**

a. Description. A Secured Claim is any Claim to the extent such Claim constitutes a secured claim pursuant to sections 506 or 1111(b) of the Bankruptcy Code and is not assigned to a Purchaser in connection with one of the Sale Transactions. Class 1 consists of all Secured Claims. The Debtor believes that there are no Class 1 Claims.

b. Voting. Class 1 Claims are not Impaired and conclusively presumed to accept the Plan. For this reason, Class 1 Claims are not entitled to vote on the Plan.

c. Treatment. On or as soon as Practicable after the later of: (a) the Effective Date, or (b) the date on which a Class 1 Claim becomes an Allowed Claim, the Disbursing Agent shall, at its election, either (1) pay from the Distribution Fund such Allowed Class 1 Claim in full in Cash, together with interest (unless otherwise agreed by any holder), or (2) return the collateral to the holder of such Allowed Class 1 Claim.

5. **Class 2 - Priority Claims (Unimpaired)**

a. Description. A Priority Claim is any Claim to the extent entitled to priority in payment pursuant to section 507(a) of the Bankruptcy Code, other than an Administrative Claim or Priority Tax Claim. Class 2 consists of Priority Claims against the Debtor. Class 2 is not impaired. The Debtor believes that there are no Class 2 Priority Claims.

b. Voting. Class 2 Claims are not Impaired and conclusively presumed to accept the Plan. For this reason, Class 2 Claims are not entitled to vote on the Plan.

c. Treatment. On or as soon as Practicable after the later of: (a) the Effective Date, or (b) the date on which a Class 2 Claim becomes an Allowed Class 2 Claim, the Disbursing Agent shall pay from the Distribution Fund such Allowed Class 2 Claim in full in Cash, together with Post-Petition Interest.

6. **Class 3 - General Unsecured Claims (Impaired)**

a. Description. A General Unsecured Claim is any Claim against the Debtor, other than an Administrative Claim, Fee Claim, Priority Tax Claim, Secured Claim, or Priority Claim. Class 3 consists of all General Unsecured Claims against the Debtor, including, without limitation, the BSC Claim, guarantee Claims, unsecured Claims of the Debtor's affiliates, the ET Power Claim, and Claims of trade vendors. The Debtor estimates that Allowed Class 3 Claims will aggregate approximately $1.35 billion.

b. Voting. Class 3 Claims are Impaired. Under section 1126(a) of the Bankruptcy Code, holders of Allowed Class 3 Claims may vote to accept or reject the Plan.

c. Treatment. On or as soon as Practicable after the later of (a) the Effective Date (or the Initial Distribution Date) or (b) the date any such General Unsecured Claim becomes an Allowed Class 3 Claim, the Disbursing Agent shall pay such Allowed Class 3 Claim in full in Cash, together with Post-Petition Interest or Modified Post-Petition Interest (if applicable), from the Distribution Fund, *provided, however,* that the Shareholder Participation in the BSC Claim shall not accrue or receive Post-Petition Interest or Modified Post-Petition Interest (if applicable) as provided in section 5.02 of the Plan.

7. **Class 4 – Interests (Impaired)**

a. Description. Class 4 consists of all Shareholder Interests.

b. Voting. Class 4 Interests are Impaired. Under section 1126(a) of the Bankruptcy Code, the Shareholder is entitled to vote to accept or reject the Plan.

c. Treatment. The Interests of the Shareholder are Allowed hereby subject to all of the other terms of the Plan. Notwithstanding any other provision of the Plan, including, without limitation, any provision of Article IX of the Plan, the Shareholder, as the members of Class 4, will continue to retain Interests on and after the Effective Date. The Shareholder shall receive, separate and apart from the Shareholder Participation, as a Distribution on account of such Interests: payment, if any, by the Disbursing Agent from the remainder of the Distribution Fund, Administrative Reserve, Disputed Claims Reserve and any other remaining Retained Estate assets after the payment in full of all Allowed Administrative Claims, Allowed Fee Claims, Allowed Priority Tax Claims, all other Allowed Claims (together with Post-Petition Interest, or Modified Post-Petition Interest, if applicable, on such Allowed Claims) and the Shareholder Participation under the Plan and subject to the terms of the Plan.

B. Means of Plan Implementation

1. The Sale and Option Transactions and Distributions.

A. *The Sale and Option Transactions.* The Debtor shall fulfill any and all remaining obligations in respect of the Sale Transactions and the Rockingham Option Agreement, subject to all of its rights and claims in respect of such Sale Transactions and the transaction evidenced by the Rockingham Option Agreement, and in respect of the Hydro Sale Order, the Fossil Sale Order, and the Rockingham Order.

B. *Distributions.* The Distributions under the Plan shall be funded on the Initial Distribution Date from the Retained Estate, and specifically, without limitation, from the proceeds of each Sale Transaction received from each of the Purchasers and/or the proceeds of the transaction evidenced by the Rockingham Option Agreement and Rockingham Order, and from Cash on hand, net of reserves.

2. Series of Integral and Interrelated Compromises.

The Plan is premised upon a series of interrelated compromises concerning the Bear Swamp Adversary Proceeding, the Post-Petition Interest rate applicable to Class 3 General Unsecured Claims under the Plan, the Committee Proofs of Claim, the Shareholder Proofs of Claim, and the Shareholder Participation. Each of the compromises is integral and necessary to the implementation of the Plan. If any one of these compromises were not approved and consummated, the global settlement chain as embodied in the Plan would be broken, and the Plan could not be implemented.

3. Bear Swamp Compromise, BSC Claim Allowance and Distribution.

The Bear Swamp Compromise constitutes a full and complete settlement of the disputes by and among the Debtor, the Committee, the Shareholder, HSBC, the Bear Swamp Certificateholders, the Owner Trusts and the Owner Participants relating to the Bear Swamp Adversary Proceeding and any related claims against the Debtor and NEGT by such Entities. The Plan constitutes a motion for approval of the Bear Swamp Compromise, and the Confirmation Order, subject to the occurrence of the Effective Date, shall constitute an order of the Bankruptcy Court approving the Bear Swamp Compromise as fair and equitable and within the bounds of reasonableness. The Bear Swamp Compromise shall be effective as of the Effective Date. The BSC Claim shall be Allowed hereby as of the Effective Date in the amount of $485,000,000.00 and shall thereupon constitute an Allowed Claim for all purposes and shall not be subject to setoff or subordination or to reconsideration or modification, and any Cause of Action relating thereto shall be deemed to have been released pursuant to and subject to Article IX of the Plan. The Shareholder shall be allocated the Shareholder Participation in the BSC Claim. The Shareholder Participation shall not accrue and shall not be paid Post-Petition Interest. HSBC and the Owner Participants shall be entitled to receive the Net BSC Claim in the aggregate Allowed amount of $413,000,000.00, and the Net BSC Claim shall be divided

into two (2) separate and independent Allowed Claims between HSBC and the Owner Participants as provided in the Owner Participants/BSC Term Sheet (such separate and independent Allowed Claims shall be herein referred to respectively as the "HSBC Claim" (the Allowed Class 3 Claim of HSBC and the Bear Swamp Certificateholders) and the "Owner Participants Claim" (the Allowed Class 3 Claim of the Owner Participants)). Distribution on the BSC Claim shall be made by the Plan Administrator on the Initial Distribution Date as part of Class 3 under the Plan and: (i) allocated to the HSBC Claim and the Owner Participants Claim, and (ii) allocated on account of the Distribution on the Shareholder Participation. The Net BSC Claim shall accrue and be paid Post-Petition Interest. The Bear Swamp Certificateholders shall be entitled to vote $323,000,000.00 of the Net BSC Claim and the Owner Participants shall be entitled to vote $90,000,000.00 of the Net BSC Claim. The provisions of Article IX of the Plan that relate to the satisfaction of Claims against the Debtor and the releases of the Debtor, the Shareholder, HSBC, the Owner Participants, and the Bear Swamp Certificateholders form an integral part of the Bear Swamp Compromise. Distributions to the Owner Participants on the Owner Participants Claim and Distribution in respect of the Shareholder Participation shall be at all times free and clear of the lien of the Subject Indentures.

4. **Land Transfer.**

Upon the Land Closing Date, as reflected in the Bear Swamp Land Transfer Term Sheet, the Debtor will deliver the Bear Swamp Deed in respect of the Bear Swamp Land to the Land Buyer, assume and assign the Facility Site Leases to the Land Buyer, and otherwise accomplish the Land Transfer, for $1.00 consideration. On or prior to the Land Closing Date, each of the Debtor and the Land Buyer shall execute and deliver the Bear Swamp Land Purchase Agreement, which shall be in form and substance satisfactory to the Debtor, HSBC and the Owner Participants. Pursuant to the Confirmation Order and the Bear Swamp Land Purchase Agreement, the Bear Swamp Land will be transferred by the Debtor to the Land Buyer free and clear of Liens other than Permitted Liens and subject to applicable provisions of the Hydro Purchase Agreement and Hydro Sale Order and any other applicable order of the Bankruptcy Court. Among other things, the Confirmation Order shall provide that the Land Buyer is a good faith purchaser and is entitled to the protections of sections 363(m) and (n) of the Bankruptcy Code. The Land Transfer shall not be subject to competitive or other bidding of any sort. The Land Transfer is an integral part of the Bear Swamp Compromise. The Land Transfer is a transfer under the Plan. Bankruptcy Code section 1146(c) shall be applicable to the Land Transfer. The Confirmation Order shall authorize the Debtor to take all reasonable action consistent with the Bear Swamp Land Purchase Agreement, and the Bear Swamp Land Transfer Term Sheet to effectuate and close upon the Land Transfer transaction.

5. **Shareholder Bear Swamp Facility/Land Disposition Risk/Opportunity.**

If the Bear Swamp Facility and the Bear Swamp Land are transferred prior to December 31, 2005, then (i) if the Net Facility Sale Proceeds are less than $63,000,000.00, NEGT shall pay to HSBC and/or the Owner Participants an amount equal to ten percent (10%) of the difference between $63,000,000.00 and the Net Facility Sale Proceeds, up to a maximum for the purposes of this calculation of $2,300,000.00, and (ii) if the Net Facility Sale Proceeds are more than $63,000,000.00, HSBC and/or the Owner Participants shall pay NEGT an amount equal to ten percent (10%) of the amount in excess of $63,000,000.00 (the allocation of each such amount, if any, between HSBC and the Owner Participants is to be governed by the Owner Participants/BSC Term Sheet).

6. **Approval of Bear Swamp Compromise.**

The entry of the Confirmation Order on the docket of the Bankruptcy Court in the Chapter 11 Case shall constitute approval of the Bear Swamp Compromise. Upon the Confirmation Date, the Bankruptcy Court shall likewise enter on the docket of the Bear Swamp Adversary Proceeding the Bear Swamp Compromise Order approving the Bear Swamp Compromise and providing for dismissal with prejudice of the Bear Swamp Adversary Proceeding on the Effective Date, which form of Order shall be in form and substance satisfactory to all parties to the Bear Swamp Adversary Proceeding and may be included in the Plan Supplement. Upon the Effective Date, the Bear Swamp Adversary Proceeding shall be deemed dismissed with prejudice.

7. **Post-Petition Interest/Modified Post-Petition Interest Compromise.**

One of the most significant issues in the Plan is the Post-Petition Interest rate as may be applied to Allowed Claims and Interests. The various stakeholders and parties in interest in the Chapter 11 Case have asserted or could assert that alternative rates of post-petition interest (e.g., the legal rate, the prevailing "prime rate", a contractual rate, a federal or state judgment rate, or the Federal Funds Rate, among others) should be paid to the holders of Allowed Claims and/or Allowed Interests. As discussed above, these stakeholders and parties in interest have achieved a settlement concerning the applicable post-petition interest rate, which settlement is one in a series of interrelated and integral compromises which form the basis of the Plan. The votes of holders of Class 3 Allowed Claims and Class 4 Allowed Interests entitled to vote on the Plan in large part are being solicited to approve such Post-Petition Interest Compromise (as defined below). In short, a vote in favor of the Plan is a vote in favor of the Post-Petition Interest Compromise.

The Plan: (a) compromises any and all disputes, contests, adversary actions or proceedings, rights and liabilities by and among the Debtor, the Committee (and each member thereof), the Bear Swamp Certificateholders, the Owner Participants,

the Owner Trusts, HSBC, the Shareholder, any Creditor and any other party in interest of the Debtor as to the governing rate of post-petition interest in respect of Class 3 Claims, and (b) specifically, without limitation, subject to the exceptions contained in section 1.100 of the Plan, establishes the simple, annual rate of interest of four percent (4%) to be paid on account of Allowed Class 3 Claims or the simple annual rate of interest that constitutes Modified Post-Petition Interest (if applicable) to be paid on account of Allowed Class 3 Claims (the "Post-Petition Interest Compromise"). The provisions of Article IX and section 10.03(A) of the Plan that relate to the satisfaction of Claims against the Debtor form an integral part of this compromise. Upon the Effective Date, irrespective, without limitation, of the non-dischargeability of Claims against the Debtor, neither the Committee (and each member thereof), the Bear Swamp Certificateholders, the Owner Participants, the Owner Trusts, HSBC, the Shareholder, any other Creditor, nor any other party in interest may assert Claims for post-petition interest against the Debtor or the Retained Estate, except for the Post-Petition Interest factor of four percent (4%) simple, annual interest and/or any Modified Post-Petition Interest (if applicable), in the context of Distributions or against the Debtor; *provided*, *however*, the Shareholder shall not have any Claim for Post-Petition Interest or Modified Post-Petition Interest (if applicable) in respect of Distributions on account of the Shareholder Participation. The entry of the Confirmation Order on the docket of the Chapter 11 Case shall be deemed to be the entry of an Order on the docket of the Chapter 11 Case approving a compromise in respect of Post-Petition Interest and Modified Post-Petition Interest (if applicable).

8. **Shareholder Compromise.**

Distribution on the Shareholder Participation shall be made by the Disbursing Agent directly to the Shareholder on the Initial Distribution Date, as part of Distributions to Class 3 hereunder. The Shareholder Participation does not accrue and shall not be paid Post-Petition Interest. The provisions of Article IX of the Plan that relate to the satisfaction of Claims against the Debtor and the release of the Shareholder form an integral part of this compromise. Upon the Effective Date, irrespective, without limitation, of the non-dischargeability of Claims against the Debtor, neither the Debtor, the Committee (and each member thereof), the Bear Swamp Certificateholders, HSBC, the Owner Trusts, the Owner Participants, any other Creditor, nor any other party in interest may dispute, challenge, avoid, or otherwise interfere with the direct Distribution of the Shareholder Participation by the Disbursing Agent to the Shareholder or any other Distribution received by the Shareholder pursuant to the Plan. Notwithstanding the foregoing, there shall be no Distributions to the Shareholder pursuant to the Plan, other than the Distribution on account of the Shareholder Participation, unless and until all Allowed Class 3 Claims have been paid in full together with Post-Petition Interest or Modified Post-Petition Interest (if applicable) and/or all necessary and sufficient funds have been reserved, including, without limitation, to pay in full any disputed Class 3 Claim (as and when such Class 3 Claim becomes Allowed) together with Post-Petition Interest or Modified Post-Petition Interest (if applicable). The entry of the Confirmation Order on the docket of the Chapter 11 Case shall be deemed to be the entry of an Order on the docket of the Chapter 11 Case approving a compromise in respect of the

Shareholder. Upon the later of the Effective Date or the Initial Distribution Date, but in no event earlier than a date following the Effective Date upon which all Allowed Class 3 Claims (as of such date) are paid in full in Cash together with Post-Petition Interest or Modified Post-Petition Interest (if applicable) and the establishment of the Disputed Claim Reserve and the Administrative Reserve, pursuant to the Confirmation Order, NEGT shall be authorized to issue a notice in its Chapter 11 case to mark the claims register in such case to (i) reflect the expungement and dismissal of the Committee Proofs of Claim with prejudice, and the Committee, as reflected in the recitals of the Confirmation Order, shall be deemed to have so agreed and (ii) reflect the expungement and dismissal, with prejudice, of the Bear Swamp Entities' Proofs of Claim, each filed against NEGT in its Chapter 11 case, and each such Entity, as reflected in the recitals of the Confirmation Order, shall be deemed to have so agreed. This notice shall have the same force and effect as an order of the Bankruptcy Court ordering the expungement and dismissal of such Claims and directing NEGT's claims agent to expunge and dismiss such Claims. Upon the later of the Effective Date or the Initial Distribution Date, but in no event earlier than a date following the Effective Date upon which all Allowed Class 3 Claims (as of such date) are paid in full in Cash together with Post-Petition Interest or Modified Post-Petition Interest (if applicable), the Shareholder Participation, and the establishment of the Disputed Claim Reserve and the Administrative Reserve, and in consideration and in exchange for the foregoing, pursuant to the Confirmation Order, the Debtor's Claims agent shall be deemed directed by the Bankruptcy Court in the Chapter 11 Case to mark the claims register in the Chapter 11 Case to reflect the expungement and the dismissal of the Shareholder Proof of Claim with prejudice, and NEGT, as reflected in the recitals of the Confirmation Order, shall be deemed to have so directed the Debtor's claims agent.

9. **Post-Effective Date Status and Operations of the Debtor.**

On the Effective Date, the Debtor and the Plan Administrator shall execute and deliver the Plan Administrator Agreement. From and after the Effective Date, the Debtor shall continue in existence in accordance with applicable law in the jurisdiction in which it is incorporated and pursuant to its business documents, as modified by the Plan, for the purpose of: (i) managing and accomplishing its residual affairs according to applicable law; (ii) liquidating, by conversion to Cash or other methods, the remaining assets (if any) of the estate as expeditiously as reasonably possible; (iii) investing, segregating, depositing, reserving and distributing Cash; (iv) prosecuting Causes of Action and objecting to Claims; (v) resolving Disputed Claims; (vi) administering the Plan and nominating the Plan Administrator and the Disbursing Agent; and (vii) filing appropriate tax returns. Upon the Effective Date, all bylaws, articles or certificates of incorporation, and related corporate documents of the Debtor shall be deemed amended (although the Debtor and/or the Plan Administrator may so amend such corporate documents) by the Plan to permit and authorize the appointment of the Disbursing Agent, the Plan Administrator and a three (3) person Board of Directors, each Director being nominated by NEGT. The Board of Directors will be organized as of the Effective Date and its members will be identified in the Plan Supplement. Each of the Disbursing Agent

and the Plan Administrator will serve in such capacity until (a) the Plan is fully administered in accordance with its terms or (b) the Plan Administrator or the Disbursing Agent resigns. If the Plan Administrator seeks to resign, such entity shall appoint a successor Plan Administrator, who shall be reasonably acceptable to NEGT, prior to resignation and such successor shall serve in accordance with the terms of the Plan and the Plan Administrator Agreement.

10. **Plan Administrator.**

The terms of the Plan Administrator Agreement shall define the obligations, duties, compensation, required bonding, indemnifications, and exculpation of the Plan Administrator and the Disbursing Agent in full. As of the Effective Date, each of the Plan Administrator and the Disbursing Agent is empowered, on behalf of the Debtor, to: (i) serve as the remaining and only responsible officer(s) of the Debtor and report to the Board of Directors; (ii) take all steps and execute all instruments and documents necessary to effectuate the terms of the Plan, including the Distributions to be made under and any disbursements in connection with the Plan; and as to the Plan Administrator specifically; (iii) cause the Disbursing Agent to make Distributions contemplated by the Plan and to establish necessary Claim Reserves and, without limitation, the Disputed Claims Reserve; (iv) comply with the Plan and its obligations; (v) employ, retain and replace professionals or entities to represent or assist the Plan Administrator with respect to such Plan Administrator's responsibilities or otherwise effectuate the Plan; (vi) compensate such professionals without further approval or order of the Bankruptcy Court; (vii) take any actions necessary to implement the terms of any prior Orders of the Bankruptcy Court in this Chapter 11 Case; (viii) file any necessary post-Confirmation reports; (ix) prosecute, dispose of and release, and/or compromise Causes of Action; (x) estimate Claims or Interests against the Retained Estate on any basis; (xi) object to or dispute Claims and Interests asserted against the Debtor and/or the Retained Estate (not previously objected to or compromised) or continue to prosecute, object, settle or compromise Claims and Interests; and (xii) exercise such other powers as may be vested in the Plan Administrator pursuant to Order of the Bankruptcy Court or pursuant to the Plan and the Plan Administrator Agreement, or as the Plan Administrator may deem necessary to carry out the provisions of the Plan, subject to applicable law. Upon the making of Distributions on Allowed Administrative, Fee, Priority Tax, Class 1, 2 and 3 Claims, the Shareholder Participation and Class 4 Interests, the Debtor may enter into any and all transactions and take any action in accordance with all applicable law.

11. **Debtor Indemnification of Plan Administrator and Disbursing Agent.**

THE DEBTOR SHALL INDEMNIFY AND HOLD HARMLESS, FROM THE PROPERTY AND ASSETS OF AND MAKING UP THE RETAINED ESTATE, EACH OF THE PLAN ADMINISTRATOR, THE DISBURSING AGENT, THE MEMBERS OF THE DEBTOR'S BOARD OF DIRECTORS APPOINTED PURSUANT TO THE PLAN, AND THEIR PROFESSIONALS, OR ANY DULY AUTHORIZED AGENT OR REPRESENTATIVE THEREOF (IN

ITS CAPACITY AS SUCH) FROM AND AGAINST LIABILITIES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES ARISING OUT OF OR DUE TO THEIR ACTIONS OR OMISSIONS, OR CONSEQUENCES IN RESPECT OF THE DEBTOR AND PLAN IMPLEMENTATION OR CONSUMMATION, OTHER THAN ACTS ARISING FROM EACH SUCH ENTITY'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE.

12. **Post-Effective Date Filing Requirements.**

After the Effective Date, the Debtor shall not be required to file any document, or take any other action, to withdraw its business operation from any state in which the Debtor was previously conducting business operations. The Confirmation Order shall contain directing language to the appropriate governmental units to such effect.

13. **Retained Estate; No Revesting of Assets.**

The property of the Debtor's estate shall not be revested in the Debtor on or after the Confirmation Date or the Effective Date, but shall remain property of the bankruptcy estate, become the Retained Estate, and continue to be subject to the jurisdiction of the Bankruptcy Court following confirmation of the Plan until distributed to holders of Allowed Claims and Interests in accordance with the terms of the Plan and Confirmation Order on or after the Effective Date.

14. **Distributions With Respect to Claims of Financial Institutions.**

All Distributions to be made in respect of Claims arising under revolving credit, loan, letter of credit, guaranty, and similar agreements pursuant to which a trustee or an administrative or security agent is designated to receive payments on behalf of a trust or a syndicate of lenders, shall be made to such trustee, administrative or security agent for distribution to such Entities in accordance with the applicable credit, loan, guaranty, trust or similar agreement, rather than separately to the individual Entities; *provided*, *however*, that the Disbursing Agent shall give such trustees, administrative or security agents, if any, at least ten (10) Business Days prior written notice of each Distribution Date; *provided*, *further*, *however*, that the Disbursing Agent shall be entitled to rely conclusively on such proofs of Claim filed by the respective trustee, administrative or security agent in the Chapter 11 Case for Distribution information (including, without limitation, participation percentages), unless the Debtor is otherwise advised by the respective administrative or security agent in a writing acceptable to the Debtor within forty five (45) days of a Distribution.

15. **Distributions to Bear Swamp Certificateholders.**

A. Except as and to the extent otherwise required by customary procedures of the DTC with respect to the Bear Swamp Certificateholders, as of the close

of business on the BSC Record Date, the various transfer and claims registers for each of the Classes of Claims as maintained by the Debtor, its agents, or HSBC shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims. The Debtor, the Disbursing Agent, and HSBC shall be entitled to recognize, and to deal with, hereunder only those record holders stated on the transfer ledgers as of the close of business on the BSC Record Date, to the extent applicable.

B. Distributions to the Bear Swamp Certificateholders on the HSBC Claim will be made after repayment of HSBC's fees and expenses including payment or reimbursement of fees and expenses of professionals and of the HSBC Credit Facility from the proceeds of the HSBC Claim, on each Distribution Date by means of book-entry exchange through the facilities of the DTC in accordance with the customary practices of the DTC as and to the extent reasonably possible. The Confirmation Order may provide for procedures as may be necessary or appropriate to facilitate a distribution through DTC.

C. Except as expressly provided for in the Owner Participants/BSC Term Sheet, nothing herein or otherwise in the Plan shall affect the rights and obligations of each of the following Entities against one another under the Bear Swamp Documents: HSBC, the Bear Swamp Certificateholders, the Owner Participants and the Owner Trusts, including without limitation, the right of HSBC to enforce in full its charging lien against the HSBC Claim and its proceeds prior to making any distribution of funds to the Bear Swamp Certificateholders, which charging lien secures reimbursement of all of its pre-petition and post-petition fees, costs, expenses and indemnification (including the repayment in full of the HSBC Credit Facility). Accordingly, nothing in the Plan shall be deemed to impair, waive or discharge HSBC's charging lien against the HSBC Claim and its proceeds for any fees and expenses not paid pursuant to the Bear Swamp Compromise. The HSBC charging lien may be asserted only against distributions to the Bear Swamp Certificateholders, including, without limitation, in respect of the HSBC Claim and its proceeds.

16. **Effectuating Documents and Further Transactions.**

The Debtor and the Plan Administrator shall be authorized to execute, deliver, file, or record such documents, contracts, instruments, releases and other agreements and take such other action as may be necessary to effectuate and further evidence the terms and conditions of the Plan. Any subordination agreement entered into prior to the Petition Date between the Debtor and parties in interest relating to Claims against the Debtor shall remain enforceable between such parties pursuant to the Plan and Bankruptcy Code section 510(a), unless otherwise expressly provided for herein, in the Plan Supplement, pursuant to any subsequent agreement between the Debtor and such parties in interest, or in any order of the Bankruptcy Court. The Debtor, the Plan Administrator, and the Disbursing Agent shall have no obligation to effectuate the enforceable terms of any such subordination agreement, unless such rights are asserted by the timely filing of a proof of claim in the Chapter 11 Case prior to the Bar Date.

17. **Causes of Action Remaining with Retained Estate.**

Except as specifically provided in section 5.10 of the Plan, all of the rights of the Debtor and its estate to pursue the Causes of Action, and any defenses and counterclaims related to the Causes of Action, shall continue to remain within the Retained Estate after the Effective Date. Except as specifically provided herein, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or the relinquishment of any Causes of Action that the Debtor may have or may choose to assert in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law. The Plan Administrator shall be the sole representative of the Retained Estate with respect to the Causes of Action for purposes of section 1123(b)(3)(B) of the Bankruptcy Code and, upon the Effective Date, such Causes of Action shall be subject to the exclusive and total control and authority of the Debtor and the Plan Administrator. **ALL CAUSES OF ACTION EXCEPT THOSE SPECIFICALLY WAIVED, SETTLED, RELEASED, OR EXTINGUISHED PURSUANT TO THE PLAN SHALL SURVIVE THE OCCURRENCE OF THE EFFECTIVE DATE, AND THE COMMENCEMENT OR PROSECUTION OF THE CAUSES OF ACTION SHALL NOT BE BARRED OR LIMITED BY ANY ESTOPPEL, WHETHER JUDICIAL, EQUITABLE, OR OTHERWISE. ALL DEFENSES TO SUCH CAUSES OF ACTION, IF ANY, INCLUDING THE DEFENDANTS' RIGHT TO ASSERT THE DEFENSE OF SETOFF OR RECOUPMENT, ARE LIKEWISE PRESERVED. IT IS NOT THE DEBTOR'S PRESENT INTENT TO PURSUE CAUSES OF ACTION.**

18. **Procedures for Distributions Under the Plan.**

a. *Administrative Reserve.* On the Effective Date or as soon thereafter as Practicable, the Plan Administrator shall establish the Administrative Reserve, which shall consist of an amount of Cash projected to be necessary to satisfy the payment of professional and other fees and expenses to be incurred by the Debtor or Plan Administrator in implementing and consummating the terms of the Plan, winding up the affairs of the Debtor, and otherwise completing the tasks necessary to close the Chapter 11 Case. The Plan Administrator may from time to time and in its sole discretion decrease or increase the Administrative Reserve by transferring funds to or from the Distribution Fund, THE Disputed Claims Reserve (after settlement), or the proceeds of the Causes of Action. No Distribution shall be made to the Shareholder, apart from or in addition to the Shareholder Participation, unless and until the Administrative Reserve has been funded with an amount adequate to pay professional and other fees and expenses to be incurred by the Debtor or Plan Administrator in implementing and consummating the terms of the Plan, winding up the affairs of the Debtor, and otherwise completing the tasks necessary to close the Chapter 11 Case.

b. *Disputed Claims Reserve.*

A. *Establishment of Disputed Claims Reserve.* On the Effective Date or as soon thereafter as Practicable, the Plan Administrator shall establish the Disputed Claims Reserve, which shall consist of an amount of Cash necessary to satisfy any Distributions that would be made to holders of Disputed Claims in Class 3 if such Claims were to become Allowed Claims.

B. *Distributions Upon Allowance of Disputed Claims.* With respect to any Disputed Claim in Class 3 that subsequently becomes an Allowed Claim in Class 3 pursuant to a Final Order, the Disbursing Agent shall pay such Allowed Class 3 Claim its Catch Up Distribution in full from the Disputed Claims Reserve. Upon funding of the Disputed Claims Reserve with an amount adequate to pay Disputed Claims with Post-Petition Interest or Modified Post-Petition Interest (if applicable) through the Distribution Date, the Disbursing Agent may make a partial Distribution to the Shareholder, apart from and in addition to the Shareholder Participation.

19. **Miscellaneous Distribution Provisions.**

A. *Unclaimed Property.* If a Distribution under the Plan remains unclaimed four (4) months following the date of such Distribution, then the holder of the applicable Allowed Claim shall cease to be entitled to such Distribution and such Distribution shall be transferred to the Administrative Reserve or otherwise distributed in accordance with the terms of the Plan.

B. *Method of Cash Distributions*. Any Cash Distribution to be made pursuant to the Plan may be made by draft, check, wire transfer, or as otherwise required or provided in any relevant agreement or applicable law. Cash payments made pursuant to the Plan shall be in good currency and funds of the United States of America, by the means agreed to by the payor and the payee, including by check or wire transfer, or in the absence of an agreement, by such commercially reasonable manner as the payor shall determine in its sole discretion.

C. *Distributions on Non-Business Days*. Any payment or Distribution due on a day other than a Business Day shall be made on the next Business Day.

D. *No Distribution in Excess of Allowed Amount of Claim*. Notwithstanding anything in the Plan to the contrary, no holder of an Allowed Claim shall receive, respecting such Claim, any Distribution (of a value set forth herein) in excess of the Allowed amount of such Claim, together with Post-Petition Interest where applicable.

E. *Disputed Payments.* If any dispute arises as to the identity of the holder of an Allowed Claim entitled to receive any Distribution under the Plan, the Disbursing Agent, in its sole discretion, may retain such Distribution until its disposition is determined by a Final Order or written agreement among the interested parties to such dispute and withhold from such Distribution an amount equal to the fees and costs

incurred in resolving such dispute. No holder of an Allowed Claim or an Allowed Interest in respect of such Claim or Interest shall have any rights under section 502(j) of the Bankruptcy Code.

F. *De Minimis Distributions*. No Cash payment of less than $50.00 shall be required to be made to the holder of any Claim.

G. *Withholding Taxes*. Any federal or state withholding taxes or other amounts required to be withheld under any applicable law shall be deducted and withheld from any Plan Distributions. In order to receive a Distribution, each holder of an Allowed Claim must provide the Debtor with a tax identification number (and/or other information required under applicable law). The Debtor shall otherwise comply, to the extent applicable, with all tax withholding and reporting requirements imposed under applicable law.

H. Objections to Claims. Except as otherwise set forth in the Plan and unless otherwise ordered by the Bankruptcy Court, all objections to Claims shall be filed with the Bankruptcy Court and served on the applicable claimant on or prior to sixty (60) days after the later of: (a) the Effective Date; and (b) the date a Claim is filed with the Bankruptcy Court and served on counsel for the Debtor or the Plan Administrator, as applicable. The Plan Administrator, before or after such deadline, may as of right, by motion to the Bankruptcy Court, extend such deadline to object to Claims.

I. Settlement of Claims. Subsequent to the Effective Date, the Plan Administrator shall have the authority to resolve any Disputed Claim for an Allowed Claim subject only to the filing of a notice of such settlement with the Bankruptcy Court and serving such notice upon the Shareholder. Any such settlement shall be binding under the Plan and upon all parties in interest in the Chapter 11 Case.

J. Setoff and Recoupment. Except as otherwise provided by the Plan, the Plan Administrator, acting on behalf of the Debtor, may but shall not be required to, set off or recoup against any Allowed Claim and the Distributions to be made pursuant to the Plan on account of such Claim claims of any nature that the Debtor may have against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff or recoupment nor the allowance of any Claim against the Debtor shall constitute a waiver or release by the Plan Administrator of any claim that the Debtor may possess against such holder.

C. Certain Risk Factors

1. Bankruptcy Risks

a. If the Debtor is insolvent, the Committee can exercise its right to terminate the Bear Swamp Compromise and the Plan will not become effective.

Pursuant to the Bear Swamp Compromise, such compromise can be terminated by a majority vote of the Committee with all parties reserving all rights they may have if the Debtor is insolvent (*i.e.* if the Debtor is unable to pay (a) all Claims in full, including the full BSC Claim, which includes the Shareholder Participation, but excluding interest on the Shareholder Participation, and (b) simple interest at the rate of four (4%) percent per annum (or Modified Post-Petition Interest, if applicable) to all Allowed Class 3 Claimants, but excluding interest on the Shareholder Participation). Thus, there is a risk that if the Debtor is insolvent as such term is defined above and the Committee exercises its right to terminate the Bear Swamp Compromise, then the Plan will not become effective as the Effective Date will not occur.

b. Parties in interest may object to the Debtor's classification of Claims.

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class. The Debtor believes that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code. However, it cannot be assured that the Bankruptcy Court will reach the same conclusion.

c. The Debtor may not be able to secure confirmation of the Plan.

It cannot be assured that the Debtor will be able to obtain the requisite acceptances to confirm the Plan. Even if the requisite acceptances are received, the Bankruptcy Court may not confirm the Plan. A non-accepting creditor of the Debtor might challenge the balloting procedures and results as not being in compliance with the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determined that the Disclosure Statement and the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, a finding by the Bankruptcy Court that: (i) the confirmation of the Plan is not likely to be followed by a liquidation or a need for further financial reorganization; and (ii) the value of distributions to non-accepting holders of claims and interests within a particular class under the Plan will not be less than the value of distributions such holders would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. While it cannot be assured that the Bankruptcy Court will conclude that these requirements have been met, the Debtor believes that the Plan will not be followed by a need for further financial reorganization and that non-accepting holders within each class under the Plan will receive distributions at least as great as they would receive following a liquidation under chapter 7 of the Bankruptcy Code when taking into consideration all administrative claims and the costs and uncertainty associated with any such chapter 7 case. *See* Appendix 2, Liquidation Analysis.

Given that the Sale Transactions have already been approved by this Court, it does not appear that there is a restructuring alternative that could be implemented or provide greater value.

d. Certain tax implications of the Debtor's bankruptcy and reorganization may increase the tax liability of the Debtor.

The U.S. federal income tax implications of consummation of the Plan to holders of Claims are complex and subject to uncertainty. *See* Article IV, "Certain U.S. Federal Income Tax Consequences of the Plan," for discussion of the income tax consequences for Creditors and the Debtor resulting from the consummation of the Plan.

e. Certain events may cause the dilution of Distributions to holders of Allowed Class 3 Claims and Class 4 Interests under the Plan.

Distributions to be made to holders of Allowed Class 3 Claims and Class 4 Interests may be diluted as a result of one or more of the following: (i) the projected Creditor recovery analysis does not include estimates for any contingent, disputed and/or unliquidated Claims in Class 3 (to the extent any such Claims become Allowed Claims, the aggregate amount of Allowed Claims in Class 3 will be increased while the total Cash or other property to be distributed to such Class will remain the same); (ii) upon the occurrence of the Sale Transactions, the adjustments prior to or at closing may be such that the proceeds from the sales to be distributed will be reduced; (iii) the bar date set for intercompany Claims against the Debtor has not expired and, therefore, additional Claims may be asserted against the Debtor; and (iv) a large discrepancy exists between the amount the Debtor believes it owes to certain Creditors and the amount asserted by such Creditors in their proofs of claim.

f. Certain events may cause delay in Distributions to the holders of Allowed Class 3 Claims and Class 4 Interests under the Plan.

Distributions to be made to holders of Allowed Class 3 Claims may be delayed if the closing date of the Hydro Transaction is delayed. Moreover, Distributions to holders of Allowed Class 4 Interests under the Plan may be delayed (i) pending resolution of Disputed Claims which may be substantial and/or complicated; (ii) as a result of any holdbacks required under the applicable purchase agreements in the event the Sale Transactions are consummated; and (iii) pending the Debtor's receipt of all regulatory approvals with respect to the Sale Transactions.

Moreover, although the Fossil Transaction has been consummated, there can be no assurance that the Hydro Transaction will be consummated. In the event that the Hydro Transaction is not consummated, the Plan will not become effective.

D. Effect of Plan on Claims and Interests

1. Discharge.

Pursuant to section 1141(d)(3) of the Bankruptcy Code, confirmation of the Plan will not discharge the Debtor; *provided, however*, upon confirmation of the Plan, the occurrence of the Effective Date and Distributions hereunder, Creditors may not seek payment or recourse against or otherwise be entitled to any Distribution from the assets of the Retained Estate except as expressly provided in the Plan.

2. Satisfaction.

UPON FULL DISTRIBUTION WITH POST-PETITION INTEREST OR MODIFIED POST-PETITION INTEREST (IF APPLICABLE) UNDER THE PLAN IN RESPECT OF ANY ALLOWED CLASS 3 CLAIM INCLUDING, WITHOUT LIMITATION, THE NET BSC CLAIM, THE HSBC CLAIM, AND THE OWNER PARTICIPANTS CLAIM, AND UPON THE DISTRIBUTION ON ACCOUNT OF THE SHAREHOLDER PARTICIPATION, ANY SUCH ALLOWED AND PAID CLASS 3 CLAIMS SHALL BE DEEMED SATISFIED IN FULL. NOTWITHSTANDING THE FOREGOING AND THE DISTRIBUTIONS ON ACCOUNT OF THE SHAREHOLDER PARTICIPATION, THE ALLOWED CLASS 4 INTERESTS SHALL NOT BE CANCELED OR RELEASED BY VIRTUE OF SUCH DISTRIBUTION OR THE APPLICATION OF THIS SECTION OF THE PLAN.

3. Injunction.

GIVEN THE PLAN'S PROVISION FOR THE PAYMENT IN FULL OF CLASS 3 CLAIMS, TOGETHER WITH POST-PETITION INTEREST OR MODIFIED POST-PETITION INTEREST (IF APPLICABLE), AND IN LIGHT OF THE COMPROMISES CONTAINED IN ARTICLE V THEREOF AND OTHERWISE IN THE PLAN, THE PLAN PROVIDES AND THE CONFIRMATION ORDER SHALL PROVIDE, AMONG OTHER THINGS, THAT ALL ENTITIES WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS AGAINST OR INTERESTS IN THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, OR THE RETAINED ESTATE, OR AGAINST HSBC, THE BEAR SWAMP CERTIFICATEHOLDERS, THE OWNER TRUSTS, OR THE OWNER PARTICIPANTS ON ACCOUNT OF CLAIMS, IF ANY, FOR WHICH THE DEBTOR IS DIRECTLY OR INDIRECTLY LIABLE BY WAY OF CONTRIBUTION, INDEMNITY OR OTHERWISE, ARE, FROM AND AFTER THE EFFECTIVE DATE, WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS, PERMANENTLY ENJOINED FROM AND AFTER THE EFFECTIVE DATE FROM TAKING ANY OF THE FOLLOWING ACTIONS (OTHER THAN ACTIONS TO ENFORCE ANY RIGHTS OR OBLIGATIONS UNDER THE PLAN OR TO DEFEND CHALLENGES TO THE VALIDITY OR

AMOUNT OF THEIR CLAIMS): (I) ASSERTING, COMMENCING, CONDUCTING, OR CONTINUING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY SUIT, ACTION OR OTHER PROCEEDING OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY PROCEEDING IN A JUDICIAL, ARBITRAL, ADMINISTRATIVE OR OTHER FORUM) AGAINST OR AFFECTING THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, OR THE RETAINED ESTATE, OR AGAINST HSBC, THE BEAR SWAMP CERTIFICATEHOLDERS, THE OWNER TRUSTS, OR THE OWNER PARTICIPANTS ON ACCOUNT OF CLAIMS, IF ANY, FOR WHICH THE DEBTOR IS DIRECTLY OR INDIRECTLY LIABLE BY WAY OF CONTRIBUTION, INDEMNITY OR OTHERWISE; (II) ENFORCING, LEVYING, ATTACHING (INCLUDING, WITHOUT LIMITATION, ANY PREJUDGMENT ATTACHMENT), COLLECTING OR OTHERWISE RECOVERING BY ANY MANNER OR MEANS, WHETHER DIRECTLY OR INDIRECTLY, ANY JUDGMENT, AWARD, DECREE OR ORDER AGAINST THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, OR THE RETAINED ESTATE; (III) CREATING, PERFECTING OR OTHERWISE ENFORCING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY LIEN OF ANY KIND AGAINST THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, OR THE RETAINED ESTATE, OR AGAINST HSBC, THE BEAR SWAMP CERTIFICATEHOLDERS, THE OWNER TRUSTS, OR THE OWNER PARTICIPANTS ON ACCOUNT OF CLAIMS, IF ANY, FOR WHICH THE DEBTOR IS DIRECTLY OR INDIRECTLY LIABLE BY WAY OF CONTRIBUTION, INDEMNITY OR OTHERWISE; (IV) ASSERTING ANY RIGHT OF SETOFF, SUBROGATION, OR RECOUPMENT OF ANY KIND, DIRECTLY OR INDIRECTLY, AGAINST ANY OBLIGATION DUE TO THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, OR THE RETAINED ESTATE, OR AGAINST HSBC, THE BEAR SWAMP CERTIFICATEHOLDERS, THE OWNER TRUSTS, OR THE OWNER PARTICIPANTS ON ACCOUNT OF CLAIMS, IF ANY, FOR WHICH THE DEBTOR IS DIRECTLY OR INDIRECTLY LIABLE BY WAY OF CONTRIBUTION, INDEMNITY OR OTHERWISE; (V) ACTING OR PROCEEDING IN ANY MANNER, IN ANY PLACE WHATSOEVER, THAT DOES NOT CONFORM TO OR COMPLY WITH THE PROVISIONS OF THE PLAN; AND (VI) PROSECUTING OR OTHERWISE ASSERTING ANY RIGHT, CLAIM OR CAUSE OF ACTION RELEASED PURSUANT TO THE PLAN. ANY ENTITY INJURED BY ANY WILLFUL VIOLATION OF SUCH INJUNCTION SHALL RECOVER ACTUAL DAMAGES, INCLUDING COSTS AND ATTORNEYS' FEES, AND, IN APPROPRIATE CIRCUMSTANCES, MAY RECOVER PUNITIVE DAMAGES, FROM THE WILLFUL VIOLATOR(S). A CREDITOR THAT ACCEPTS A DISTRIBUTION UNDER THE PLAN IN RESPECT OF ITS CLAIMS WILL BE DEEMED TO HAVE SPECIFICALLY CONSENTED TO THE INJUNCTION(S) CONTAINED IN THE PLAN. NOTWITHSTANDING THE FOREGOING, ALL HOLDERS OF DISPUTED CLAIMS ARE NOT ENJOINED FROM AND SHALL

RETAIN ALL RIGHTS TO DEFEND OR PROSECUTE SUCH CLAIMS IN THE BANKRUPTCY COURT, INCLUDING, WITHOUT LIMITATION, THE RIGHT TO ASSERT AFFIRMATIVE DEFENSES, SETOFF AND RECOUPMENT, IF APPLICABLE.

4. **Bear Swamp and Shareholder Compromise Release.**

A. *Definitions.* **FOR PURPOSES OF SECTION 9.04(B) OF THE PLAN: THE BEAR SWAMP CERTIFICATEHOLDERS, HSBC, THE OWNER PARTICIPANTS, THE OWNER TRUSTS, WILMINGTON TRUST COMPANY, AND THE RESPECTIVE REPRESENTATIVES, OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS OF EACH OF THE FOREGOING, WHETHER AS OWNER OR OPERATOR OF THE BEAR SWAMP FACILITY OR THE BEAR SWAMP LAND, OR OTHERWISE, WHETHER KNOWN OR UNKNOWN, SHALL BE KNOWN COLLECTIVELY AS "THE BEAR SWAMP RELEASING PARTIES"; AND THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, THE RETAINED ESTATE, THE SHAREHOLDER, THE COMMITTEE AND ITS MEMBERS (OTHER THAN HSBC AND THE OWNER TRUST NO. 1), AND THE RESPECTIVE REPRESENTATIVES, OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS OF EACH OF THE FOREGOING, WHETHER AS OWNER OR OPERATOR OF THE BEAR SWAMP FACILITY OR THE BEAR SWAMP LAND, OR OTHERWISE, WHETHER KNOWN OR UNKNOWN, SHALL BE KNOWN COLLECTIVELY AS "THE DEBTOR/NEGT RELEASING PARTIES". FOR PURPOSES OF SECTION 9.04(C) OF THE PLAN: THE BEAR SWAMP CERTIFICATEHOLDERS, THE OWNER PARTICIPANTS, THE OWNER TRUSTS, WILMINGTON TRUST COMPANY, HSBC, THE COMMITTEE ON BEHALF OF ITSELF AND THE DEBTOR'S CREDITORS, THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, AND THE RETAINED ESTATE (IF APPLICABLE), EACH COMMITTEE MEMBER, AND THE RESPECTIVE REPRESENTATIVES, OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS OF EACH OF THE FOREGOING, WHETHER KNOWN OR UNKNOWN, SHALL BE KNOWN AS THE "USGEN RELEASING PARTIES;" NEGT, EACH OTHER SHAREHOLDER, AND THE RESPECTIVE REPRESENTATIVES, OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS OF EACH OF THE FOREGOING, WHETHER KNOWN OR UNKNOWN, SHALL BE KNOWN AS THE "SHAREHOLDER RELEASING PARTIES."**

B. *Bear Swamp Compromise Release.* **UPON THE EFFECTIVE DATE, EXCEPT AS EXPRESSLY SET FORTH IN THE PLAN, INCLUDING, WITHOUT LIMITATION, SECTION 5.02 THEREOF, EACH OF THE BEAR SWAMP RELEASING PARTIES ON THE ONE HAND, DO HEREBY WAIVE, RELEASE AND ACQUIT EACH OF THE DEBTOR/NEGT RELEASING PARTIES ON THE OTHER HAND, AND EACH OF THE DEBTOR/NEGT**

RELEASING PARTIES ON THE ONE HAND, DO HEREBY WAIVE, RELEASE, AND ACQUIT EACH OF THE BEAR SWAMP RELEASING PARTIES ON THE OTHER HAND, FROM ANY AND ALL LIABILITIES, CLAIMS, EQUITY, INTERESTS, RIGHTS, FEES, LIENS, ENCUMBRANCES AND CHARGES, WHETHER KNOWN OR UNKNOWN, EXISTING OR HEREAFTER ARISING, SECURED OR UNSECURED, CONTINGENT OR FIXED, LIQUIDATED OR UNLIQUIDATED, IRRESPECTIVE OF WHETHER SUCH LIABILITIES, CLAIMS, EQUITY, INTERESTS, RIGHTS, FEES, LIENS, ENCUMBRANCES AND CHARGES ARE NON-DISCHARGEABLE AS TO THE DEBTOR, ARISING FROM AND RELATING TO THE BEAR SWAMP FACILITY, THE BEAR SWAMP LAND, THE BEAR SWAMP ADVERSARY PROCEEDING, THE BEAR SWAMP DOCUMENTS, THE BEAR SWAMP ENTITIES' PROOFS OF CLAIM, AND THE TRANSACTIONS EVIDENCED THEREBY, AND ANY ACTS, OMISSIONS, OR CIRCUMSTANCES RELATING THERETO, FROM THE BEGINNING OF THE WORLD THROUGH THE EFFECTIVE DATE; *PROVIDED, HOWEVER*, THAT: (I) ALLOWED CLASS 4 SHAREHOLDER INTERESTS SHALL NOT BE AFFECTED HEREBY AND SHALL NOT BE CANCELED OR RELEASED, AND (II) THE BEAR SWAMP RELEASING PARTIES SHALL RETAIN, SEPARATE AND APART FROM THIS RELEASE, THE FOLLOWING CLAIMS AFTER THE CONFIRMATION DATE: (AA) CLAIMS THEY MAY HAVE AGAINST THE DEBTOR FOR INDEMNITIES UNDER SECTIONS 10.1 AND 10.2 OF THE SUBJECT PARTICIPATION AGREEMENTS (BUT AS TO SUCH SECTION 10.2, SOLELY WITH RESPECT TO FEES, TAXES, LEVIES, ASSESSMENTS, AND OTHER CHARGES AND IMPOSITIONS (COLLECTIVELY, "TAXES") THAT ARE IN THE NATURE OF SALES, USE, RENTAL, LICENSE, VALUE ADDED, EXCISE, REGISTRATION, FILING, STAMP OR PROPERTY TAXES, IN EACH CASE TOGETHER WITH ALL INTEREST, PENALTIES, AND ADDITIONS TO TAX THEREON) FOR CLAIMS ASSERTED (WHETHER OR NOT IN A FORMAL PROCEEDING) BY ENTITIES OTHER THAN ANY BEAR SWAMP RELEASING PARTY AND ANY OTHER PRESENT OR FUTURE OWNER OR OPERATOR OF THE BEAR SWAMP FACILITY OR THE BEAR SWAMP LAND, OR WITH RESPECT TO INDEMNITY CLAIMS UNDER SECTION 10.2 OF THE SUBJECT PARTICIPATION AGREEMENTS, BY ANY GOVERNMENTAL AUTHORITY, BUT SOLELY WITH RESPECT TO CLAIMS, IF ANY, REFERRED TO IN SUBPART (AA) IMMEDIATELY ABOVE, IF ARISING OUT OF THE DEBTOR'S USE, OPERATION, POSSESSION, OR OWNERSHIP OF THE BEAR SWAMP FACILITY OR THE BEAR SWAMP LAND THROUGH AND INCLUDING THE EFFECTIVE DATE (COLLECTIVELY, THE "PRESERVED CLAIMS"); *PROVIDED, HOWEVER*, THAT (X) PRESERVED CLAIMS IF ANY, (1) MUST BE SPECIFIC AND KNOWN AND CANNOT BE ASSERTED BY THE BEAR SWAMP RELEASING PARTIES AGAINST THE DEBTOR, THE DEBTOR'S BANKRUPTCY ESTATE, OR THE RETAINED ESTATE ON A DEFENSIVE, NON-SPECIFIC BASIS AND IN RESPECT OF PRESERVED

CLAIMS ARISING BY WAY OF INDEMNITY, MUST RELATE TO AN ACTUALLY ASSERTED (WHETHER OR NOT IN A FORMAL PROCEEDING), UNDERLYING, KNOWN AND SPECIFIC CLAIM AGAINST THE BEAR SWAMP RELEASING PARTIES OR THE DEBTOR, (2) MUST BE ASSERTED BY DETAILED NOTICE TO THE DEBTOR AND, IF APPLICABLE, THE PLAN ADMINISTRATOR IN THE FORM OF PROOF OF CLAIM AUTHORIZED FOR USE BY THE BAR DATE ORDER, WHICH NOTICE MUST BE SERVED ON THE DEBTOR, AND/OR IF APPLICABLE, THE PLAN ADMINISTRATOR, AND FILED IN THE BANKRUPTCY COURT AS SOON AS PRACTICABLE AFTER THE UNDERLYING CLAIM IS ACTUALLY ASSERTED (WHETHER OR NOT IN A FORMAL PROCEEDING) AGAINST A BEAR SWAMP RELEASING PARTY OR THE DEBTOR, BUT IN ANY EVENT, NO LATER THAN TEN (10) DAYS PRIOR TO ANY PROPOSED EFFECTIVE DATE SO LONG AS THE DEBTOR AND/OR THE PLAN ADMINISTRATOR, IF APPLICABLE, HAS PROVIDED HSBC AND THE OWNER PARTICIPANTS WITH NO MORE THAN TWENTY FIVE (25) DAYS' AND NO LESS THAN FIFTEEN (15) DAYS' PRIOR WRITTEN NOTICE OF SUCH PROPOSED EFFECTIVE DATE (IF THIS NOTICE IS NOT GIVEN WITHIN THIS TIME FRAME AND THE EFFECTIVE DATE OCCURS, THEN SUCH CLAIMS MUST BE ASSERTED BY DETAILED NOTICE TO THE DEBTOR IN THE FORM OF PROOF OF CLAIM AUTHORIZED FOR USE BY THE BAR DATE ORDER, WHICH NOTICE MUST BE SERVED ON THE PLAN ADMINISTRATOR AND FILED IN THE BANKRUPTCY COURT NO LATER THAN FIFTEEN (15) DAYS AFTER THE EFFECTIVE DATE), AND, (3) IF ASSERTED IN COMPLIANCE HEREWITH, MAY BE ESTIMATED FOR DISTRIBUTION PURPOSES BY AGREEMENT BY AND AMONG THE DEBTOR OR THE PLAN ADMINISTRATOR (IF APPLICABLE), HSBC, AND THE OWNER PARTICIPANTS, OR, IN THE EVENT OF DISAGREEMENT, BY THE BANKRUPTCY COURT, AND (Y) PRESERVED CLAIMS SET FORTH IN CLAUSE (AA) OF 9.04(B), IF ANY, IF NOT ASSERTED IN COMPLIANCE THEREWITH AND, WITHOUT LIMITATION, ON A TIMELY BASIS THEREUNDER, WILL NOT SURVIVE THE OCCURRENCE OF THE EFFECTIVE DATE AND WILL BE RELEASED THEREUNDER ON THE EFFECTIVE DATE; AND (BB) CLAIMS, IF ANY, THAT THE BEAR SWAMP RELEASING PARTIES MAY HAVE IN RESPECT OF THE DEBTOR UNDER THE BEAR SWAMP OPERATING AGREEMENTS; *PROVIDED HOWEVER*, THAT ANY SUCH CLAIMS UNDER OR IN RESPECT OF THE BEAR SWAMP OPERATING AGREEMENTS MUST BE BASED ON ACTIONS, EVENTS OR CONDITIONS OCCURRING OR EXISTING ON OR BEFORE MARCH 30, 2005 AND ANY SUCH CLAIMS MUST BE FILED AND SERVED AS REQUIRED BY THE PLAN, THE CONFIRMATION ORDER, THE PRE-CONFIRMATION ADMINISTRATIVE BAR DATE, OR THE POST-CONFIRMATION ADMINISTRATIVE BAR DATE (AS APPLICABLE). OTHER THAN AMOUNTS OWED BY THE DEBTOR TO FERC, NEITHER THE

DEBTOR/NEGT RELEASING PARTIES NOR THE BEAR SWAMP RELEASING PARTIES ARE AWARE OF ANY FACTS OR CIRCUMSTANCES AS OF FEBRUARY 17, 2005 THAT WOULD REASONABLY BE EXPECTED TO GIVE RISE TO PRESERVED CLAIMS. EACH OF THE DEBTOR, HSBC AND THE OWNER PARTICIPANTS SHALL USE BEST EFFORTS TO REPORT TO EACH OTHER ON THE ASSERTION OF ANY PRESERVED CLAIM AS SOON AS PRACTICABLE. ON THE CONFIRMATION DATE AND TEN (10) DAYS PRIOR TO THE PROPOSED OCCURRENCE OF THE EFFECTIVE DATE, EACH OF THE DEBTOR (OR THE PLAN ADMINISTRATOR, IF APPLICABLE), HSBC AND THE OWNER PARTICIPANTS SHALL CERTIFY TO EACH OTHER IN RESPECT OF THE KNOWN EXISTENCE OR OCCURRENCE OF ANY PRESERVED CLAIMS ON A NOTICE BASIS WITHOUT ANY REQUIREMENT OF DUE DILIGENCE OR AUDIT. WITHOUT LIMITING THE EFFECT OF THE FOREGOING PROVISIONS, ANY OTHER CLAIMS THE BEAR SWAMP RELEASING PARTIES HAVE OR MAY HAVE IN THE FUTURE IN RESPECT OF THE BEAR SWAMP ADVERSARY PROCEEDING, THE BEAR SWAMP ENTITIES' PROOFS OF CLAIM, AND THE BEAR SWAMP DOCUMENTS (AND THE TRANSACTIONS EVIDENCED THEREBY AND/OR ANY OTHER BASIS), INCLUDING, WITHOUT LIMITATION, CLAIMS BASED ON THE REJECTION, TERMINATION, OR BREACH OF THE BEAR SWAMP DOCUMENTS (AND SPECIFICALLY, WITHOUT LIMITATION, INDEMNITY CLAIMS BASED ON OR RELATING TO SUCH REJECTION, TERMINATION, OR BREACH), ARE HEREBY RELEASED ON THE EFFECTIVE DATE. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL IMPAIR ANY RIGHT THAT THE BEAR SWAMP RELEASING PARTIES MAY HAVE TO RECOVER CLAIMS FROM THE DEBTOR'S INSURERS PURSUANT TO THE DEBTOR'S INSURANCE POLICIES MAINTAINED PURSUANT TO THE BEAR SWAMP DOCUMENTS. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO CONSTITUTE A RELEASE BY ANY ENTITY OF A CLAIM, IF ANY, ARISING FROM, RELATING TO, OR IN CONNECTION WITH THE ATTALA GENERATING FACILITY.

C. ***Shareholder Compromise Release.*** **UPON THE EFFECTIVE DATE, EXCEPT AS EXPRESSLY SET FORTH IN THE PLAN, INCLUDING, WITHOUT LIMITATION, SECTION 5.04 THEREOF, EACH OF THE USGEN RELEASING PARTIES ON THE ONE HAND DO HEREBY WAIVE, RELEASE, AND ACQUIT EACH OF THE SHAREHOLDER RELEASING PARTIES ON THE OTHER HAND, AND EACH OF THE SHAREHOLDER RELEASING PARTIES ON THE ONE HAND DO HEREBY WAIVE, RELEASE, AND ACQUIT EACH OF THE USGEN RELEASING PARTIES ON THE OTHER HAND, FROM ANY AND ALL LIABILITIES, CLAIMS, EQUITY, INTERESTS, RIGHTS, FEES, LIENS, ENCUMBRANCES AND CHARGES, WHETHER KNOWN OR UNKNOWN, EXISTING OR HEREAFTER ARISING, SECURED OR UNSECURED, CONTINGENT OR FIXED, LIQUIDATED OR**

UNLIQUIDATED, IRRESPECTIVE OF WHETHER SUCH LIABILITIES, CLAIMS, EQUITY, INTERESTS, RIGHTS, FEES, LIENS, ENCUMBRANCES AND CHARGES ARE NON-DISCHARGEABLE AS TO THE DEBTOR, ARISING FROM AND RELATING TO THE COMMITTEE PROOFS OF CLAIM, THE BEAR SWAMP ENTITIES' PROOFS OF CLAIM, AND THE SHAREHOLDER PROOF OF CLAIM, TRANSFERS BETWEEN THE DEBTOR AND NEGT, TRANSFERS BETWEEN THE DEBTOR AND THE SHAREHOLDER, DEBTOR/SHAREHOLDER DIVIDENDS (IF ANY), THE DEBTOR'S, NEGT'S OR THE SHAREHOLDER'S SOLVENCY PRIOR TO THE PETITION DATE, AND ANY ACTS, OMISSIONS, OR CIRCUMSTANCES RELATING THERETO FROM THE BEGINNING OF THE WORLD THROUGH THE EFFECTIVE DATE; *PROVIDED, HOWEVER*, THAT (I) ALLOWED CLASS 4 SHAREHOLDER INTERESTS SHALL NOT BE AFFECTED THEREBY AND SHALL NOT BE CANCELED OR RELEASED, (II) PRESERVED CLAIMS AND CLAIMS IN RESPECT OF THE BEAR SWAMP OPERATING AGREEMENTS REFERRED TO IN SECTION 9.04(B)(II)(BB) OF THE PLAN SHALL NOT BE RELEASED BY APPLICATION OF THIS SECTION 9.04(C) OF THE PLAN, AND (III) NOTHING CONTAINED THEREIN SHALL BE DEEMED TO CONSTITUTE A RELEASE BY ANY ENTITY OF A CLAIM, IF ANY, ARISING FROM, RELATING TO, OR IN CONNECTION WITH THE ATTALA GENERATING FACILITY.

5. **Tax Sharing Order Reservation.**

Notwithstanding anything else contained in the Plan, including, without limitation, in section 9.05 thereof, the terms of the Tax Sharing Order shall remain in full force and effect after the Effective Date.

6. **Debtor Related Entity Release.**

The following release shall be valid, binding, and enforceable:

AS OF THE CONFIRMATION DATE, BUT SUBJECT TO THE OCCURRENCE OF THE EFFECTIVE DATE: (a) THE DEBTOR'S DIRECTORS AND OFFICERS AS OF THE EFFECTIVE DATE (EACH IN THEIR CAPACITY AS SUCH); (b) THE COMMITTEE, ITS MEMBERS, AND PROFESSIONALS (EACH IN THEIR CAPACITY AS SUCH); (c) FORMER DIRECTORS AND OFFICERS (EACH IN THEIR CAPACITY AS SUCH) WHO HELD SUCH POSITIONS WITH THE DEBTOR ON OR AFTER JULY 8, 2003; AND (d) AGENTS, ATTORNEYS, ADVISORS, FINANCIAL ADVISORS, INVESTMENT BANKERS AND EMPLOYEES OF THE DEBTOR (EACH IN THEIR CAPACITY AS SUCH), SHALL NOT HAVE OR INCUR ANY LIABILITY TO ANY ENTITY FOR ANY CLAIM, OBLIGATION, RIGHT, CAUSE OF ACTION OR LIABILITY (INCLUDING, BUT NOT LIMITED TO, ANY CLAIMS ARISING OUT OF ANY ALLEGED FIDUCIARY OR OTHER DUTY OR THE

AVOIDANCE OF PREFERENCES OR FRAUDULENT TRANSFERS OR CONVEYANCES) WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, EXISTING OR HEREAFTER ARISING, BASED IN WHOLE OR IN PART ON ANY ACT OR OMISSION, TRANSACTION OR OCCURRENCE FROM THE BEGINNING OF TIME THROUGH THE EFFECTIVE DATE IN ANY WAY RELATING TO THE DEBTOR; AND ALL CLAIMS BASED UPON OR ARISING OUT OF SUCH ACTIONS OR OMISSIONS SHALL BE FOREVER WAIVED AND RELEASED; *PROVIDED, HOWEVER*, THAT THIS SECTION SHALL HAVE NO EFFECT ON THE LIABILITY OF ANY INDIVIDUAL OR ENTITY THAT OTHERWISE WOULD RESULT FROM ANY ACTION OR OMISSION TO THE EXTENT THAT SUCH ACTION OR OMISSION IS DETERMINED IN A FINAL ORDER TO HAVE CONSTITUTED WILLFUL MISCONDUCT OR GROSS NEGLIGENCE; *PROVIDED, FURTHER,* THAT THERE SHALL BE NO RELEASE (1) WITH RESPECT TO CLAIMS AGAINST ANY INDIVIDUAL OR ENTITY TO ENFORCE THE AGREEMENTS, TERMS AND PROVISIONS OF THE PLAN, AND (2) WITH RESPECT TO THE DEBTOR'S RETENTION AND RESERVATION OF, AND ENTITLEMENT TO ASSERT, ANY AND ALL DEFENSES AND COUNTERCLAIMS, INCLUDING WITHOUT LIMITATION, TO ASSERT A RIGHT OF SETOFF OR SIMILAR RIGHTS TO DISPUTED CLAIMS. THE RELEASE DESCRIBED ABOVE SHALL BE ENFORCEABLE AS A MATTER OF CONTRACT AGAINST ANY HOLDER OF A CLAIM TIMELY NOTIFIED OF THE PROVISIONS OF THE PLAN. CLAIMANTS OF THE DEBTOR SHALL BE ENJOINED FROM COMMENCING OR CONTINUING ANY ACTION, EMPLOYMENT OF PROCESS OR ACT TO COLLECT, OFFSET OR RECOVER ANY CLAIM THAT IS RELEASED AS PROVIDED THEREIN.

7. **Post-Confirmation Date Payments.**

As of the Effective Date, the Debtor may pay the charges it incurs for professional fees, disbursements, expenses or related support services after the Confirmation Date without any application to the Bankruptcy Court upon the submission of a detailed invoice, in respect of such fees, disbursements, expenses and related charges.

8. **Survival of Certain Indemnification Obligations.**

The obligations of the Debtor to indemnify individuals who serve or served on and after the Petition Date as the Debtor's directors, officers, agents, employees, representatives, and others, including (without limitation) the Plan Administrator, the Disbursing Agent, professional persons retained by the Debtor, pursuant to the Debtor's certificate of incorporation, by-laws, applicable statutes and pre-Confirmation Date agreements in respect of all present and future actions, suits and proceedings against any of such officers, directors, agents, employees, representatives,

and others, including (without limitation) professional persons retained by the Debtor, based upon any act or omission related to service with, for or on behalf of the Debtor on or before the Effective Date as such obligations were in effect at the time of any such act or omission, shall not be released or impaired by confirmation or consummation of the Plan, but shall be performed and honored by the Debtor regardless of such confirmation and consummation, until the Debtor has dissolved.

9. **Limitation on Liability Regarding Chapter 11 Activities.**

THE DEBTOR, THE COMMITTEE AND ITS MEMBERS, NEGT, THE OWNER PARTICIPANTS, THE OWNER TRUSTS, HSBC, THE BEAR SWAMP CERTIFICATEHOLDERS AND EACH OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, MEMBERS OR AGENTS (EACH ACTING IN SUCH CAPACITY), AND ANY PROFESSIONAL PERSONS EMPLOYED BY ANY OF THEM, WILL NOT HAVE OR INCUR ANY LIABILITY TO ANY PERSON FOR ANY ACTION TAKEN OR OMITTED TO BE TAKEN IN CONNECTION WITH OR RELATED TO THE FORMULATION, PREPARATION, DISSEMINATION, IMPLEMENTATION, CONFIRMATION, OR CONSUMMATION OF THE PLAN, THE DISCLOSURE STATEMENT, ANY CONTRACT, RELEASE OR OTHER AGREEMENT OR DOCUMENT CREATED OR ENTERED INTO, OR ANY OTHER ACTION TAKEN OR OMITTED TO BE TAKEN IN CONNECTION WITH THE PLAN OR THE CHAPTER 11 CASE, AND ALL CLAIMS BASED UPON OR ARISING OUT OF SUCH ACTIONS OR OMISSIONS WILL BE FOREVER WAIVED AND RELEASED; *PROVIDED*, *HOWEVER*, THAT NOTHING HEREIN SHALL AFFECT THE LIABILITY OF ANY ENTITY THAT OTHERWISE WOULD RESULT FROM ANY ACTION OR OMISSION TO THE EXTENT THAT SUCH ACTION OR OMISSION IS DETERMINED IN A FINAL ORDER TO HAVE CONSTITUTED WILLFUL MISCONDUCT OR GROSS NEGLIGENCE.

E. Executory Contracts and Unexpired Leases

1. **Rejection.**

A. *Leases and Contracts to be Rejected*. On the Effective Date, the Debtor, pursuant to section 365 of the Bankruptcy Code, shall be deemed to have rejected all of its Executory Contracts except those that: (i) are the subject of motions to assume or reject pending on the Effective Date, including, without limitation, in respect of the Fossil Transaction, the Hydro Transaction and/or the Rockingham Option Agreement transaction; (ii) were assumed or rejected before the Effective Date; (iii) have been or will be assumed and assigned on the Hydro Purchase Closing Date pursuant to the Hydro Purchase Agreement and the Hydro Sale Order and/or assumed and assigned pursuant to the Rockingham Option Agreement and the Rockingham Order; or (iv) will be assigned pursuant to the Land Transfer transaction *provided*, *however*, that the Debtor shall not be

required to assume or reject any Executory Contract with any party that is a debtor under the Bankruptcy Code unless and until such contract or lease has been assumed or rejected by such other party.

B. *Deadline to File Rejection Damage Claims.* Each Entity who is a party to a contract or lease rejected under the Plan must file with the Bankruptcy Court and serve on the Debtor's attorneys, not later than sixty (60) days after the Effective Date, a proof of Claim for damages alleged to arise from the rejection of the applicable contract or lease or be forever barred from filing a Claim and will not receive a Distribution related to such alleged rejection damages.

C. *Interest.* A Claim for damages resulting from the rejection of an Executory Contract shall be entitled to Post-Petition Interest or Modified Post-Petition Interest (if applicable) unless otherwise agreed in writing by the parties to such Executory Contract or as ordered by the Bankruptcy Court.

2. **Assumption.**

The Debtor is assuming only those Executory Contracts as contemplated by or related to the Hydro Purchase Agreement, the Fossil Purchase Agreement, the Rockingham Option Agreement, and the Bear Swamp Land Purchase Agreement. Such assumed Executory Contracts will be assumed and assigned to the respective Purchaser pursuant to the terms of the Fossil Sale Order, the Hydro Sale Order, the Fossil Purchase Agreement, the Hydro Purchase Agreement, the Rockingham Option Agreement, the Rockingham Order, the Bear Swamp Land Purchase Agreement and the Confirmation Order.

F. Conditions to Confirmation

Except as provided in section 10.03 of the Plan, the following are conditions precedent to confirmation of the Plan: (i) the Bankruptcy Court shall have approved the Disclosure Statement by order entered on the docket of the Chapter 11 Case on or before March 31, 2005; and (ii) the Confirmation Order presented to the Bankruptcy Court in the Chapter 11 Case for entry to confirm the Plan shall be in form and substance acceptable to the Debtor, shall be in form and substance reasonably acceptable to the Committee, HSBC, NEGT, and the Owner Participants, and shall include, without limitation, provisions approving all compromises contained in the Plan, and a provision that waives the effect of Bankruptcy Rule 3020(e).

G. Conditions to Effective Date

Except as provided in section 10.03 of the Plan, the Plan may not be consummated unless each of the conditions set forth below has been satisfied: (i) the Confirmation Order shall have been entered on or before June 15, 2005 and shall not have been stayed, vacated, modified or reversed; (ii) a minimum of seven (7) Business

Days prior to the proposed Effective Date, the Debtor shall have advised the Committee in writing as to the actual rate of interest that the Debtor can pay as Post-Petition Interest with respect to the Allowed Class 3 Claims, and if such amount is less than four percent (4%) the Debtor shall give the Committee a written status report regarding the Debtor's projection concerning payment of Post-Petition Interest; (iii) the Hydro Purchase Closing Date shall have occurred; (iv) the proceeds in the Distribution Fund shall be sufficient to pay all Allowed Claims in full, together with Post Petition Interest on such Claims, (a) excluding Post-Petition Interest on the Shareholder Participation and excluding Post-Petition Interest on any other Claim not to be paid Post-Petition Interest, in whole or in part, by agreement and/or order of the Bankruptcy Court, (b) provided adequate reserves for payment of Disputed Claims and the funding of the Administrative Reserve have been made thereunder; and (v) all other conditions to the Effective Date are satisfied or waived no later than September 30, 2005.

H. Waiver of Conditions to Confirmation and Effective Date

1. Waiving Party.

Each of the conditions to confirmation of the Plan or the occurrence of the Effective Date (other than section 10.02(C) of the Plan) may be waived in whole or in part by the Debtor, the Committee, HSBC, NEGT, and the Owner Participants without notice and a hearing; *provided however,* that any such waiver(s) must be in writing and filed with the Bankruptcy Court. After receipt of the notice and report referenced in the immediately preceding paragraph, the Committee, on behalf of all Allowed Class 3 Claims and Creditors generally, may waive the condition to the occurrence of the Effective Date set forth in section 10.02(C), to the extent such waiver provides for payment of Post-Petition Interest. However, the Committee may not agree to waive such condition if Post-Petition Interest on Allowed Class 3 Claims is to be reduced to less than three percent (3%) simple interest per annum. The inability of the Debtor to pay Post-Petition Interest on Allowed Class 3 Claims at a rate of at least three percent (3%) per annum or the election by a majority of the Committee to reject a payment to the holders of Allowed Class 3 Claims which is less than the full amount of such Allowed Class 3 Claims together with Post-Petition Interest at a rate of four percent (4%) per annum (and the Debtor's inability to pay such amounts) shall cause the Plan to be incapable of being made effective (except where a holder of a Class 3 Claim and the Debtor agree to accept a lesser amount in respect of post-petition interest, which is approved by a Bankruptcy Court order, all as is more fully set forth in section 1.101(d) of the Plan). In the event that the Committee elects to accept, on behalf of holders of Allowed Class 3 Claims, Post-Petition Interest in an amount equal to or greater than three percent (3%) per annum but less than four percent (4%) per annum, any such election shall be in writing, and filed with the Bankruptcy Court and served upon the Debtor prior to or on the Effective Date; provided, however, that the Debtor and/or the Plan Administrator, if applicable, shall give the Committee seven (7) business days prior notice of the occurrence of the Effective Date (except that if the Debtor shall pay Post-Petition Interest in an amount equal to four percent (4%) no such notice need be given). If the Committee permits Post-Petition

Interest to be paid at a rate which is less than four percent (4%) per annum (such reduced rate being the "Modified Post-Petition Interest" rate), the reduced rate and amount shall be deemed a part of the Post-Petition Interest compromise described in the Plan including, without limitation, Section 5.03 of the Plan.

2. **Effect of Waiver or Failure to Waive.**

Any waiver(s) in accordance with Section 10.03 of the Plan shall not prejudice or otherwise affect the Debtor's rights to assert that the consummation of the Plan, notwithstanding any such waiver(s), would effectively legally or equitably moot any appeal of the Confirmation Order. The failure to satisfy or waive any condition may be asserted by the Debtor, regardless of the circumstances giving rise to the failure of such condition to be satisfied (including, without limitation, any act, action, failure to act, or inaction by the Debtor). The failure of the Debtor to exercise any of the foregoing rights shall not be deemed a waiver of any other rights and each such right shall be deemed an ongoing right that may be asserted or waived (as set forth in the Plan) at any time or from time to time.

3. **Effect of Nonoccurrence of the Conditions to Confirmation or Effective Date.**

If each of the conditions to the occurrence of the Confirmation Date or Effective Date has not been satisfied or duly waived on or before (x) June 15, 2005 in respect of the Confirmation Date, or (y) September 30, 2005 in respect of the Effective Date (or by such later date as the Debtor proposes and the Bankruptcy Court approves, after notice and a hearing), all parties in interest shall revert to the status quo prior to the filing of the Plan and the making of the agreement in respect of the Bear Swamp Compromise. In respect of a failure of a condition to the Effective Date or if such condition is not waived, upon notice filed with the Bankruptcy Court, the Confirmation Order shall be vacated by the Bankruptcy Court. If the Confirmation Order is not entered on the docket of this Chapter 11 Case by June 15, 2005 or is vacated pursuant to this section or otherwise applicable law, then the Plan shall be null and void in all respects, and nothing contained in the Plan or this Disclosure Statement shall: (a) constitute a waiver or release of any Claims against or Liens on property of the Debtor, or (b) prejudice in any manner the rights of the Debtor or any other party in interest, including (without limitation) the right of the Debtor to contend (and the right of any other party in interest to contest) that a plan that provides General Unsecured Claims with interest at the legal rate below four percent (4%) simple interest per annum leaves such creditors unimpaired, or to seek further extensions of the exclusivity periods under section 1121(d) of the Bankruptcy Code, which exclusivity periods shall be deemed to have been extended to thirty (30) days after the date of entry of any order vacating the Confirmation Order, subject to the rights of any party to seek to shorten the exclusivity periods after notice and hearing.

I. Administrative Provisions

1. Retention of Jurisdiction.

Notwithstanding confirmation of the Plan or occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction for the following purposes, without limitation:

A. Determination of the allowability of Claims against, or the administrative expenses of, the Debtor (except those Claims that are Allowed Claims pursuant to the Plan, unless such determination is made pursuant to a reconsideration or modification of the entire Plan), and the validity, extent, priority, and nonavailability of consensual and nonconsensual Liens and other encumbrances;

B. Determination of the Debtor's tax liability pursuant to section 505 of the Bankruptcy Code;

C. Approval, pursuant to section 365 of the Bankruptcy Code, of all matters related to the assumption and assignment, or rejection, of any Executory Contract of the Debtor;

D. Resolution of controversies and disputes regarding the enforcement or interpretation of the Plan, the Confirmation Order, or the Bankruptcy Court's orders that survive confirmation of the Plan pursuant to the Plan or other applicable law;

E. Implementation of the provisions of the Plan, and entry or orders in aid of confirmation and consummation of the Plan and enforcing settlements or orders entered during the Chapter 11 Case or as part of the Plan, including, without limitation, appropriate orders to protect the Debtor, the Plan Administrator and/or the Disbursing Agent from actions by Creditors and resolution of disputes and controversies regarding property of the Debtor's estate;

F. Modification of the Plan pursuant to section 1127 of the Bankruptcy Code;

G. Commencement and adjudication of any Causes of Action that arose prior to the Confirmation Date or in connection with the implementation of the Plan and other actions against third parties brought or to be brought by the Debtor, the Committee, the Plan Administrator or a party in interest (as a representative of the Debtor's estate);

H. Entry of a Final Order closing the Chapter 11 Case;

I. Resolution of disputes concerning Disputed Claims, Claims for disputed Distributions and recharacterization or equitable subordination of Claims;

J. Resolution of any disputes concerning any release under the Plan of a non-Debtor or any injunction under the Plan, or in the Confirmation Order, against acts, employment of process, or actions against such non-Debtor;

K. Resolution of any disputes concerning whether an Entity had sufficient notice of, among other things, (i) the Chapter 11 Case; (ii) the Bar Date, the Pre-Confirmation Administrative Bar Date or the Post-Confirmation Administrative Bar Date; (iii) the hearing on the approval of the Disclosure Statement as containing adequate information; or (iv) the hearing on confirmation of the Plan for the purpose of determining whether a Claim is discharged hereunder;

L. Issuance of injunctions, granting and implementation of other orders, or taking such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation or enforcement of the Plan;

M. Resolution of controversies and disputes regarding settlement agreements, orders, injunctions, judgments, and other matters entered or approved by the Bankruptcy Court in connection with any adversary proceeding, discovery, or contested matter in the Chapter 11 Case;

N. Correction of any defect, cure of any omission or reconciliation of any inconsistency in the Plan, the Confirmation Order, or any other documents relating to the Plan, as may be necessary to carry out the purposes or intent of the Plan;

O. Adjudication of any pending adversary proceeding, or other controversy or dispute, in the Chapter 11 Case, which arose pre-confirmation and over which the Bankruptcy Court had jurisdiction prior to confirmation of the Plan;

P. Entry and implementation of such orders as may become necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

Q. Resolution of Claims arising under section 503(b) of the Bankruptcy Code;

R. Resolution of controversies and disputes regarding each Sale Transaction or each Purchase Agreement;

S. Determination of any other matters that may arise in connection with or related to the Land Transfer, administration of the Retained Estate, Claims, Interests, Executory Contracts, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, or the other agreement or document created in connection with the Land Transfer, the Plan or the Disclosure Statement.

2. **Plan Administrator Standing.**

The Plan Administrator shall have standing to be heard on any matter over which the Bankruptcy Court retains jurisdiction and that relates, in any manner, to the administration of the Retained Estate.

3. **Plan Modification.**

The Debtor may modify the Plan in accordance with its terms, applicable law and the consent, which shall not be unreasonably withheld, of the Committee, HSBC, NEGT, and the Owner Participants.

4. **Successors and Assigns.**

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, the heir, executor, administrator, successor, or assign of such Entity.

5. **Severability.**

Except for sections 5.02, 5.03, 5.04, and 10.03 and related provisions of the Plan, should any provision in the Plan be determined to be unenforceable following the Confirmation Date, such determination shall in no way limit or affect the enforceability and operative effect of any and all other provisions of the Plan, so long as the modified Plan satisfies the requirements of the Bankruptcy Code, including, without limitation, section 1127 of the Bankruptcy Code.

6. **Governing Law.**

Except to the extent the Bankruptcy Code, the Bankruptcy Rules, or other federal laws apply, or as otherwise expressly provided in the Plan, the rights and obligations arising under the Plan shall be governed by the laws of the State of Maryland without giving effect to principles of conflicts of law.

7. **Dissolution of the Committee.**

On the Effective Date, the Committee shall be dissolved and its members released and discharged of and from all further authority, duties, responsibilities and obligations relating to, arising from, and in connection with this Chapter 11 Case. Authority to prosecute pending Causes of Action transferred previously to and/or commenced by the Committee pursuant to a prior Order shall remain in the Retained Estate, to the extent such Causes of Action are not extinguished or released by the Plan, on the Effective Date.

8. **Liquidation of Assets.**

On and after the Effective Date, the Debtor may, without further approval of the Bankruptcy Court, use, sell, assign, transfer, abandon or otherwise dispose of at public or private sale any of the Debtor's remaining assets for the purpose of liquidating or converting such assets to Cash, making Distributions in full and consummating the Plan.

9. **Books and Records.**

On and after the Effective Date, the Purchasers shall provide the Debtor or the Plan Administrator (as applicable) with reasonable access to all records transferred to the Purchasers in connection with each Sale Transaction, to the extent required by the Debtor or the Plan Administrator (as applicable) to administer the Plan (including, without limitation, to prosecute the Causes of Action and Disputed Claims).

10. **Application of Section 1146(c) of the Bankruptcy Code.**

The issuance, transfer, or exchange of notes or securities under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including, without limitation, the Land Transfer and in respect of the Hydro Transaction and/or the transaction evidenced by the Rockingham Option Agreement and/or the transaction evidenced by the Bear Swamp Land Transfer Purchase Agreement, shall not be subject to any stamp, real estate transfer, sales, use, mortgage recording or similar tax, and each recording or other agent of any governmental office shall record any such documents of issuance, transfer, or exchange without any further direction or order from the Bankruptcy Court.

11. **Applicability of Section 1125 of the Bankruptcy Code.**

The protection afforded by section 1125(e) of the Bankruptcy Code with regard to solicitation of acceptances or rejections of the Plan shall apply to the fullest extent provided by law, and the entry of the Confirmation Order shall constitute the determination by the Bankruptcy Court that the Debtor, and each of its respective officers, directors, partners, employees, members, agents, attorneys, accountants or other Professionals, shall have acted in good faith and in compliance with the applicable provisions of the Bankruptcy Code pursuant to section 1125(e) of the Bankruptcy Code.

12. **Payment of Statutory Fees.**

All fees payable pursuant to 28 U.S.C. Section 1930 due and payable through the Effective Date shall be paid by the Debtor on or before the Effective Date and amounts due thereafter shall be paid by the Plan Administrator in the ordinary course. Neither the Pre-Confirmation Administrative Bar Date nor the Post-Confirmation

Administrative Bar Date shall apply to fees payable pursuant to section 1930 of title 28 of the United States Code.

13. **Continuation of Injunctions and Stays.**

Unless otherwise provided, all injunctions or stays ordered in the Chapter 11 Case, pursuant to section 105 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date shall remain in full force and effect unless or until subsequently modified or terminated.

14. **Notices.**

Any notice required or permitted to be provided under the Plan shall be in writing and served by either (i) certified mail, return receipt requested, postage prepaid, (ii) hand delivery, or (iii) reputable overnight delivery service, freight prepaid, to be addressed as follows (subject to modification as to the identity of any addressee below upon notice given to the Plan Administrator and other identified addressees): (i) if to the Debtor, 7600 Wisconsin Avenue, Bethesda, MD 20814, Attn: Plan Administrator, telephone (301-280-6816), telefax (301-280-6319), with copies to, Marc E. Richards, Esquire, Blank Rome, LLP, The Chrysler Building, 405 Lexington Avenue, New York, NY 10174, telephone (212-885-5231), telefax (212-885-5001); and Bonnie Glantz Fatell, Esquire, Blank Rome LLP, Chase Manhattan Centre, 1201 Market Street, Suite 800, Wilmington, DE 19801, telephone (302-425-6400), telefax (302-425-6464); (ii) if to the Shareholder, 7600 Wisconsin Avenue, Bethesda, MD 20814, Attn: NEGT (General Counsel), with copies to, Matthew A. Feldman, Esquire, Willkie Farr & Gallagher, LLP 787 Seventh Avenue, New York, NY 10019, telephone (212-728-8000), telefax (212-728-8111); (iii) if to HSBC, HSBC Bank USA, National Association, as Indenture Trustee, Corporate Trust Services, 452 Fifth Avenue, New York, NY 10018-2706, Attn: Robert A. Conrad, telephone (212-525-1314), telefax (212-525-1366) with copies to, Stephanie Wickouski, Esquire, Gardner Carton & Douglass, LLP, 1301 K Street, NW, East Tower-900, Washington, DC 20005, telephone (202-230-5161), telefax (202-230-5361), Robert J. Gibbons, Esquire, Debevoise & Plimpton, LLC, 919 Third Avenue, New York, NY 10022, telephone (212-909-6303), telefax (212-909-7603), and Michael E. Wiles, Esquire, Debevoise & Plimpton, LLC, 919 Third Avenue, New York, NY 10022, telephone (212-909-6653), telefax (212-909-7653) ; (iv) if to the Owner Participants, Audrey Prashker, Esquire, Verizon Capital Corp., 245 Park Avenue, 40th Floor, New York, NY 10167, telephone (212-557-4790), telefax (212-557-4571), with copies to, John K. Lyons, Esquire, Skadden Arps Slate Meagher & Flom LLP, 333 West Wacker Drive – Suite 2100, Chicago, IL 60606, telephone (312-407-0700), telefax (312-407-0411) and Alexandra Margolis, Esquire, Skadden Arps Slate Meagher & Flom LLP, Four Times Square, New York, NY 10036, telephone (212-735-7810), telefax (917-777-7810); (v) if to the Committee, Claudia Z. Springer, Esquire, Reed Smith LLP, 2500 One Liberty Place, Philadelphia, PA 19103-7301, telephone (215-241-7946), telefax (215-851-1420) and Eric Schaffer, Esquire, Reed Smith LLP, 435 6th Avenue, Pittsburgh, PA 15219-1886, telephone (412-288-4202); telefax (412-288-3063).

15. **Interpretation.**

The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar inference refer to the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan unless otherwise specified therein. Except for the rule contained in section 102(5) of the Bankruptcy Code, the rules of construction contained in section 102 of the Bankruptcy Code shall apply to the Plan. The headings in the Plan are only for convenience of reference and shall not limit or otherwise affect the provisions of the Plan. A term used herein or in the Plan that is not otherwise defined herein or in the Plan shall have the meaning ascribed to that term, if any, in the Bankruptcy Code or Bankruptcy Rules. To the extent there is an inconsistency between any of the express provisions of the Plan and any provision of any exhibit thereto or any document, agreement or instrument contained in the Plan Supplement, or this Disclosure Statement, the express provisions of the Plan shall govern. To the extent there is an inconsistency between any of the express provisions of the Plan and any of the provisions in any of documents that are executed and delivered in connection with the Effective Date, and in a form reasonably acceptable to the Debtor and the Plan Administrator, the provisions of such documents in connection with the Effective Date shall govern.

ARTICLE IV

CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following discussion summarizes certain U.S. federal income tax consequences of the implementation of the Plan to the Debtor and holders of Allowed Class 3 Claims. The following summary does not address the U.S. federal income tax consequences to holders of any type of Claim or Interest other than an Allowed Class 3 Claim.

The following summary is based on the Internal Revenue Code (“IRC”), Treasury Regulations promulgated thereunder, judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service (“IRS”) as in effect on the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect and could significantly affect the federal income tax consequences described below.

The federal income tax consequences of the Plan are complex and are subject to significant uncertainties. The Debtor has not requested a ruling from the IRS or an opinion of counsel with respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation that the IRS will adopt. In addition, this summary does not address foreign, state, or local tax consequences of the Plan, nor does it purport to address the federal income tax consequences of the Plan to special classes of taxpayers (such as foreign taxpayers, broker-dealers, banks, mutual funds, insurance

companies, financial institutions, small business investment companies, regulated investment companies, tax-exempt organizations, and investors in pass-through entities).

Accordingly, the following summary of certain federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the individual circumstances pertaining to a holder of a Allowed Class 3 Claim. All holders of Allowed Class 3 Claims should consult their own tax advisors for the federal, state, local and other tax consequences applicable under the Plan.

A. Consequences to the Debtor

PG&E is the common parent of the PG&E Group, an affiliated group of corporations that files a consolidated federal income tax return. The Debtor and NEGT were previously members of the PG&E Group. Upon the consummation of the NEGT bankruptcy plan and the cancellation of the existing stock of NEGT in connection therewith, the Debtor (along with NEGT) ceased to be members of the PG&E Group. As a result thereof, NEGT became the common parent of an affiliated group of corporations which includes the Debtor.

Under the New TSA between NEGT and Debtor, the Debtor has generally agreed to join with NEGT in the filing of consolidated income tax returns with the NEGT Group, with NEGT as the common parent, for tax periods following their deconsolidation from the PG&E Group. *See* Article II.E.11, "New Tax Sharing Agreement" above for a summary of terms of the New TSA. The New TSA provides, among other items, that the Debtor is entitled to 100% of the tax benefits (calculated based upon an assumed 35% income tax rate) derived from losses generated by it while a member of the NEGT Group to the extent that such losses could be utilized to offset taxable income of the Debtor for periods during which it was either a member of the PG&E Group (subject to a cap of $113 million of taxable income) or a member of the NEGT Group (calculated as if the Debtor filed its income tax returns on a hypothetical, stand-alone basis). In addition, the Debtor is entitled to 35% of the tax benefits (calculated based upon an assumed 35% income tax rate) realized by the NEGT Group with respect to the tax losses of the Debtor in excess of the amount otherwise utilized to reduce or eliminate the taxable income of the Debtor as described in the immediately preceding sentence to the extent that such losses are utilized to reduce or eliminate the taxable income of the other members of the NEGT Group. In certain cases, the foregoing determinations are made by treating losses of the Debtor as having been utilized by the NEGT Group after the losses of all of the other members of the NEGT Group are treated as having been utilized.

It is anticipated that, as a result of the payment of Claims in connection with the consummation of the Plan, the Debtor will generate tax losses in excess of both: (i) the anticipated amount of gain to be recognized by it in connection the Sale Transactions and (ii) the amount of taxable income of the Debtor for prior tax periods against which such losses could be carried back ("Debtor Excess Losses").

Consequently, the Debtor may be entitled to a significant payment from the NEGT Group under the New TSA provided that the NEGT Group (exclusive of the Debtor) generates sufficient taxable income against which such Debtor Excess Losses may be utilized.

1. Cancellation of Debt

The IRC provides that a debtor in a bankruptcy case will not recognize taxable income with respect to any cancellation of debt ("COD") income. Instead, the debtor must reduce certain of its tax attributes – such as net operating loss ("NOL") carryforwards, current year losses, tax credits and tax basis in assets – by the amount of any COD income. This reduction in tax attributes is required in lieu of the recognition of taxable income. However, the reduction in the asset basis of a debtor will not exceed the excess of the aggregate tax bases of the property held by the debtor immediately after the discharge less the aggregate liabilities of the debtor immediately after the discharge. COD income is the amount by which the indebtedness discharged (including accrued interest, but reduced by any unamortized discount) exceeds any consideration given in exchange therefor, subject to certain statutory or judicial exceptions that can apply to limit the amount of COD income (such as where the payment of the cancelled debt would have given rise to a tax deduction). To the extent the amount of COD income exceeds the tax attributes available for reduction, no further tax consequence results.

The IRS recently issued proposed and temporary regulations addressing the method for applying the attribute reduction described above to an affiliated group filing a consolidated federal income tax return (such as the NEGT Group). Under these regulations, the attributes of the debtor member are first subject to reduction. These attributes include (1) consolidated attributes of the debtor member, (2) attributes that arose in separate return limitation years of the debtor member, and (3) the basis of property of the debtor member. To the extent that the excluded COD income exceeds the attributes of the debtor member, the temporary regulations require the reduction of consolidated attributes of other members, and attributes of members other than the debtor member (not including basis in property) that arose or are treated as arising in certain separate return limitation years.

If the attribute of the debtor member reduced under the above rules is the basis of stock of another member of the group, a "look-through rule" applies requiring that corresponding adjustments be made to the attributes attributable to the lower-tier member. In this case, the temporary regulations treat the lower-tier member as a debtor member that has COD income that is excluded from gross income in the amount of the stock basis reduction for purposes of applying the rules relating to a reduction of the attributes attributable to a debtor member.

Any reduction in tax attributes does not occur until the end of the taxable year or, in the case of an asset basis reduction, the first day of the taxable year following the taxable year in which the COD income is incurred. If advantageous, a debtor may

elect to reduce the basis of depreciable property prior to any reduction in its other tax attributes.

As a result of the consummation of the NEGT plan (and the realization of COD income by the NEGT Group in connection therewith), it is anticipated that there will be significant tax attribute reduction at the Debtor level (pursuant to the "look through" rules described above) in the likely form of a reduction in the tax basis of the Debtor's assets. The New TSA provides, however, that as between the Debtor and NEGT, the Debtor will not be responsible for any tax liability that it incurs as a result of aggregate tax attribute reductions with respect to its assets as a result of the consummation of the NEGT plan in excess of $300 million.

As holders of Claims under the terms of the Plan will have their Claims satisfied in full, there should be no significant COD income generated by the Debtor as a result of the consummation of the Plan. As discussed above, any tax attribute reduction required in connection with a realization of COD income will occur as of the first day of the tax year following the year in which the COD income realization event occurs. As it is contemplated that the Debtor will close the Sale Transactions and sell substantially all of its assets on or prior to the consummation date of the Plan, the realization of COD income, if any, should not cause any reduction in the tax basis of the Debtor's assets prior to the sale thereof, or otherwise limit the ability of NEGT Group to use any Excess Tax Losses generated from the payment of Claims in connection with the Plan.

2. **Limitations on Tax Benefits**

Following the implementation of the Plan, tax attributes of the Debtor allocable to periods prior to the Effective Date ("pre-change losses") may also be subject to limitation under section 382 of the IRC as a result of the change in ownership of the Debtor and/or as a result of the consummation of the NEGT bankruptcy plan or otherwise to the extent that either NEGT or the Debtor undergoes an "ownership change" (as defined for these purposes.)

Under section 382 of the IRC, if a corporation undergoes an "ownership change" and the corporation does not qualify for (or elects out of) the special bankruptcy exception discussed below, the amount of its pre-change losses that may be utilized to offset future taxable income is subject to an annual limitation. Such limitation also may apply to certain losses or deductions that are "built-in" (*i.e.*, economically accrued but unrecognized) as of the date of the ownership change and that are subsequently recognized.

It is not anticipated, however, that the Debtor will possess any "pre-change losses" that could be limited under section 382 as a result of either an ownership change at either the NEGT or the Debtor levels.

3. **General Section 382 Limitation**

In general, the amount of the annual limitation to which a corporation (or consolidated group) would be subject is equal to the product of: (i) the fair market value of the stock of the corporation (or, in the case of a consolidated group, the common parent) immediately before the ownership change (with certain adjustments); multiplied by (ii) the "long term tax exempt rate" in effect for the month in which the ownership change occurs (for example, approximately 4.27% for ownership changes occurring in January, 2005). For a corporation (or consolidated group) in bankruptcy that undergoes a change of ownership pursuant to a confirmed plan, the stock value generally is determined immediately after (rather than before) the ownership change, and certain adjustments that ordinarily would apply do not apply.

Any unused limitation may be carried forward, thereby increasing the annual limitation in the subsequent taxable year. However, if the corporation (or the consolidated group) does not continue its historic business enterprise for at least two years after the ownership change, the annual limitation from the ownership change is zero.

4. **Built in Gains and Losses**

If a loss corporation (or consolidated group) has a net unrealized built-in loss at the time of an ownership change (taking into account most assets and items of "built-in" income and deduction), then any built-in losses recognized during the following five years (up to the amount of the original net unrealized built-in loss) generally will be treated as pre-change losses and will be subject to the annual limitation. Although the rule applicable to net unrealized built-in losses generally applies to consolidated groups on a consolidated basis, certain corporations that join the consolidated group within the preceding five years may not be able to be taken into account in the group computation of net unrealized built-in loss. In general, a loss corporation's (or consolidated group's) net unrealized built-in gain or loss will be deemed to be zero unless it is greater than the lesser of (i) $10 million or (ii) 15% of the fair market value of its assets (with certain adjustments) before the ownership change. The Debtor does not anticipate that it will be in a net unrealized built-in loss position as of the Effective Date.

An exception to the foregoing annual limitation rules generally applies where historic shareholders and certain "qualified creditors" (generally, so-called "old and cold" creditors and certain trade creditors) of a debtor receive, in respect of their claims, at least 50% of the vote and value of the stock or the reorganized debtor (or a controlling corporation if also in bankruptcy) pursuant to a confirmed Chapter 11 plan.

Under this exception, a debtor's pre-change losses are not limited on an annual basis but, instead, are required to be recomputed as if no deduction was allowable for interest deductions claimed during the three taxable years preceding the effective date

of the reorganization, and during the part of the taxable year prior to and including the reorganization, in respect of all debt converted into stock in the bankruptcy proceeding. Moreover, if this exception applies, any further ownership change of the debtor within a two-year period after the consummation of the Chapter 11 plan will preclude the debtor's future utilization of any pre-change losses existing at the time of the subsequent ownership change.

5. **Alternative Minimum Tax**

In general, a federal alternative minimum tax ("AMT") is imposed on a corporation's alternative minimum taxable income at a 20% rate to the extent that such tax exceeds the corporation's regular federal income tax. For purposes of computing taxable income for AMT purposes, certain tax deductions and other beneficial allowances are modified or eliminated. In particular, even though a corporation otherwise might be able to offset all of its taxable income for regular tax purposes by available NOL carryforwards, only 90% of a corporation's taxable income for AMT purposes may be offset by available NOL carryforwards (as computed for AMT purposes).

If a corporation (or consolidated group) undergoes an "ownership change" within the meaning of section 382 of the IRC and is in a net unrealized built-in loss position on the date of the ownership change, the corporation's (or group's) aggregate tax basis in its assets would be reduced for certain AMT purposes to reflect the fair market value of such assets as of the change date.

Any AMT that a corporation pays generally will be allowed as a nonrefundable credit against its regular federal income tax liability in future taxable years when the corporation no longer is subject to the AMT.

6. **Consequences of Sale Transactions**

The Debtor will recognize substantial amounts of gain upon the closing of either or both of the Sale Transactions. A significant portion of this gain is likely to arise, in part, due to the anticipated tax attribute reduction to the tax basis of the Debtor's assets as a result of cancellation of indebtedness incurred by NEGT upon the consummation of its bankruptcy plan (see discussion above). If, as is anticipated, the Debtor joins with the NEGT Group in filing consolidated income tax returns, those gains may be offset by losses and deductions that are recognized by the Debtor or otherwise elsewhere in the consolidated group.

Under the New TSA, the tax liability of the Debtor is generally determined on a stand-alone basis as if it were a separate taxpaying entity. As a result of the payment of Claims in connection with the consummation of the Plan, it is anticipated that the Debtor will generate tax deductions sufficient to offset any such gain. It should be noted, however, in the unlikely event that one or both of the Sale Transactions occur in a tax year preceding the tax year of the Debtor in which the consummation of the Plan

occurs (and consequently, prior to the payment of the Claims), the Debtor may be required to prepay income taxes in connection therewith. In that case, NEGT is generally required to reimburse the Debtor for the amount of such tax payments under the New TSA following the filing of the NEGT Group's income tax return for the tax year in which the Plan is consummated (*i.e.*, the tax year in which the tax losses arising from the payment by the Debtor of its Claims are generated). In any event, the IRS could challenge the Debtor's ability to utilize such losses and deductions. As a result, there can be no assurance that gains recognized by the Debtor will be offset by such losses and deductions.

B. <u>Consequences to Holders of Allowed Class 3 Claims</u>

1. General Considerations

The exchange of Claims for cash will be a fully taxable transaction. In general, holders of such Claims will recognize gain or loss in any amount equal to the difference between: (a) the sum of the cash received in satisfaction of its Claim (other than any Claim for accrued but unpaid interest); and (b) such holder's adjusted tax basis in its Claim (other than any Claim for accrued but unpaid interest). Any loss generally may not be recognized until the Final Distribution Date. For a discussion of the tax consequences of any Claims for accrued but unpaid interest, see Article IV.B.2, "Distributions in Discharge of Accrued Interest."

Where gain or loss is recognized by a holder, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the holder, whether the Claim constitutes a capital asset in the hands of the holder and how long it has been held, whether the Claim was acquired at a market discount, and whether and to what extent the holder had previously claimed a bad debt deduction. A holder of a Claim who purchased its Claim from a prior holder at a market discount may be subject to the market discount rules of the IRC. Under those rules, assuming that the holder has made no election to amortize the market discount into income on a current basis with respect to any market discount instrument, any gain recognized on the exchange of its Claim (subject to a *de minimis* rule) generally would be characterized as ordinary income to the extent of the accrued market discount on such Claim as of the date of the exchange.

Due to the possibility that a holder of an allowed Claim may receive additional Distributions subsequent to the Effective Date in respect of any subsequently disallowed Disputed Claims or unclaimed Distributions, the imputed interest provisions of the IRC may apply to treat a portion of such later Distributions as imputed interest.

2. Distributions in Discharge of Accrued Interest

In general, to the extent that any Distribution to a holder of an Allowed Class 3 Claim is received in satisfaction of accrued interest or amortized original issue

discount ("OID") during its holding period, such amount will be taxable to the holder as interest income (if not previously included in the holder's gross income). Conversely, a holder generally recognizes a deductible loss to the extent any accrued interest claimed or amortized OID was previously included in its gross income and is not paid in full. It is unclear, however, whether a holder of a Claim with previously included OID that is not paid in full would be required to recognize a capital loss rather than an ordinary loss.

Each holder of a Claim is urged to consult its tax advisor regarding the allocation of consideration and the deductibility of unpaid interest for tax purposes.

3. **Treatment of Disputed Claims Reserve**

From and after the Effective Date, and until such time as all of the Debtor's assets (and the proceeds thereof) can be distributed to the holders of the Allowed Class 3 Claims in accordance with the terms of the Plan, the Disputed Claims Reserve will be established. Distributions from the Disputed Claims Reserve will be made to holders of Disputed Claims when such Claims are subsequently Allowed and to holders of Allowed Claims (whether such Claims were Allowed on or after the Effective Date) when any Disputed Claims are subsequently disallowed.

a. **Disputed Claims Reserve – Federal Income Tax – General**.

Under section 468B(g) of the IRC, amounts earned by an escrow account, settlement fund, or similar fund are subject to current tax. Although certain Treasury Regulations have been issued under this section, no final Treasury Regulations have as yet been promulgated to address the tax treatment of such accounts in a bankruptcy setting. Thus, depending on the facts of a particular situation, such an account could be treated as a separately taxable trust, as a grantor trust treated as owned by the holders of Disputed Claims or by the Debtor (or, if applicable, any of its successors), or otherwise. On February 1, 1999, the IRS issued proposed Treasury Regulations that, if finalized in their current form, would specify the tax treatment of escrows of the type here involved that are escrows established after such Treasury Regulations become final. In general, such Treasury Regulations would tax such an escrow in a manner similar to a corporation. As to previously established escrows, such Treasury Regulations would provide that the IRS would not challenge any reasonably and consistently applied method of taxation for income earned by the escrow, and any reasonably and consistently applied method for reporting such income.

b. **Disputed Claims Reserve – Federal Income Tax – Intended Treatment by Debtor**

It is anticipated that holders of Claims (including Disputed Claims that become Allowed Claims) will have their Claims satisfied in full (plus interest) under the terms of the Plan, and that there will be significant residual assets in the Debtor's bankruptcy estate after payment of all Allowed Claims. As a result, in the event that

income is earned by the funds held in the Disputed Claims Reserve, absent definitive guidance from the IRS or a court of competent jurisdiction to the contrary, the Disputed Claims Reserve shall be treated as a restricted account owned by the Debtor's bankruptcy estate for federal income purposes, and to the extent permitted by applicable law, such income shall be reported on a consistent basis for state and local income tax purposes.

Accordingly, subject to issuance of definitive guidance, the Debtor shall be treated as subject to tax on any amounts earned by the Disputed Claims Reserve, and shall report any interest paid to holders of Claims for federal income tax purposes as if it were paid directly by the Debtor. In the event that interest is paid to holders of Disputed Claims with respect to their Claims, the amount of any interest paid to holders out of the Disputed Claims Reserve shall generally be includible in the holder's gross income for federal income tax purposes, and will generally be deductible by the Debtor.

c. **Information on Reporting and Withholding**

All Distributions to holders of Allowed Claims under the Plan are subject to any applicable withholding (including employment tax withholding). Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at the then applicable rate. Backup withholding generally applies (at a 28% tax rate) if the holder: (i) fails to furnish its social security number or other taxpayer identification number ("TIN"); (ii) furnishes an incorrect TIN; (iii) fails properly to report interest or dividend income on his or her personal income tax return and is notified to that effect by the IRS; or (iv) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is a United States person that is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions which establish such exemption.

The forms of ballot to accept or reject the Plan (the "Ballot") include a request that creditors provide their TINs and certify that they are not subject to backup withholding. In this respect, the ballots shall constitute substitute IRS Form W-9s (in the case of domestic individuals or entities) or W-8BENs, W-8ECIs, W-8EXPs or W-8IMYs (in the case of foreign individuals or entities). In the event a creditor that is required to do so fails to provide its TIN and/or to certify that it is not subject to backup withholding, the Debtor may withhold an appropriate percentage of the distribution otherwise required to be made to such creditor under the Plan, and instead to pay that amount into the U.S. Treasury.

Treasury Regulations generally require disclosure by a taxpayer on its federal income tax return of certain types of transactions, including, among other types of transactions, the following: (i) a transaction offered under "conditions of confidentiality;" (ii) a transaction where the taxpayer was provided contractual protection

for a refund of fees if the intended tax consequences of the transaction are not sustained; (iii) certain transactions that result in the taxpayer claiming a loss in excess of specified thresholds; and (iv) certain transactions in which the taxpayer's federal income tax treatment differs by more than a specified threshold in any tax year from its treatment for financial reporting purposes. These categories are very broad; however, there are numerous exceptions. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the holder's tax returns.

As post-petition interest will be paid under the Plan, the Debtor will be required to issue Forms 1099-INT to certain creditors with respect to any interest paid. These forms generally need not be prepared in connection with interest paid to domestic corporations (other than certain law firms operating in corporate form). These 1099 forms will, however, be required to be issued to interest recipients that are individuals, partnerships, limited liability companies, trusts, and other entities that are not corporations. In addition to the foregoing, IRS Forms 1099-MISC must be issued on payments of over $600 to trade creditors (other than corporations). No Forms 1099-INT are required on interest payments to foreign persons.

The foregoing summary has been provided for informational purposes only. All holders of Claims and Interests should consult their tax advisors concerning the federal, state, local and other tax consequences applicable under the Plan.

ARTICLE V

PLAN ACCEPTANCE AND CONFIRMATION

A. Confirmation of the Plan

Confirmation of the Plan requires satisfaction of section 1129 of the Bankruptcy Code. Among other things, section 1129 requires that: (1) each Class of Claims and Interests either be unimpaired or vote to accept the Plan; or be subject to a "cramdown"; (2) the Plan be in the "best interests" of any dissenting Creditor or Interest holder that is impaired and entitled to vote; and (3) the Plan be feasible. Each of these requirements is addressed below.

B. Voting Requirements

1. Acceptance

Each Class of Claims or Interests must be unimpaired or vote to accept the Plan or be subject to a "cramdown." A class is impaired under a plan unless, under the plan: (a) the applicable creditor's or interest holder's legal, equitable, and contractual rights are left unaltered and there has been no default respecting the applicable claim or

interest (other than under a bankruptcy or financial condition clause); or (b) all defaults are cured, maturity dates are reinstated, the party is compensated for damages caused by the default (such as by paying reasonable attorneys' fees and collection costs) and the party's legal, equitable and contractual rights are left unaltered.

An unimpaired class is conclusively presumed to have accepted a plan. The unimpaired Classes under the Plan are Classes 1 and 2, which therefore are not entitled to vote on the Plan.

Votes on the Plan, therefore, are being solicited only from the impaired classes that would receive Distributions or retain property under the Plan. Class 3 Creditors and Class 4 Interest holders are the only such impaired Classes.

An impaired class of claims has accepted a plan if, of those voting, the holders of at least two thirds ($^2/_3$) in dollar amount, and more than one-half (½) in number, vote in favor of the plan. An impaired class of interests has accepted a plan if, of those voting, the holders of at least two-thirds ($^2/_3$) in amount vote in favor of the plan.

The Debtor and the Committee each believes that the Plan provides an excellent recovery for Class 3 Claimants and Class 4 Interest holders, and therefore recommends that holders of Class 3 Claims and Class 4 Interests vote to accept the Plan.

2. **Deadline**

To be counted, your Ballot must be received by BSI, the Debtor's Balloting Agent, no later than 4:00 p.m. (prevailing Eastern Time) on ______________, 2005, at the address set forth on the enclosed self-addressed envelope.

3. **Eligibility**

If you filed multiple proofs of Claim or Interest against the Debtor, you may receive more than one Ballot. The delivery of Ballots does not constitute an admission by the Debtor that the recipients of such Ballots hold Claims or Interests that have been allowed either for Distribution or voting purposes. In addition, the fact that a party does not receive a Ballot is no indication as to whether or not that party does or does not have a valid Claim or Interest. The Debtor reserves its right to object to any Claim or Interest.

4. **Tabulation**

The Bankruptcy Court also established the following rules and standards for the tabulation of Ballots:

a. Any Ballot which is properly completed, executed, and timely returned to the Balloting Agent that does not indicate an acceptance or rejection of the Plan, or indicates both an acceptance

and rejection of the Plan, shall be deemed to constitute a vote for acceptance of the Plan.

b. Any Ballot which is returned to the Balloting Agent indicating acceptance or rejection of the Plan, but which is unsigned or does not contain an original signature, shall not be counted.

c. Any Ballot postmarked prior to the deadline for submission of Ballots, but received afterward, shall not be counted, unless otherwise ordered by the Bankruptcy Court.

d. Pursuant to Bankruptcy Rule 3018(a), whenever a holder of a Claim or Interest submits more than one Ballot voting the same Claim or Interest prior to the deadline for receipt of Ballots, except as otherwise directed by the Bankruptcy Court, the last such properly completed Ballot sent and received prior to the Voting Deadline will be deemed to reflect the voter's intent and thus to supersede any prior Ballots.

e. A holder of a Claim that is entitled to vote must vote all of such Claim under the Plan either to accept or reject the Plan and may not split its vote with respect to such Claim (except as may be set forth specifically in the Plan). Accordingly, a Ballot with respect to a Claim that partially rejects and partially accepts the Plan, or that indicates both a vote for and against the Plan, shall not be counted. For the avoidance of doubt, a party that has multiple Claims may vote different Claims differently.

f. If a Creditor or Interest holder simultaneously casts inconsistent duplicate Ballots, with respect to the same Claim or Interest, such Ballots shall not be counted.

g. Each Creditor shall be deemed to have voted the full amount of its Claim.

h. Any Ballot received by the Balloting Agent by telecopier, facsimile or other electronic communication shall not be counted.

i. Unless otherwise ordered by the Bankruptcy Court, questions as to the validity, form, eligibility (including time of receipt), acceptance and revocation or withdrawal of Ballots shall be determined by the Balloting Agent and the Debtor in their sole discretion, which determination will be final and binding.

j. Each Bear Swamp Certificateholder shall receive the Plan and Disclosure Statement and a form of direction letter to HSBC in

accordance with procedures approved by the Bankruptcy Court for solicitation of votes to the Plan.

5. Cramdown

If all Classes of Claims and Interests fail to accept the Plan or if all Classes of Claims are unimpaired, then the Bankruptcy Court may confirm the Plan in the absence of acceptances by each Class. The procedure used to confirm a plan despite the dissent of a class, commonly known as a "cramdown," is set forth in section 1129(b) of the Bankruptcy Code. A plan may be confirmed under the cramdown provisions if, in addition to satisfying the requirements of section 1129(a) of the Bankruptcy Code other than acceptance by all classes, the plan "does not discriminate unfairly", and is "fair and equitable" with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

As used by the Bankruptcy Code, the phrases "discriminate unfairly" and "fair and equitable" have narrow and specific meanings unique to bankruptcy law. A plan does not discriminate unfairly if claims or interests in different classes but with similar priorities and characteristics receive or retain property of similar value under a plan. By establishing separate Classes for the holders of each type of Claim and by treating each holder of a Claim in each class identically, the Plan has been structured so as to meet the "unfair discrimination" test of section 1129(b) of the Bankruptcy Code.

The Bankruptcy Code sets forth different standards for establishing that a plan is "fair and equitable" with respect to a dissenting class, depending on whether the class is comprised of secured or unsecured claims or interests. In general, section 1129(b) of the Bankruptcy Code permits confirmation notwithstanding non-acceptance by an impaired class if that class and all junior classes are treated in accordance with the "absolute priority" rule, which requires that the dissenting class be paid in full before a junior class may receive anything under the plan. In this case, representatives of the holders of the vast majority of the Class 3 Claims, and the Shareholder with respect to Class 4 Interests, have actively participated in negotiations of the Plan. In addition, case law surrounding section 1129(b) requires that no class senior to a non-accepting impaired class receive more than payment in full on its claims.

The Plan meets the foregoing requirements. First, the Plan does not discriminate between similarly situated Claims. Second, no class of Creditors under the Plan will receive more than one hundred (100%) percent of the amount of their Claims, plus interest. Second,. Third, the Plan abides by the "absolute priority rule," in that all classes of Creditors will be paid in full, with interest, before interest holders receive any Distribution.

C. Best Interests Test

To confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of all individual dissenting Creditors in each impaired class. The "best interests" test requires that the Plan provide each such holder with a recovery having a value at least equal to the value of the distribution each such holder would receive if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code. This test is based on liquidation values.

Annexed to this Disclosure Statement as Appendix 2 is a liquidation analysis for the Debtor. The liquidation values are based on the Debtor's estimates and are subject to revision. Included in the liquidation analysis is a comparison of the recoveries of impaired Creditors under the Plan and in a hypothetical Chapter 7 liquidation.

Due to the numerous uncertainties and time delays associated with liquidation under Chapter 7, it is not possible to predict with certainty the outcome of liquidation of the Debtor or the timing of any distribution to Creditors. The Debtor, however, projects that liquidation under Chapter 7 of the Bankruptcy Code would result in no greater distributions than those provided for in the Plan. Indeed, in respect of Class 3 Claims, the Plan provides for much greater Distributions than would be available in a Chapter 7 liquidation.

D. Feasibility Requirement

The feasibility test for confirmation of the Plan requires the Bankruptcy Court to determine that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or its successors, unless such liquidation or financial reorganization is proposed in the Plan. For purposes of determining whether the Plan meets this requirement, the Debtor has analyzed its ability to meet its obligations under the Plan. Based upon those projections, the Debtor believes the Plan will meet the feasibility requirement of the Bankruptcy Code.

E. Alternatives to the Plan

The Debtor believes that the Plan is the best alternative available to the Debtor's Creditors, providing such Creditors with the earliest and greatest possible values that can be realized on their respective Claims. The alternatives to confirmation are: (i) confirmation of an alternative plan or plans of reorganization or liquidation; or (ii) liquidation of the Debtor's assets under Chapter 7 of the Bankruptcy Code.

1. Alternative Plans

As the Debtor structured the Plan to maximize values, any alternative plan likely would result in reduced distributions to certain Creditors. Moreover, the Debtor

has negotiated significant reductions or modifications of certain Claims through, among other things, the Bear Swamp Compromise, the Post-Petition Interest Compromise, the withdrawal of the Committee Proofs of Claim and the Shareholder Proofs of Claim, and the Shareholder Participation, the result of which will provide significant, additional value to holders of Allowed Class 3 Claims, and which would be unavailable to the proponent(s) of an alternative plan and perhaps lead to a lesser Post-Petition Interest rate, a greater BSC Claim, and increased cost due to legal fees, delay, and continuing administrative expenses. In addition, due to the time required to negotiate, draft and obtain approval of an alternative plan, alternatives to the Plan would lead to delayed distributions to Creditors.

2. **Liquidation**

As noted, the Debtor believes that the value of Distributions under the Plan will equal or exceed the value of distributions that would be available after liquidation of the Debtor under Chapter 7 of the Bankruptcy Code. A liquidation under Chapter 7 would require the Bankruptcy Court to appoint a trustee to conduct the liquidation of the Debtor. Such a trustee would have limited historical experience or knowledge of this Chapter 11 Case or of the Debtor's records, assets or business. The fees charged by a Chapter 7 trustee and any professionals retained by the Chapter 7 trustee could impose substantial administrative costs on the Debtor's estate that would not be incurred under the Plan. Also, liquidation under Chapter 7 would increase substantially the magnitude of Claims against the Debtor for items such as severance and lease rejections. Further, there is no assurance as to when distributions would occur in a Chapter 7 liquidation.

Thus, the Debtor believes that confirmation of the Plan is preferable to the alternatives because the Plan should maximize value, ensure an expeditious resolution of this Chapter 11 Case and provide for equitable Distributions to the Debtor's Creditors and Interest holders.

ARTICLE VI

CONCLUSION

THE DEBTOR AND THE COMMITTEE URGE ALL HOLDERS OF CLASS 3 CLAIMS AND CLASS 4 INTERESTS TO VOTE TO ACCEPT THE PLAN BY RETURNING THEIR BALLOTS SO THAT THEY ARE RECEIVED BY THE USGENNE BALLOTING CENTER, C/O BANKRUPTCY SERVICES LLC, 757 THIRD AVENUE, NEW YORK, NEW YORK 10017, BY 4:00 P.M. (PREVAILING EASTERN TIME) ON ______, 2005.

Dated: February 17, 2005
Bethesda, Maryland

USGEN NEW ENGLAND, INC.
Debtor and Debtor in Possession

By: /s/ Ernest K. Hauser
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APPENDIX 1

Plan of Liquidation

APPENDIX 2

Liquidation Analysis