

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

Docket UM _____

In the Matter of the Application of MidAmerican Energy)
Holdings Company and PacifiCorp for an Order) JOINT
Authorizing MidAmerican Energy Holdings Company) APPLICATION
To Exercise Substantial Influence Over the Policies and)
Actions of PacifiCorp)

MidAmerican Energy Holdings Company (“MEHC”) and PacifiCorp (sometimes hereinafter jointly referred to as “Applicants”) hereby request an order of the Public Utility Commission of Oregon (“Commission”) authorizing MEHC to exercise substantial influence over the policies and actions of PacifiCorp (the “Application”).

JURISDICTION

This Application is filed pursuant to ORS 757.511, which requires the Commission’s authorization before any person may directly or indirectly exercise any substantial influence over the policies and actions of a public utility that provides heat, light or power, if such person is, or by such acquisition would become, an affiliated interest with such public utility as defined in ORS 757.015(1), (2) or (3). Pursuant to ORS 757.511(3), the Commission is required to grant approval if it finds that the proposed transaction will serve PacifiCorp’s customers in the public interest. Transactions under ORS 757.511 must satisfy a “net benefits” standard.

TIME FOR PROCESSING THE APPLICATION

MEHC and PacifiCorp agree to extend, to February 28, 2006, the 19-business day period for the Commission to issue an Order disposing of this Application, as provided in ORS 757.511(3).

MEHC and PacifiCorp respectfully request completion of all state reviews of the proposed transaction by February 28, 2006, in order to complete the acquisition on or before March 31, 2006. MEHC's proposed acquisition of PacifiCorp is an important transaction for PacifiCorp customers, employees and communities. In order to mitigate the ill effects of uncertainty associated with the sale of PacifiCorp, and expedite the delivery of important benefits, we respectfully request that the Commission schedule review of the Application in a manner that will facilitate an order by February 28, 2006.

Closing on or before March 31, 2006, will facilitate the transition of PacifiCorp's financial reporting from a fiscal year ending March 31, which is the Scottish Power plc ("ScottishPower") approach, to a calendar fiscal year consistent with MEHC's financial statements. Calendar year reporting is consistent with regulatory reporting which should enable the Commission to utilize a single year's audited financial statements rather than have regulatory reporting span across two fiscal years.

In connection with the Applicants' request for a Commission order by February 28, 2006, it is noteworthy that the Securities and Exchange Commission ("SEC") will not act in advance of approvals from the respective state public utility commissions. The SEC's policy in this respect is founded on their desire to avoid pressuring the states to act in a particular manner, to avoid rendering decisions on theoretical transactions, and to avoid impacting share prices and value by having an extended period between approval and closing. Thus, ruling on the Application should not be delayed in the hope that doing so would permit the SEC to rule first, and Applicants respectfully ask the Commission not to delay its ruling on the Application on this ground.

APPLICANT INFORMATION

The exact name and address of MEHC's principal business office is as follows:

MidAmerican Energy Holdings Company
666 Grand Avenue, Suite 2900
Des Moines, Iowa 50309

MEHC is an Iowa corporation, whose ownership, as of January 31, 2005, is as follows:

Berkshire Hathaway Inc. (83.75% economic interest); Walter Scott, Jr., including family interests, (15.89% economic interest); David Sokol (0.25% economic interest); and Greg Abel (0.11% economic interest). On a diluted basis the economic interests would be as follows:

Berkshire Hathaway Inc. (80.48% economic interest); Walter Scott, Jr., including family interests, (15.27% economic interest); David Sokol (2.91% economic interest); and Greg Abel (1.34% economic interest).¹ Further detail concerning the ownership of MEHC may be found at page 108 of MEHC's 2004 annual report on Form 10-K attached to MEHC witness Pat Goodman's testimony.

Berkshire Hathaway currently holds 9.9% of the voting stock ownership of MEHC and 41,263,395 shares of MEHC's zero coupon convertible preferred stock.² This preferred stock is convertible into MEHC common shares at the option of Berkshire Hathaway under specific circumstances, as discussed more fully in Mr. Goodman's testimony. One such circumstance is the repeal or amendment of the Public Utility Holding Company Act of 1935 and any successor

¹ The voting stock ownership of these four investors is as follows: (1) Walter Scott, Jr., including family interests, holds an 88.1% voting interest; (2) Berkshire Hathaway, Inc. holds a 9.9% voting interest; (3) David Sokol holds a 1.4% voting interest; and (4) Greg Abel holds a 0.6% voting interest.

² While the convertible preferred stock does not vote with the common stock in the election of directors, the convertible preferred stock gives Berkshire Hathaway the right to elect 20% of MEHC's Board of Directors (currently two of the ten members of the MEHC Board of Directors). Additionally, the prior approval of Berkshire Hathaway, as the holder of convertible preferred stock, is required for certain fundamental transactions by MEHC, as further discussed in Mr. Goodman's testimony.

legislation (“PUHCA”) such that the conversion of preferred stock would not cause Berkshire Hathaway (or any affiliate of Berkshire Hathaway) to become regulated as a registered holding company. MEHC anticipates that Berkshire Hathaway will exercise its right to convert the zero coupon convertible preferred stock in the event this circumstance occurs, whereupon Berkshire Hathaway’s voting interest would correspond to its ownership interest.

Persons authorized on behalf of MEHC to receive notices and communications with respect to this Application are:

Douglas L. Anderson
Senior Vice President & General Counsel
MidAmerican Energy Holdings Company
302 S. 36th Street, Suite 400
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Persons authorized on behalf of PacifiCorp to receive notices and communications with respect to this Application are:

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Managing Director – Strategy
PacifiCorp
825 NE Multnomah, Suite 956
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Phone: (503) 813-6043
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andrea.kelly@pacificorp.com

Joint counsel for the Applicants should be served as follows:

Katherine A. McDowell
Stoel Rives LLP
900 SW 5th Avenue, Suite 1700
Portland, Oregon 97204
Phone: (503) 294-9602
Fax: (503) 220-2480
kamcdowell@stoel.com

Data Requests

Data requests for the Applicants should be addressed in the following manner with copies to Applicants' counsel:

By email (preferred): datarequest@pacificorp.com

By fax: (503) 813-6060

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 800
Portland, Oregon 97232

MEHC Electronic Document Room

MEHC has created an Electronic Document Room containing the documents listed in the attached Index, provided as Appendix 1 to this Application. These documents are intended to anticipate initial discovery needs and provide parties with a solid foundation of knowledge pertaining to MEHC and MidAmerican Energy Company ("MEC"). Provisions for quick access to the Electronic Document Room can be arranged by contacting the following representative of MEHC and MEC:

Charles ("Chuck") R. Montgomery
MidAmerican Energy Company
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Urbandale, Iowa 50322
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crmontgomery@midamerican.com

DESCRIPTION OF TRANSACTION

On May 23, 2005, ScottishPower and PacifiCorp Holdings, Inc. (“PHI”), its wholly owned subsidiary directly holding PacifiCorp’s common stock, reached a definitive agreement (“Stock Purchase Agreement”), providing for the sale of all PacifiCorp common stock, held by PHI, to MEHC for a value of approximately \$9.4 billion, consisting of approximately \$5.1 billion in cash plus approximately \$4.3 billion in net debt and preferred stock, which will remain outstanding at PacifiCorp. The Stock Purchase Agreement is included as Appendix 2.

A limited liability company referred to as PPW Holdings LLC (“Holdings”) has been established as a direct subsidiary of MEHC. Holdings will receive an equity infusion of approximately \$5.1 billion raised by MEHC through the sale of convertible preferred stock to Berkshire Hathaway and long-term senior notes, preferred stock, or other securities with equity characteristics, to third parties. However, the transaction is not conditioned on such financing and if funds were not available from third parties, Berkshire Hathaway is expected to provide any required funding. Finally, Holdings will have no debt of its own for this transaction. Holdings will, as provided in the Stock Purchase Agreement, pay PHI \$5.1 billion in cash at closing in exchange for 100% of the common stock of PacifiCorp. In addition, it is projected that the approximately \$4.3 billion in net debt and preferred stock currently outstanding at PacifiCorp will remain outstanding as liabilities of PacifiCorp. The acquisition is subject to customary closing conditions, including approval of the transaction by the shareholders of ScottishPower and receipt of required state and federal regulatory approvals.

The sale of PacifiCorp’s common stock to MEHC will also include transfer of control of the following PacifiCorp subsidiaries, which consist primarily of mining companies and companies created to handle environmental remediation and generate carbon offset credits: Centralia Mining Company, Energy West Mining Company, Glenrock Coal Company, Interwest

Mining Company, Pacific Minerals, Inc., Bridger Coal Company, PacifiCorp Environmental Remediation Company, PacifiCorp Future Generations, Inc., Canopy Botanicals, Inc., Canopy Botanicals, SRL, PacifiCorp Investment Management, Inc., and Trapper Mining Inc.

Upon completion of the transaction, PacifiCorp will be an indirect wholly-owned subsidiary of MEHC, through PacifiCorp's new direct parent company, Holdings, as illustrated in the organizational chart included in the testimony of MEHC witness Goodman. MEHC will thereby acquire the power to exercise influence over the policies and actions of PacifiCorp. MEHC will also become an affiliated interest of PacifiCorp, as defined in ORS 757.015(1) and (2).

Plan for Operating PacifiCorp

MEHC and its primary investor, Berkshire Hathaway, acquire a business with the intention of holding and investing in the business for the long term, where such investments are fair to customers, employees and shareholders. Nearly a decade ago, MEHC identified the energy industry as a preferred area for investment of a significant amount of its capital resources. This investment focus is premised on the belief that energy investments are stable investments and, if operated correctly, provide opportunities for fair and reasonable returns. The proposed acquisition of PacifiCorp advances MEHC's focus on owning and operating a portfolio of high-quality energy businesses with capable management already in place and a strong emphasis on customer satisfaction, reliable service, employee safety, environmental stewardship, and regulatory/legislative credibility.

It is projected that PacifiCorp's service territories will require investment of at least \$1 billion per year, for the next five years, in order to assure reliable electric service. While the profile of the returns on these capital requirements was not compatible with ScottishPower's

continued ownership of PacifiCorp, MEHC is uniquely suited to undertake such investments. MEHC is privately held and not subject to shareholder expectations of regular, quarterly dividends and relatively fast returns on investments. MEHC's focus on significant, long-term investment in well-operated energy companies is a focus that should provide PacifiCorp customers, employees, the public and regulators with valuable stability, permitting PacifiCorp's management and employees to apply their full attention to exceeding customer expectations.

The opportunities for a successful transaction and transition are enhanced by the significant similarities between PacifiCorp and MEC, MEHC's electric utility business platform. MEHC plans to operate PacifiCorp much as it is operated today. MEHC, like PacifiCorp, has a track record for investment in a diverse mix of generation technologies (gas, coal, wind, geothermal, etc.), investment in energy efficiency, demand-side management and environmental technologies, and MEHC is accustomed to operating in a collaborative fashion when developing its energy efficiency, demand side management and environmental plans. Like PacifiCorp, MEHC is comfortable with operating in a diverse service area, with states that have opted for competitive retail electric service as well as states that have opted for the traditional model of regulated retail electric service. MEHC also shares PacifiCorp's dedication to customer service, a fact attested to by both organizations' customer satisfaction ratings. These similarities are addressed in the testimony of MEHC witness Gale.

MEHC intends to maintain separate debt ratings for PacifiCorp, and the Applicants expect the transaction to have a positive impact on PacifiCorp's bond ratings and financing costs. MEHC's financial capabilities and the reaction of the credit rating agencies to the announcement of this transaction with respect to PacifiCorp's bond ratings are described below, in the "Financial Strength" section concerning MEHC.

PacifiCorp will continue to be charged for certain common services provided to it as part of a larger organization. Under MEHC's ownership, these services will be limited to management services (e.g., board of directors support, corporate tax, financial planning and analysis, financial reporting) and will be provided by a service company ("ServCo") subsidiary of MEHC, as well as MEC. In connection with this transaction, MEHC is making a commitment to cap such charges at \$9 million per annum for a five (5) year period, compared to the \$15 million PacifiCorp is projected to incur from ScottishPower in FY2006. See testimony on shared service charges from MEHC witness Specketer.

PacifiCorp's headquarters will remain in Portland, Oregon. All PacifiCorp financial books and records will be kept in Portland, Oregon, and will continue to be available to the Commission, upon request, at PacifiCorp's offices in Portland and Salt Lake City, and elsewhere in accordance with current practice. There are no plans for a reduction in workforce as a result of this transaction. MEHC will also renew and extend the commitments that have been previously made by PacifiCorp as set forth in Exhibit (BEG-1) in the testimony of MEHC witness Gale, and as discussed in the testimonies of MEHC witnesses Abel, Goodman, Gale and Specketer.

As the foregoing demonstrates, PacifiCorp's customers, communities and regulators are not likely to notice significant changes in PacifiCorp's business practices as a result of the proposed transaction. To the contrary, customers, communities, and regulators will see benefits from an owner of PacifiCorp with significant financial strength, expertise in utility operations and business planning, and a focus on improving reliability and business operations over the long term.

MEHC'S IDENTITY, FINANCIAL ABILITY AND EXPERIENCE IN THE ENERGY INDUSTRY

MEHC was initially incorporated in 1971 under the laws of the State of Delaware and reincorporated in Iowa in 1999 at which time it changed its name from CalEnergy Company Inc. to MidAmerican Energy Holdings Company. MEHC is a privately held global company engaged primarily in the production and delivery of energy from a variety of fuel sources – including coal, natural gas, geothermal, hydroelectric, nuclear, wind and biomass. MEHC's six major business platforms are as follows:

- **MidAmerican Energy Company** is a vertically integrated electric and natural gas utility headquartered in Des Moines, Iowa. MEC provides regulated electric service to approximately 605,000 customers in Iowa, 84,000 customers in Illinois, and 3,700 customers in South Dakota. Regulated gas service is provided to approximately 526,000 customers in Iowa, 66,000 customers in Illinois, 75,000 customers in South Dakota, and 4,600 customers in Nebraska. Competitive gas and electric service is provided in several states, including Illinois, to 3,200 customers.
- **CalEnergy Generation** is a world leader in renewable energy, owning and operating a total of fourteen (14) geothermal power plants in the western United States and the Philippines. The business platform owns and operates natural gas generating stations in Arizona, Illinois, Texas and New York, as well as an innovative hydroelectric plant and irrigation project in the Philippines. CalEnergy is currently evaluating the development of one of the largest single geothermal projects (215 MW) in the world in the Imperial Valley of California.
- **Kern River Gas Transmission Company** is a natural gas pipeline company headquartered in Salt Lake City, Utah. Its interstate pipeline facilities comprise nearly 1,700 miles from Wyoming to southern California.
- **Northern Natural Gas Company** is a natural gas pipeline company headquartered in Omaha, Nebraska. Its pipeline system comprises more than 16,500 miles of pipeline from Texas to the upper Midwest. The combined pipeline capacity of Kern River and Northern Natural Gas is nearly 6.2 billion cubic feet per day, or approximately 10 percent of all the natural gas consumed in America.
- **CE Electric UK Funding plc** owns two electricity distribution businesses that serve 3.7 million customers across approximately 10,000 square miles of northeast England. The company also has a contracting subsidiary that engineers power projects for large commercial and industrial customers.

- **HomeServices of America, Inc.** is the second-largest residential real estate brokerage company in the United States and is a leader in each of the 24 top markets its associates serve. The company has 18,500 sales associates in 18 states and generated more than \$60 billion in residential real estate sales in 2004.

More information regarding MEHC is available in the company's report on Form 10-K attached to the testimony of MEHC witness Goodman.

Financial Strength

MEHC has access to significant financial and managerial resources through its relationship with Berkshire Hathaway, one of its owners, whose debt rating is AAA. MEHC's global assets total approximately \$20 billion; revenues in 2004 totaled \$6.6 billion. MEHC's financial reports are included in the MEHC 10-K attached to MEHC witness Goodman's testimony. On a consolidated basis (PacifiCorp and MEHC), as of March 31, 2005, MEHC's pro forma combined assets would be approximately \$34 billion, and pro forma combined revenues would be \$9.6 billion.

The senior debt of the U.S. energy subsidiaries of MEHC (MEC, Kern River, and Northern Natural Gas) are all A-rated by the major credit rating agencies (A- by Standard & Poor's, A3 by Moody's, and A- by Fitch). All of MEHC's senior debt also holds investment grade ratings from the three major bond rating agencies (BBB- by Standard & Poor's, Baa3 by Moody's, and BBB by Fitch).

After the announcement of this transaction, Fitch affirmed MEHC's senior unsecured debt at BBB, with a stable outlook. Standard & Poor's placed MEHC's corporate rating and senior unsecured debt rating of BBB- on CreditWatch-Positive and Moody's affirmed MEHC's senior unsecured debt rating of Baa3 while noting a positive rating outlook for MEHC.

With respect to PacifiCorp's credit ratings, in the immediate aftermath of the acquisition announcement, Moody's affirmed its ratings (senior secured – A3 and senior unsecured debt –

Baa1) on PacifiCorp's debt, and changed the rating outlook from stable to developing. Moody's also expressed its belief that the acquisition would have positive long-term benefits on PacifiCorp, particularly given the large capital expenditure program of PacifiCorp over the next several years. Moody's indicated that its "developing" rating outlook reflected the short-term regulatory challenges faced by PacifiCorp as it litigates pending rate cases and seeks regulatory approval of the acquisition.

Fitch reacted to the acquisition announcement by affirming all its PacifiCorp debt ratings (senior secured – "A"; senior unsecured – "A-"), and declared the PacifiCorp ratings outlook to be stable. Fitch expressed its continued belief that regulation is a primary risk for PacifiCorp investors, citing a lack of regulatory support and low returns in the past, and indicated that it assumes recent progress in this area will continue. Fitch also noted its belief that MEHC has the financial capability to provide equity financing for PacifiCorp's ongoing capital expenditure program.

While Standard & Poor's placed PacifiCorp's debt on CreditWatch with negative implications, it explained that its current rating for PacifiCorp (senior secured – "A-" and senior unsecured – "BBB+") reflects ScottishPower's consolidated credit profile, and that the "negative implications" observation is based on PacifiCorp's "weaker stand-alone metrics." However, Standard & Poor's also expressed its intention to assess such other factors as the transaction proceeds, including: financing structure of the acquisition, MEHC's resulting consolidated creditworthiness, the benefit of any "ring-fencing" mechanisms that MEHC structures around PacifiCorp, the utility's stand-alone credit metrics, MEHC's history of strong operations and regulatory management at MEC, and any necessary support for PacifiCorp's sizable capital expenditure program.

Under the Stock Purchase Agreement, MEHC has committed to finance this acquisition in a manner that maintains or improves MEHC's current investment grade credit rating. MEHC's consolidated capitalization, on a pro forma basis, is addressed in the testimony of MEHC witness Goodman.

MEHC's Experience in the Energy Industry

MEHC's regulated utility platform, MEC, and its predecessor corporations (e.g., Iowa Power Inc., Iowa-Illinois Gas and Electric Company, and Iowa Public Service Company and their predecessors), have provided electric and gas service in Iowa, Illinois, South Dakota and Nebraska for approximately 100 years.

MEC resembles PacifiCorp in many respects, and these similarities attest to the fact that PacifiCorp will continue to be operated with the same central emphases as it is today. As described in the testimony of MEHC witness Gale, the similarities include the following: comparable service territories (e.g., multi-state areas with relatively low population density and some urban centers); a mix of retail-access and traditionally regulated utility business; a focus on customer satisfaction and employee safety; use of renewable energy technologies; use of low-sulfur, Western-basin coals; a long history of providing demand-side management and energy efficiency programs; use of collaborative processes to develop environmental, demand-side management and energy efficiency programs; reliance on wholesale transactions, interconnections and positive relationships with public power and cooperative utilities; and service areas whose economies are significantly tied to the land (e.g., agriculture, forestry, mining).

MEHC's experience in owning and operating MEC means that it comes to this transaction with a deep understanding of the responsibilities and general challenges of current

U.S. electric utility ownership and with directly applicable experience and knowledge about some of the specific challenges now faced by PacifiCorp. Through its other subsidiaries, MEHC also has significant experience in the natural gas industry and in the development of renewable energy resources, which it can bring to bear on assisting PacifiCorp in meeting the objectives of its projected future investment needs.

Background of Key Personnel

The chairman and current officers of MEHC are as follows:

David L. Sokol, 48, is chairman and chief executive officer of MEHC. Mr. Sokol joined the company in 1991, as chairman, president and chief executive officer.

Gregory E. Abel, 43, is president and chief operating officer of MEHC, having joined the company in 1992. Mr. Abel has more than twenty (20) years of experience in senior management and public accounting.

Patrick J. Goodman, 38, is senior vice president and chief financial officer of MEHC. Mr. Goodman joined MEHC in 1995 and has served in various accounting positions including senior vice president and chief accounting officer.

Douglas L. Anderson, 47, is senior vice president and general counsel of MEHC. Mr. Anderson joined MEHC in February 1993 and has served in various legal positions including general counsel of MEHC's independent power affiliates.

Keith D. Hartje, 55, is senior vice president of MEHC and has been with MEHC and its predecessor companies since 1973, holding a variety of positions in the legal, operations and administrative areas of the company. Mr. Hartje has responsibility for the corporate communications, safety audit and compliance, and the general services functions of the company.

Maureen E. Sammon, 41, is senior vice president of MEHC and has been with MEHC and its affiliated companies since 1986. Ms. Sammon has served in various positions in the finance and administrative areas of the company. Ms. Sammon has responsibility for the information technology, human resources and insurance functions of the company.

The business address for Messrs. Sokol and Anderson is:

MidAmerican Energy Holdings Company
302 South 36th Street, Suite 400
Omaha, Nebraska 68131

The business address for Messrs. Abel, Goodman and Hartje, and Ms. Sammon is:

MidAmerican Energy Holdings Company
666 Grand Avenue, Suite 2900
Des Moines, Iowa 50309

PUBLIC INTEREST CONSIDERATIONS

ORS 757.511 requires satisfaction of a “net public benefits” test. In adopting a net benefits standard, the Commission has stated that providing net benefits is a specific way to address the general concern that a transaction could harm customers. Thus, in addition to finding a net benefit to the utility's customers, the commission must also find that the proposed transaction will not impose a detriment on Oregon citizens as a whole. *See In re Merger Standards Investigation*, Order 01-778 at 10. The potential benefits and harms of the transaction are weighed against the utility as currently configured. *See In re Oregon Electric Company*, Order 05-114 at 18. The Commission does not consider hypothetical alternative transactions. *Id.* at 16.

Customer Interests

The proposed acquisition of PacifiCorp, by MEHC, will result in no harm to PacifiCorp’s customers. This result is demonstrated by the following:

- **Commitments.** MEHC and PacifiCorp will adopt a uniform set of commitments that are based upon the commitments undertaken by PacifiCorp as a part of the ScottishPower merger; these uniform commitments will be extended to all six states, not just the states that requested a particular commitment in the previous PacifiCorp transaction. See the testimony of MEHC witness Gale.
- **State-Specific Commitments.** In recognition of the differences among the states, MEHC and PacifiCorp will offer to continue several state-specific commitments based upon the unique interests or local conditions in the specific state. See the testimony of MEHC witness Gale.
- **Separate Business Platform.** PacifiCorp will become a separate business platform under MEHC, with its own business plan, its own management, its own state policies, and responsibility for making decisions that achieve the objectives identified in the testimony of MEHC witness Abel (i.e., customer satisfaction, reliable service, employee safety, environmental stewardship, and regulatory/legislative credibility).
- **Similarities.** The many similarities between MEC and PacifiCorp will facilitate the transition of PacifiCorp into a separate subsidiary of MEHC. See the testimony of MEHC witness Gale.
- **Continued Emphases.** MEC's operations, as a subsidiary of MEHC, provide demonstrable evidence that PacifiCorp will continue its emphasis on key utility performance areas such as: customer service; safety; a balanced mix of generating resources, including renewable generation; use of energy efficiency and demand-side management; investment in environmental emission control technology; and collaborative processes to arrive at energy efficiency and demand-side management plans and environmental plans. See the testimony of MEHC witness Gale.

MEHC intends to operate PacifiCorp in much the same way as it is currently being operated. The Commission will continue to exercise the same degree of regulatory oversight over PacifiCorp as it does today. The proposed transaction will result in no harm to PacifiCorp customers.

Public Interests

Nor will the transaction result in any harm to the public interest, as evidenced by the following factors:

- **Investment in Infrastructure.** MEHC is poised to deploy significant amounts of capital to ensure PacifiCorp has the infrastructure necessary for the provision of reliable and

economic electric service. MEHC offers commitments to invest significant capital in transmission and distribution projects in the testimony of MEHC witness Abel.

- **Stability.** MEHC's long-term value investment focus means that MEHC intends to own PacifiCorp for the long term, lending stability to, and confidence in, the regional energy infrastructure. See the testimony of MEHC witness Abel.
- **Diverse Resource Mix.** MEHC has a demonstrated willingness to invest in a diverse mix of generation technologies (gas, coal, wind, geothermal, etc.), energy efficiency and demand-side management technologies, as well as environmental technology. This willingness will enhance the diversity of PacifiCorp's generation resources, improve their environmental performance, and balance reliance on generation with technology that manages the demand for power and energy. These steps will further the energy security of the region, in an environmentally responsible manner. See the testimony of MEHC witnesses Abel and Gale.
- **Collaborative Processes.** MEHC, through its energy business platform, MEC, has an established record for formulating its energy efficiency, demand-side management and environmental plans in collaborative processes. PacifiCorp can be expected to continue its collaborative processes as a business platform of MEHC. See the testimony of MEHC witness Gale.
- **Environmental Initiatives.** As part of this transaction, MEHC and PacifiCorp are offering a commitment to environmental initiatives aimed at controlling SF₆, SO₂, NO_x, mercury, and CO₂ emissions, as set forth in the testimony of MEHC witness Abel. These initiatives will redound to the benefit of the general public.
- **Safety Emphasis.** MEHC has an established record of focusing on employee safety, and PacifiCorp will be expected to continue that focus. See the testimony of MEHC witness Gale.
- **Positive Relationships.** MEHC and its subsidiaries have a demonstrated history of emphasizing the importance of positive relationships with public power and cooperative utilities, regulators, legislators, consumer representatives and customers. See the testimony of MEHC witness Gale.

The proposed transaction will not result in harm to the interests of PacifiCorp's customers or to the public interest.

Benefits of the Transaction

The MEHC acquisition of PacifiCorp satisfies the Commission's net benefits standard. The principal advantages of this transaction, from a customer perspective, are discussed in the testimony of MEHC witness Abel and are as follows:

- **\$812 million investment in emissions reduction technology for existing coal plants which, when coupled with the use of reduced emissions coal technology for new coal-fueled generation would be expected to reduce the SO₂ emissions rate by more than 50%, to reduce the NO_x emissions rate by more than 40%, to reduce the mercury emissions rate by nearly 40%, and to avoid an increase in CO₂ emissions rate;**
- **\$78 million investment in a Path C transmission upgrade to increase the transfer capability between PacifiCorp's east and west control areas;³**
- **\$196 million investment in a transmission line from Mona to Oquirrh to increase import capability into the Wasatch Front;**
- **\$88 million investment in a transmission link between Walla Walla and Yakima or Vantage to enhance the ability to accept wind energy;**
- **\$75 million investment in the Asset Risk Program;**
- **\$69 million investment in local transmission risk projects in all states;**
- **at least a 10 basis point reduction for five years (\$6.3 million) in the cost of PacifiCorp's issuances of long-term debt;**
- **at least a \$30 million reduction (over five years) in corporate overhead costs;**
- **consideration of reduced-emissions coal technologies such as IGCC and super-critical;**
- **affirmation of PacifiCorp's goal of 1400 MW of cost-effective renewable resources, including 100 MW of new wind energy within one year of the close of the transaction and up to 400 MW of new wind energy after the transmission line projects are completed;**

³ While MEHC has immersed itself in the details of PacifiCorp's business activities in the short time since the announcement of the transaction, it is possible that upon further review of this investment and the two which follow, the investments may not prove to be cost-effective or optimal for customers. If that should occur, MEHC pledges to propose an alternative with a comparable benefit to the Commission.

- **reduction in sulfur hexafluoride emissions;**
- **\$1 million shareholder-funded system-wide study designed to further demand-side management and energy efficiency programs where cost effective;**
- **a 2-year extension of the customer service standards and performance guarantees;**
- **a commitment of MEHC's resources and involvement, in cooperation with the PacifiCorp states, to look into transmission projects beneficial to the region such as the Rocky Mountain Area Transmission Study ("RMATS") and the Frontier transmission line project;**
- **uniform application of the commitments from the prior PacifiCorp transaction in all six states; and**
- **offering a utility own/operate option for consideration in renewable energy RFPs.**

The above-mentioned benefits will be of substantial value to PacifiCorp's customers, communities and employees in future years, as will MEHC's long-term commitment to assist PacifiCorp execute on its projected future capital needs, including long-term investment in PacifiCorp's integrated energy infrastructure.

MEHC believes the chief benefit from the proposed transaction is MEHC's willingness and ability to deploy capital to meet PacifiCorp's significant infrastructure needs. MEHC has focused on investments in the energy industry and is uniquely positioned to invest significant capital in the industry. Thus, MEHC is exceptionally well-matched to utilities, such as PacifiCorp, with a need for significant capital investment. This is particularly true when one considers the further advantage that arises from the reduced cost of debt that results from association with Berkshire Hathaway. As noted in the testimony of MEHC witness Goodman, the savings from this effect are substantial. The energy business is very capital intensive. With an owner like MEHC, that is well-positioned to undertake the efficient raising of capital, PacifiCorp will possess a key ingredient for successfully meeting its customers' current and future demands for energy. This is especially so since MEHC is free from the quarterly demand

for shareholder dividends. It is MEHC's expectation that it will be the last owner of PacifiCorp, because MEHC invests for the long term. MEHC believes this will be to the benefit of PacifiCorp's customers, communities and employees. Knowing that MEHC intends to own PacifiCorp for the long-term will, MEHC believes, enhance customer and community confidence in PacifiCorp and its energy infrastructure that is so important to economic development. MEHC's long-term focus should also enhance the confidence of PacifiCorp's employees and management, enabling them to devote their full focus on exceeding customer expectations.

OTHER REGULATORY APPROVALS

Authorization from the SEC will be required both for MEHC's acquisition of PacifiCorp, and for MEHC's operation as a registered utility holding company under PUHCA. Repeal of PUHCA is in legislation currently before a joint House-Senate conference committee of the U.S. Congress; however repeal is not necessary for completion of the transaction.

Based on discussions with SEC staff and the assessments of legal counsel, we expect the transaction to be authorized by the SEC under the terms and precedents of PUHCA. We believe the acquisition will satisfy the standards under Section 10 of PUHCA that require a utility acquisition to be for reasonable and fair consideration, to not unduly concentrate control of public utilities, to not unduly complicate the capital structure of utility systems, and to tend towards the development of an integrated public utility system. See the testimony of MEHC witness Gale for further details.

MEHC and PacifiCorp will seek approval of the Federal Energy Regulatory Commission ("FERC"), pursuant to Section 203 of the Federal Power Act ("FPA"), for the proposed transaction, inasmuch as it will result in the indirect transfer, to MEHC, of control of the "jurisdictional facilities" of PacifiCorp. PacifiCorp and MEC will also seek FERC approval,

pursuant to Section 205 of the FPA, of: (i) any revisions to their respective Open Access Transmission Tariffs; and (ii) their Joint Operating Agreement which will govern certain transactions between PacifiCorp and MEC, and which will establish the process for PacifiCorp-MEC analysis of opportunities to increase efficiencies.

ScottishPower will file with the SEC for deregistration and sale approval under Sections 5(d) and 12(d) of PUHCA.

MEHC and PacifiCorp will make notification filings pursuant to the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (“HSR Act”). The proposed transaction cannot be consummated until the waiting periods prescribed in the HSR Act lapse.

As a non-operating owner of 2.5% of the Trojan nuclear power plant, which is in the later stages of decommissioning, PacifiCorp and MEHC must seek approval from the Nuclear Regulatory Commission (“NRC”) for an indirect transfer of the spent nuclear fuel license resulting from the change in control of the licensee. The applicants must assure the NRC that there will be no adverse impact on its ability to meet its financial obligations under the license and that there will be no adverse impact on the public interest, national security or the public health and safety.

MEHC and PacifiCorp will also obtain approval, from the Federal Communications Commission, of the change of control with respect to certain communication licenses held by PacifiCorp.

Finally, MEHC must obtain authority to acquire PacifiCorp from each of the six (6) states in which it provides retail electric service: Utah, Oregon, Wyoming, Washington, Idaho and California. MEHC is not required to obtain any approval in the states where MEC currently provides regulated electric or gas service: Iowa, Illinois, South Dakota and Nebraska.

After discussions with each of the representatives of each of the above regulatory agencies, we believe that the approvals can be obtained in the timeframes we have proposed.

DESCRIPTION OF THE FILING

This application is supported by testimony from the following witnesses:

- **Greg Abel**, President and COO of MEHC, will describe MEHC and its business platforms, describe the transaction, explain the reasons for MEHC's proposed purchase of PacifiCorp, demonstrate that the transaction will benefit PacifiCorp's customers, employees and communities, and describe PacifiCorp's operations once the transaction is completed.
- **Judi Johansen**, President and CEO of PacifiCorp, will testify regarding PacifiCorp's support for the transaction and the reasons for ScottishPower's sale of PacifiCorp.
- **Brent Gale**, Senior Vice President of MEC, will provide evidence that the transaction is in the public interest and will sponsor commitments to ensure there will be no harm to that interest. He will also provide testimony regarding the similarities between PacifiCorp and MEC, and the experience of MEC as a regulated utility subsidiary of MEHC.
- **Pat Goodman**, Chief Financial Officer of MEHC, will provide detail regarding MEHC's corporate structure, PacifiCorp's place within that structure, MEHC's capital structure, the financial and accounting aspects of the transaction, some of the financial and structural commitments being offered by MEHC and PacifiCorp, and the "ring fencing" protections MEHC will employ. He also will provide information regarding Berkshire Hathaway.
- **Tom Specketer**, Vice President of U.S. Regulatory Accounting and Controller of MEC, will testify about the formation of a service company to provide certain common services to PacifiCorp, MEC and other MEHC subsidiaries. Mr. Specketer will describe the service company, the procedures for sharing services between MEHC and its affiliates, the joint administrative services agreement applicable to MEHC and its affiliates, and the implications and benefits for PacifiCorp customers. He will also sponsor some of the regulatory oversight commitments being offered by MEHC and PacifiCorp.
- **Jeff Gust**, Vice President of Energy Supply Management of MEC, will testify regarding the transmission path that is planned to connect PacifiCorp with MEC and the Joint Operating Agreement that will govern certain aspects of the use of that transmission path.

OTHER INFORMATION REQUIRED BY COMMISSION RULE

Capital Structure – OAR 860-027-0200(2)

Set forth in Table 1 of the testimony of MEHC witness Goodman is a description of PacifiCorp's pro forma capital structure as of March 31, 2005. Applicants expect to maintain or strengthen PacifiCorp's capital structure from that shown in Table 1 during the twelve (12) months after the proposed transaction is completed. PacifiCorp is expected to have its own long-term and short-term debt.

Bond Ratings – OAR 860-027-0200(3)

As discussed, above, in the "Plan for Operating PacifiCorp" section of this Application, MEHC and PacifiCorp anticipate that the impact of the transaction on the bond ratings and capital costs of PacifiCorp will be positive.

Affiliated Interests and Organization Structure – OAR 860-027-0200(4)

A list of MEHC's principal operating subsidiaries and an explanation of the organizational structure under which MEHC intends to operate its businesses is contained in the testimony of MEHC witnesses Abel and Goodman, and in an exhibit to MEHC witness Goodman's testimony.

Allocations – OAR 860-027-0200(5)

Applicants expect that the only corporate overhead, common costs that will be charged to PacifiCorp will relate to management and corporate administrative services. MEHC is making a commitment to cap the allocation of corporate overhead charges at \$9 million per annum for a five (5) year period. This represents a reduction of \$6 million from the current cross-charge allocation PacifiCorp is projected to incur from ScottishPower in FY2006.

Planned Changes – OAR 860-027-0200(6)

MEHC has not yet identified specific plans for any changes that would have a significant impact on the policies, management, operations or rates of PacifiCorp except, as related in the testimony of MEHC witness Abel, Mr. Abel will become Chairman of the PacifiCorp Board of Directors. Moreover, the composition of the Board will likely change, as ScottishPower representatives will be replaced and some restructuring is expected. MEHC’s general capital plan for PacifiCorp is discussed, above, in the “Plan for Operating PacifiCorp” section of this Application and in the testimony of PacifiCorp witness Johansen.

Asset Disposition – OAR 860-027-0200(7)

MEHC has no plans to sell, exchange, pledge or otherwise transfer any of PacifiCorp’s physical assets being acquired in the proposed transaction. Any sale of PacifiCorp’s utility jurisdictional assets would be subject to Commission approval pursuant to ORS 757.480.

Affiliated Interests – OAR 860-027-0200(8)

Other than as described above in connection with MEHC’s agreement concerning shared corporate services (addressed by MEHC witness Specketer), and the draft Joint Operating Agreement (addressed by MEHC witness Gust), other than those set forth in MEHC witness Specketer, MEHC is not aware of any existing or proposed affiliated interest contracts between MEHC, or any of its subsidiaries, and PacifiCorp.

CONCLUSION

MEHC has made more than 60 commitments to the public interest, customers and states served by PacifiCorp. Included in these commitments are reductions in PacifiCorp’s costs totaling more than \$36 million over five years and more than \$75 million over a longer period. MEHC shareholders will also absorb \$1 million of


costs of a system-wide demand side management study. In addition to these readily quantifiable benefits, MEHC is committing to \$1.3 billion of infrastructure investment in PacifiCorp's system.

MEHC looks forward to being able to invest in the future of PacifiCorp, focusing upon our identified objectives of customer satisfaction, reliable service, employee safety, environmental stewardship and regulatory/legislative credibility. This application and testimony demonstrate that it is committed to extending customer service standards and performance guarantees, investing to improve transmission reliability and import capability, investing to enhance wind power development, investing to reduce emissions from coal plants, and furthering demand side management and energy efficiency. This will be done while maintaining our focus on exceeding customer expectations. Lastly, but perhaps most importantly, we believe that regulators and legislators in the states MEHC currently is privileged to serve will agree that perhaps the most valuable asset MEHC brings to the areas it serves is integrity in its relationship with all of its stakeholders. We believe this is what PacifiCorp's customers, employees and communities deserve and require.

WHEREFORE, Applicants respectfully request that the Commission authorize MEHC to acquire the power to exercise substantial influence over the policies and actions of PacifiCorp.

Dated: July 15, 2005

MIDAMERICAN ENERGY HOLDINGS COMPANY and PACIFICORP

By 
Katherine A. McDowell
Steel Rives LLP
Joint Counsel for MEHC and PacifiCorp

Case UM-
PPL Appendix 1

BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

PACIFICORP

Appendix 1
Index of Electronic Data Room Documents

July 2005

Index to MEHC's Electronic Document Room

Key:

CBEC4	Council Bluffs Energy Center – Unit 4
CECI	CalEnergy Company Inc.
FERC	Federal Energy Regulatory Commission
GDMEC	Greater Des Moines Energy Center
ICC	Illinois Commerce Commission
IUB	Iowa Utilities Board
MAPP	Mid-Continent Area Power Pool
MEC	MidAmerican Energy Company
MEHC	MidAmerican Energy Holdings Company
MEMA	Mid-Continent Energy Marketers Association
SDPUC	South Dakota Public Utilities Commission
SEC	Securities and Exchange Commission

1.0 Corporate Records

- 1.01 MEHC
 - 1.01.01 MEHC Articles of Incorporation
 - 1.01.02 MEHC Bylaws
 - 1.01.03 MEHC Organization Chart
 - 1.01.04 MEHC Credit Ratings
 - 1.01.04.01 Moodys
 - 1.01.04.02 Fitch
 - 1.01.04.03 Standard and Poors
 - 1.01.05 SEC No Action Letter
- 1.02 MEC
 - 1.02.01 MEC Articles of Incorporation and Name Change
 - 1.02.02 MEC Bylaws
 - 1.02.02.01 Amendment 7-24-1996
 - 1.02.03 MEC Organization Chart
 - 1.02.04 MEC Credit Ratings
 - 1.02.04.01 Moodys
 - 1.02.04.02 Fitch
 - 1.02.04.03 Standard and Poors
- 1.03 MEHC SEC Reports
 - 1.03.01 MEHC 10-K 2004
 - 1.03.02 MEHC 10-K 2003
 - 1.03.02.01 MEHC 10K-A 2003
 - 1.03.03 MEHC 10-K 2002
 - 1.03.04 MEHC 10-Q – 1st Qtr 2005
 - 1.03.05 MEHC 10-Q – 1st Qtr 2004
 - 1.03.06 MEHC 10-Q – 2nd Qtr 2004
 - 1.03.07 MEHC 10-Q – 3rd Qtr 2004

- 1.03.08 MEHC 10-Q – 1st Qtr 2003
- 1.03.09 MEHC 10-Q – 2nd Qtr 2003
- 1.03.10 MEHC 10-Q – 3rd Qtr 2003
- 1.03.11 MEHC 10-Q – 1st Qtr 2002
- 1.03.12 MEHC 10-Q – 2nd Qtr 2002
- 1.03.13 MEHC 10-Q – 3rd Qtr 2002
- 1.03.14 Form 8-K dated March 8, 2002. MEHC announced that it had entered into an agreement to acquire Kern River Gas Transmission Company from Williams Companies, Inc. (“Williams”) for \$450 million plus the assumption of \$506 million of debt.
- 1.03.15 Form 8-K dated March 28, 2002. MEHC announced that it had completed its acquisition of Kern River Gas Transmission Company from Williams for \$450 million plus, through a subsidiary, it completed its purchase of 1,466,667 shares of 9 7/8 % cumulative convertible preferred stock of Williams for \$275 million. In addition, Berkshire Hathaway Inc. has completed its contribution of \$725 million to MEHC in exchange for \$323 million of MEHC’s trust preferred securities and \$402 million of zero coupon convertible preferred stock.
- 1.03.16 Form 8-K dated June 21, 2002. Kern River Gas Transmission Company announced that it had closed a bank loan facility on June 21, 2002 providing for aggregate loans of up to \$875 million to be used for construction of the 2003 Kern River Expansion Project.
- 1.03.17 Form 8-K dated July 18, 2002. On July 17, 2002 Kern River Gas Transmission Company announced that it had received approval from Federal Energy Regulatory Commission to construct and operate the Kern River 2003 Expansion Project from SW Wyoming to Southern California.
- 1.03.18 Form 8-K dated July 30, 2002. On July 29, 2002, MEHC announced it has reached a definitive agreement with Dynegy Inc. to acquire 100% ownership of Northern Natural Gas Company for \$928 million in cash and the assumption of \$950 million in debt.
- 1.03.19 Form 8-K dated August 14, 2002. Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2002, filed on August 14, 2002 by MEHC, was accompanied by certifications by the Chief Executive Officer, David L. Sokol, and Chief Financial Officer, Patrick J. Goodman, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 1.03.20 Form 8-K dated August 23, 2002. MEHC announced on August 16, 2002 the completion of its acquisition of Northern Natural Gas Company (“NNG”).
- 1.03.21 Form 8-K dated September 23, 2002. MEHC announced on September 23, 2002 that subject to market and other conditions, it intends to offer an aggregate of approximately \$600 million of senior notes.
- 1.03.22 Form 8-K dated October 2, 2002. MEHC announced that on October 1, 2002 it priced its offering of \$200 million in aggregate principal amount of its 4.625% senior notes due October 1, 2007 and \$500 million in aggregate principal amount of its 5.985% notes due October 1, 2012.

- 1.03.23 Form 8-K dated October 4, 2002. MEHC announced that on October 4, 2002 it completed the sale of \$200 million in aggregate principal amount of its 4.625% senior notes due October 1, 2007 and \$500 million in aggregate principal amount of its 5.875% notes due October 1, 2012.
- 1.03.24 Form 8-K dated November 13, 2002. MEHC “safe harbor” cautionary statements
- 1.03.25 Form 8-K dated November 14, 2002. Regulation FD disclosure
- 1.03.26 Form 8-K dated January 2, 2003. MEHC commences exchange offer for 4.625% senior notes due 2007 and 5.875% senior notes due 2012.
- 1.03.27 Form 8-K dated May 2, 2003. Completion of the Kern River 2003 Expansion Project and the issuance of Kern River Funding Corporation’s \$836 million 4.895% senior notes
- 1.03.28 Form 8-K dated May 16, 2003. MEHC completed sale of \$450 million of its 3.50% senior notes due May 15, 2008.
- 1.03.29 Form 8-K dated May 20, 2003. MEHC reports The Williams Companies, Inc. agreed to repurchase all the shares of Williams’ 9 7/8% cumulative convertible preferred stock.
- 1.03.30 Form 8-K dated October 15, 2003. MEHC reports that its subsidiary, CE Casecnan Water and Energy Company, Inc. (“CE Casecnan”) and the Philippines National Irrigation Administration (“NIA”) have entered into a supplemental agreement settling the International Chamber of Commerce arbitration case initiated by CE Casecnan in August 2002 to enforce a provision in the amended and restated project agreement (“Project Agreement”) between CE Casecnan and the NIA.
- 1.03.31 Form 8-K dated October 17, 2003. MEC, a subsidiary of MEHC, reported that the IUB approved a settlement agreement between MEC and the Iowa Office of Consumer Advocate that extends the electric revenue sharing mechanism through 2010, and that the IUB approved ratemaking principles for MEC’s wind project.
- 1.03.32 Form 8-K dated January 23, 2004. MEHC’s subsidiary, CE Casecnan, received full and timely payment from the Republic of the Philippines for principal and interest due on the bond received as part of the October 15, 2003 settlement of a dispute with NIA.
- 1.03.33 Form 8-K dated January 30, 2004 reports that affiliate Salton Sea Funding Corporation notified holders of the 7.475% senior secured Series F bonds due November 30, 2018 of the redemption of an aggregate amount of \$136,383,000 to redemption date of March 1, 2004.
- 1.03.34 Form 8-K dated February 12, 2004. MEHC reported it completed the sale of \$250 million in aggregate principal amount of its 5.00% senior notes due February 15, 2014.
- 1.03.35 Form 8-K dated February 18, 2004. MEHC “safe harbor” cautionary statements
- 1.03.36 Form 8-K dated March 1, 2004. MEHC affiliate, Salton Sea Funding, completed redemption of an aggregate principal amount of \$136,383,000 of the 7.475% senior secured Series F bonds due November 30, 2018.

- 1.03.37 Form 8-K dated March 30, 2004. Exhibits filed herewith relate to indebtedness of a subsidiary of the registrant (CE Electric UK Funding and AMBAC documents).
- 1.03.38 Form 8-K dated April 14, 2004. MEHC reports that its subsidiary, CE Casecnan, and CP Casecnan-Consortium, a limited liability consortium, Cooperativa Muratori e Cementisti-CMC, Di Ravenna and Impresa Pizzarotti & C. S.p.A (collectively, the “Contractor”) have entered into an agreement, dated April 7, 2004, settling all claims and counterclaims between the parties in the International Chamber of Commerce arbitration case initiated by the Contractor in February 2001 seeking scheduled relief and compensation for additional costs and damages arising out of an engineering procurement and construction contract between CE Casecnan and the Contractor for the Casecnan irrigation and hydroelectric project in the Philippines.
- 1.03.39 Form 8-K dated September 10, 2004 reports cessation of operations of the Zinc Recovery Plant.
- 1.03.40 Form 8-K dated February 2, 2005. Yorkshire Power Finance 2 Limited exercised its call option related to the £155 million reset senior notes due 2020.
- 1.03.41 Form 8-K dated April 14, 2005 reports Northern Natural Gas Company’s sale of \$100 million 5.125% senior notes due 2015.
- 1.03.42 Form 8-K dated April 20, 2005. CE Electric UK Funding, Northern Electric Distribution and Yorkshire Electricity’s committed revolving credit facility
- 1.03.43 Form 8-K dated April 21, 2005. CE Electric UK Funding appointed The Royal Bank of Scotland plc to arrange new funding for its UK subsidiaries.
- 1.03.44 Form 8-K dated April 22, 2005. CE Electric UK Limited and CalEnergy Investments C.V. entered into a second amended and restated uncommitted subordinated revolving credit agreement.
- 1.03.45 Form 8-K dated May 23, 2005. MEHC enters into material definitive agreement with Scottish Power plc and PacifiCorp Holdings, Inc. to acquire 100% of the common stock of PacifiCorp.
- 1.03.46 Form U-3A-2 for the year ended December 31, 2002, dated February 28, 2003
- 1.03.47 Form U-3A-2 for the year ended December 31, 2003, dated February 27, 2004
- 1.03.48 Form U-3A-2 for the year ended December 31, 2004, dated February 28, 2005
- 1.04 MEC SEC Reports
 - 1.04.01 MEC 10-K 2004
 - 1.04.02 MEC 10-K 2003
 - 1.04.02.01 MEC 10K-A 2003
 - 1.04.03 MEC 10-K 2002
 - 1.04.04 MEC 10-Q – 1st Qtr 2005
 - 1.04.05 MEC 10-Q – 1st Qtr 2004

- 1.04.06 MEC 10-Q – 2nd Qtr 2004
- 1.04.07 MEC 10-Q – 3rd Qtr. 2004
- 1.04.08 MEC 10-Q – 1st Qtr 2003
- 1.04.09 MEC 10-Q – 2nd Qtr 2003
- 1.04.10 MEC 10-Q – 3rd Qtr 2003
- 1.04.11 MEC 10-Q – 1st Qtr 2002
- 1.04.12 MEC 10-Q – 2nd Qtr 2002
- 1.04.13 MEC 10-Q – 3rd Qtr 2002
- 1.04.14 Form 8-K dated February 8, 2002. MEC announced it issued \$400 million of its medium-term notes due 2031.
- 1.04.15 Form 8-K dated August 2, 2002. MEC announced it had entered into an agreement to resolve all disputes with Nebraska Public Power District concerning the Cooper Nuclear Station.
- 1.04.16 Form 8-K dated August 14, 2002. Regulation FD disclosure
- 1.04.17 Form 8-K dated November 12, 2002. Regulation FD disclosure
- 1.04.18 Form 8-K dated October 20, 2003. The IUB approved a MidAmerican plan that extends through 2010 an electric rate freeze that began in 1995.
- 1.04.19 Form 8-K dated October 1, 2004. MEC completed sale of \$350 million aggregate principal amount of its 4.650% medium-term notes due October 1, 2014.

- 1.05 PacifiCorp Acquisition
 - 1.05.01 Stock Purchase Agreement (May 23, 2005)
 - 1.05.02 News Release
 - 1.05.03 Post-Acquisition Organizational Chart (simplified)

- 1.06 Other Recent MEHC Acquisitions
 - 1.06.01 Agreement and Plan of Merger by and among MEHC, Teton Formation L.L.C. and Teton Acquisition Corp. dated as of October 24, 1999
 - 1.06.02 Purchase Agreement between The Williams Companies, Williams Gas Pipeline LLC, and Kern River Acquisition, LLC (as Sellers) and MEHC, KR Holding, LLC, KR Acquisition1, LLC and KR Acquisition 2, LLC (as Buyers) for the Kern River Gas Transmission Company dated March 7, 2002
 - 1.06.03 Stock Purchase Agreement (Kern River Acquisition) between The Williams Companies, Inc., MEHC Investment, Inc. and MidAmerican Energy Holdings Company dated March 7, 2002
 - 1.06.04 Purchase and Sale Agreement between Dynege Inc., NNGC Holding Company, Inc. and MEHC dated July 28, 2002
 - 1.06.05 Agreement and Plan of Merger among CalEnergy Company, Inc., Maverick Reincorporation Sub, Inc., MidAmerican Energy Holdings Company and MAVH Inc., dated as of August 11, 1998

- 1.07 Excerpt of MEHC Federal Tax Return (non-confidential portions)
 - 1.07.01 2003
 - 1.07.02 2002

- 1.07.03 2001

- 1.08 Employee Matters
 - 1.08.01 MEC Retirement Savings Plan Summary Plan Restatement dated January 1, 2003 including Amendment 1 dated January 1, 2004 and Amendment 2 dated March 25, 2005
 - 1.08.02 MEHC 2000 Stock Option Plan dated March 25, 2005
 - 1.08.03 MEHC Amended and Restated Long-Term Incentive Partnership Plan dated January 2, 2004
 - 1.08.04 Amended and Restated MEC Retirement Plan dated January 1, 2001 including Amendment One dated February 28, 2008 and Amendment Two dated December 13, 2004
 - 1.08.05 Corporate Performance Incentive Plan

- 1.09 Berkshire Hathaway Inc. Annual Reports
 - 1.09.01 2004
 - 1.09.02 2003
 - 1.09.03 2002

- 2.0 **Financial Documents**
 - 2.01 MEHC
 - 2.01.01 Indenture between MEHC and The Bank of New York dated February 26, 1997 for 6 ¼% convertible junior subordinated debentures due 2012
 - 2.01.02 Indenture between MEHC and The Bank of New York dated August 12, 1997 for 6 ½% Convertible Junior Subordinated Debentures due 2027
 - 2.01.03 Indenture between IBJ Schroder Bank & Trust Company and MEHC dated October 15, 1997 (Senior Debt Securities)
 - 2.01.04 Amended and Restated Declarations of Trust
 - 2.01.04.01 MidAmerican Capital Trust I dated as of March 14, 2000
 - 2.01.04.02 MidAmerican Capital Trust II dated as of March 12, 2002
 - 2.01.04.03 MidAmerican Capital Trust III dated as of August 16, 2002
 - 2.01.05 First Supplemental Indenture between IBJ Schroder Bank & Trust Company and MEHC dated October 28, 1997 (\$350,000,000 7.63% Senior Notes due 2007)
 - 2.01.06 Credit Agreement between MidAmerican Energy Holdings Company, Banks and Other Financial Institutions Parties hereto, Bank One, NA, Credit Suisse First Boston, Cayman Islands Branch, Union Bank of California and ABN AMRO Bank N.S., Bank One, NA, and BNP Paribas dated June 6, 2003
 - 2.01.06.01 First Amendment dated October 8, 2004
 - 2.01.07 Second Supplemental Indenture (\$1,400,000,000 Senior Notes & Bonds) between IBJ Schroder Bank & Trust Company and MEHC dated September 22, 1998 (\$1.4 billion Senior Notes due 2003, 2005, 2008 and 2028)

- 2.01.08 Indenture between MidAmerican Energy Holdings Company and The Bank of New York dated October 4, 2002 (Senior Debt Securities)
 - 2.01.08.01 First Supplemental Indenture dated October 4, 2002
 - 2.01.08.02 Second Supplemental Indenture dated May 16, 2003
 - 2.01.08.03 Third Supplemental Indenture dated February 12, 2004
- 2.01.09 Third Supplemental Indenture (7.52% Senior Notes due 2008) between IBJ Schroder Bank & Trust Company and MEHC dated November 13, 1998
- 2.01.10 Revolving Credit Agreement between MidAmerican Energy Holdings Company and MHC Inc. dated March 12, 1999, and three subsequent Amendments
- 2.01.11 Subscription Agreement executed by Berkshire Hathaway Inc. dated August 16, 2002
- 2.01.12 Indenture between MidAmerican Energy Holdings Company and The Bank of New York dated March 14, 2000 (11% Junior Subordinated Deferrable Interest Debentures)
- 2.01.13 Subscription Agreement executed by Berkshire Hathaway Inc. dated March 14, 2000
- 2.01.14 Subscription Agreement executed by Berkshire Hathaway Inc. dated March 7, 2002
- 2.01.15 Subscription Agreement executed by Berkshire Hathaway Inc. dated March 12, 2002
- 2.01.16 Indenture between MidAmerican Energy Holdings Company and The Bank of New York dated March 12, 2002 (11% Junior Subordinated Deferrable Interest Debentures)
- 2.01.17 Indenture between MidAmerican Energy Holdings Company and The Bank of New York dated August 16, 2002 (11% Junior Subordinated Deferrable Interest Debentures)
- 2.02 MEC
 - 2.02.01 General Mortgage Indenture & Deed –Trust Midwest Power Systems and Morgan Guaranty Trust Company dated January 1, 1993
 - 2.02.01.01 1st Supplemental Indenture January 1, 1993
 - 2.02.01.02 2nd Supplemental Indenture January 15, 1993
 - 2.02.01.03 3rd Supplemental Indenture May 1, 1993
 - 2.02.01.04 4th Supplemental Indenture October 1, 1994
 - 2.02.01.05 5th Supplemental Indenture November 1, 1994
 - 2.02.01.06 6th Supplemental Indenture July 1, 1995
 - 2.02.02 Indenture for Senior Debt Securities (\$500,000,000) MEC and Bank of New York dated February 8, 2002 with First Supplemental Indenture February 8, 2002, Second Supplemental Indenture dated January 14, 2003 and Third Supplemental Indenture dated October 1, 2004
 - 2.02.03 Form S-3 Registration Statement for \$600,000,000 MidAmerican Energy Company Debt Securities and Preferred Stock filed December 12, 2002

- 2.02.04 Amendment No. 1 to Form S-3 Registration Statement for \$600,000,000 MidAmerican Energy Company Debt Securities and Preferred Stock (filed December 12, 2002) filed December 26, 2002
- 2.02.05 Post-Effective Amendment No. 1 to Form S-3 Registration Statement for \$600,000,000 MidAmerican Energy Company Debt Securities and Preferred Stock (filed December 12, 2002) filed April 9, 2003
- 2.02.06 Form S-3 Registration Statement for \$800,000,000 MidAmerican Energy Company Debt Securities and Preferred Stock filed November 10, 2003
- 2.02.07 Amendment No. 1 to Form S-3 Registration Statement for \$800,000,000 MidAmerican Energy Company Debt Securities and Preferred Stock filed December 23, 2003
- 2.02.08 Credit Agreement MEC, Lenders, Bank of New York, ABN Amro Bank, BNP Paribas and Bank One dated January 15, 2004 with Promissory Notes
- 2.02.09 Amendment No. 2 to Form S-3 Registration Statement for \$800,000,000 MidAmerican Energy Company Debt Securities and Preferred Stock filed January 16, 2004
- 2.02.10 Amendment No. 3 to Form S-3 Registration Statement for \$800,000,000 MidAmerican Energy Company Debt Securities and Preferred Stock filed February 4, 2004

3.0 **MEC General Information**

- 3.01 Recent Rate Case Activity-Other Regulatory Decisions
 - 3.01.01 IUB Docket No.APP-96-1/RPU-96-8, Amended Settlement Agreement and Joint Motion for Adoption of Amended Settlement Agreement filed March 10, 1997
 - 3.01.02 IUB Docket No.APP-96-1/RPU-96-8, Order Approving Settlement, Granting Waivers, and Requiring Additional Information dated June 27, 1997
 - 3.01.03 IUB Docket No.APP-96-1/RPU-96-8, Petition for Approval of Amendment to Settlement Agreement and First Amendment to Settlement Agreement filed May 26, 1998.
 - 3.01.04 IUB Docket No.APP-96-1/RPU-96-8, Order Approving Amendment to Settlement dated September 11, 1998
 - 3.01.05 IUB Docket No. APP-96-1/RPU-96-8 Order Regarding Contract Provisions dated April 15, 1999
 - 3.01.06 IUB Docket Nos. RPU-01-3 and RPU-01-5 Order Approving Settlement with Modifications, dated December 21, 2001
 - 3.01.07 IUB Docket No. RPU-01-09 (Ratemaking Principles – Greater Des Moines Center), Order dated May 29, 2002
 - 3.01.08 IUB Docket No. RPU-02-10 (Ratemaking Principles – Council Bluffs Energy Center Unit 4), Errata Order dated June 16, 2003 and Order Approving Settlement dated May 29, 2003 (including Settlement Agreement and Amendments thereto)

- 3.01.09 IUB Docket No. RPU-03-01 (Ratemaking Principles – Wind and extension of Freeze), Order Approving Stipulation and Agreement dated October 17, 2003
- 3.01.10 Regulatory Approvals of Recent MEC Reorganizations
 - 3.01.10.01 IUB Docket No. SPU-98-8, (Cal Energy Reorganization) Order Terminating Docket dated March 11, 1999
 - 3.01.10.02 IUB Docket SPU-99-32 (Berkshire Hathaway) Order Terminating Docket dated March 10, 2000
 - 3.01.10.03 ICC Docket 99-0609 (Berkshire Hathaway) Memorandum to Hearing Examiner re Recommended Action dated January 3, 2000
 - 3.01.10.04 ICC Docket 99-0609 (Berkshire Hathaway) Order dated January 12, 2000
 - 3.01.10.05 FERC Docket EC00-18-000 Order Authorizing Disposition of Jurisdictional Facilities (Berkshire Hathaway) dated December 15, 1999
- 3.02. Recent Generating Facility Siting Certificate Proceedings
 - 3.02.01 Greater Des Moines Energy Center
 - 3.02.01.01 Application - Pleading
 - 3.02.01.02. Application – General Information
 - 3.02.01.02.01 Parts 1 – 7
 - 3.02.01.02.02 Part 8 v.1
 - 3.02.01.02.03 Part 8 v.1 and Parts 9-10
 - 3.02.01.03 Application – Regulatory Information
 - 3.02.01.04 Testimony
 - 3.02.01.04.01 Cross Index
 - 3.02.01.04.02 Alexander
 - 3.02.01.04.03 Guyer
 - 3.02.01.04.04 Kruempel
 - 3.02.01.04.05 O.D.Stevens
 - 3.02.01.05 Additional information submitted by MEC
 - 3.02.01.06 Initial Brief - MEC
 - 3.02.01.07 Office of Consumer Advocate Statement
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 - 3.09.04.02 Amendment No. 2 to Basic Generating Agreement Unit 3 (Council Bluffs Energy Center) dated September 5, 1975
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PPL Appendix 2

BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

PACIFICORP

Appendix 2
Stock Purchase Agreement

July 2005

STOCK PURCHASE AGREEMENT
BY AND AMONG
SCOTTISH POWER PLC, AS SELLER PARENT,
PACIFICORP HOLDINGS, INC., AS SELLER,
AND
MIDAMERICAN ENERGY HOLDINGS COMPANY,
AS BUYER,
FOR THE PURCHASE AND SALE OF
ALL OF THE COMMON STOCK, NO PAR VALUE,
OF PACIFICORP, AN OREGON CORPORATION

Dated as of May 23, 2005

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STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this “**Agreement**”) is made and entered into as of this 23rd day of May, 2005, by and among Scottish Power plc, a Scottish public limited company registered under the laws of Scotland (the “**Seller Parent**”), PacifiCorp Holdings, Inc., a Delaware corporation and indirect wholly owned subsidiary of Seller Parent (the “**Seller**”), and MidAmerican Energy Holdings Company, an Iowa corporation (the “**Buyer**”).

WITNESSETH:

WHEREAS, the Seller owns 312,176,089 shares (together with any and all shares of Common Stock issued pursuant to Section 4.1(e), the “**Shares**”) of Common Stock, no par value (the “**Common Stock**”), of PacifiCorp, an Oregon corporation (the “**Company**”); and

WHEREAS, the Buyer desires to purchase all of the Shares from the Seller, and the Seller desires to sell its Shares to the Buyer, in each case upon the terms and subject to the conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual terms, conditions and other agreements set forth herein, the parties hereto hereby agree as follows:

ARTICLE I.

SALE AND PURCHASE

SECTION 1.1. Agreement to Sell and to Purchase. On the Closing Date and upon the terms and subject to the conditions set forth in this Agreement, the Seller shall (and the Seller Parent shall cause the Seller to) sell, assign, transfer, convey and deliver all of the Shares, free and clear of any pledges, restrictions on transfer, proxies and voting or other agreements, liens, claims, charges, mortgages, security interests or other legal or equitable encumbrances, limitations or restrictions of any nature whatsoever (“**Encumbrances**”), to the Buyer, and the Buyer shall purchase the Shares from the Seller.

SECTION 1.2. Closing. Subject to the provisions of the last sentence of Section 6.2(c), the closing of the sale and purchase of the Shares (the “**Closing**”) shall take place at 10:00 A.M., three business days after the satisfaction or waiver of the conditions contained in Article VI (other than those conditions that by their nature are to be fulfilled at Closing), or at such other time and date as the Buyer and the Seller Parent shall agree in writing (the “**Closing Date**”), at the offices of Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, or at such other place as the Buyer and the Seller Parent shall agree in writing. At the Closing, the Seller shall (and the Seller Parent shall cause the Seller to) deliver to the Buyer, or its designees, a certificate or certificates evidencing the Shares, with a stock power duly endorsed in blank. In full consideration for the Shares, the Buyer shall thereupon pay to the Seller an amount (the “**Purchase Price**”) equal to \$5,109,500,000 plus an amount equal to the aggregate amount of capital contributions made to the Company pursuant to Section 4.1(a)(i)(y) in immediately available funds to an account designated in writing by the Seller Parent to the Buyer at least 48

hours before the Closing without deduction, setoff or withholding except as provided in this Agreement.

ARTICLE II.

REPRESENTATIONS AND WARRANTIES OF THE SELLER PARENT AND THE SELLER

The Seller Parent and the Seller hereby, jointly and severally, represent and warrant to the Buyer, as of the date hereof and as of the Closing Date (or if made as of a specified date, such date), as follows:

SECTION 2.1. Organization and Qualification. (a) Each of the Seller Parent and the Seller is duly organized, validly existing and in good standing (with respect to jurisdictions which recognize the concept of good standing) under the laws of its jurisdiction of organization. Each of the Company and the Company's Subsidiaries is duly organized, validly existing and in good standing (with respect to jurisdictions which recognize the concept of good standing) under the laws of its jurisdiction of organization and has full corporate or partnership, as the case may be, power and authority to conduct its business as and to the extent now conducted and to own, use and lease its assets and properties, except for such failures to be so organized, existing and in good standing (with respect to jurisdictions which recognize the concept of good standing) or to have such power and authority which, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the Company and its Subsidiaries taken as a whole. Each of the Company and its Subsidiaries is duly qualified, licensed or admitted to do business and is in good standing (with respect to jurisdictions which recognize the concept of good standing) in each jurisdiction in which the ownership, use or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except for such failures to be so qualified, licensed or admitted and in good standing (with respect to jurisdictions which recognize the concept of good standing) which, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the Company and its Subsidiaries taken as a whole. Section 2.1 of the letter, dated May 23, 2005, and delivered to the Buyer by the Seller Parent on such date (the "**Seller Parent Disclosure Letter**") (i) sets forth the name and jurisdiction of organization of each Subsidiary of the Company, (ii) with respect to Subsidiaries that are corporations, lists (A) such Subsidiary's authorized capital stock, (B) the number of issued and outstanding shares of such Subsidiary's capital stock and (C) the record owners of such Subsidiary's shares, (iii) with respect to Subsidiaries that are partnerships, lists the names and ownership interests of the partners thereof, and (iv) specifies each of the Subsidiaries that is (A) a "public utility company," a "holding company," an "exempt wholesale generator" or a "foreign utility company" within the meaning of Section 2(a)(5), 2(a)(7), 32(a)(1) or 33(a)(3) of the Public Utility Holding Company Act of 1935, as amended (the "**1935 Act**"), respectively, (B) a "public utility" within the meaning of Section 201(e) of the Federal Power Act (the "**Power Act**") or (C) a "qualifying facility" within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended, or that owns such a qualifying facility. The Seller Parent or the Seller has previously delivered to Buyer copies of the Organizational Documents as currently in effect of the Company and its Subsidiaries. "**Organizational Documents**" shall mean certificates or articles of incorporation, bylaws, certificates of formation, limited liability

company agreements, partnership or limited partnership agreements, or other formation or governing documents of a particular entity.

(b) Section 2.1 of the Seller Parent Disclosure Letter sets forth a description of all Joint Ventures in existence as of the date hereof, including (i) the name of each such entity and the Company's interest therein, and (ii) a brief description of the principal line or lines of business conducted by each such entity. For purposes of this Agreement, "**Joint Venture**" shall mean any corporation or other entity (including, but not limited to, partnerships and other business associations) that is not a Subsidiary of the Company and in which the Company or one or more of its Subsidiaries owns directly or indirectly an equity or similar interest, other than equity interests which are less than 5% of each class of the outstanding voting securities or equity interests of any such entity.

(c) Except for interests in the Subsidiaries of the Company and the Joint Ventures, and as disclosed in the SEC Reports filed on or before the Cutoff Date or Section 2.1 of the Seller Parent Disclosure Letter, none of the Company nor any of its Subsidiaries owns, directly or indirectly, any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for any equity or similar interest in, any material corporation, partnership, limited liability company, joint venture or other business association or entity. "**Cutoff Date**" shall mean (i) in the case of the Draft 2005 10-K, May 20, 2005, and (ii) in all other cases, the date which is 10 days before the date hereof.

(d) Except as disclosed in Section 2.1 of the Seller Parent Disclosure Letter, neither the Company nor any of its Subsidiaries is a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership or any similar Contract (including without limitation any Contract relating to any transaction or relationship between or among the Company and any of its Subsidiaries, on the one hand, and any unconsolidated affiliate, including without limitation any structured finance, special purpose or limited purpose entity or person, on the other hand, or any "off-balance sheet arrangement" (as defined in Item 303(a) of Regulation S-K of the Securities Act of 1933, as amended, and the rules and regulations thereunder (the "**Securities Act**"))).

(e) Section 2.1 of the Seller Parent Disclosure Letter sets forth the direct and indirect ownership of the capital stock of the Seller.

SECTION 2.2. Capital Stock. (a) The authorized and outstanding capital stock of the Company consists of:

(i) 750 million shares of Common Stock, of which 312,176,089 are issued and outstanding, and

(ii) 126,533 shares of 5% preferred stock, of which 126,243 are issued and outstanding; 3.5 million shares of serial preferred stock, of which 288,390 are issued and outstanding and of which 2,065 are designated the 4.52% Series, 18,046 are designated the 7.00% Series, 5,930 are designated the 6.00% Series, 41,908 are designated the 5.00% Series, 65,959 are designated the 5.40% Series, 69,890 are designated the 4.72% Series, and 84,592 are designated the 4.56% Series, respectively; and 16 million shares of no par serial preferred stock,

of which 525,000 shares are designated the \$7.48 Series (collectively, the “**Company Preferred Stock**”).

All of the issued and outstanding shares of capital stock of the Company, and all shares reserved for issuance will be, upon issuance in accordance with the terms specified in the instruments or agreements pursuant to which they are issuable, duly authorized, validly issued, fully paid and nonassessable. There were no outstanding subscriptions, options, warrants, rights (including, but not limited to, stock appreciation rights), preemptive rights or other contracts, commitments, understandings or arrangements, including, but not limited to, any right of conversion or exchange under any outstanding security, instrument or agreement (together, “**Options**”), obligating the Company or any of its Subsidiaries to issue or sell any shares of capital stock of the Company or to grant, extend or enter into any Option with respect thereto.

(b) Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date or Section 2.2 of the Seller Parent Disclosure Letter, all of the outstanding shares of capital stock of each Subsidiary of the Company are duly authorized, validly issued, fully paid and nonassessable and are owned, beneficially and of record, by the Company or a Subsidiary wholly owned, directly or indirectly, by the Company, free and clear of any Encumbrances, other than Encumbrances or failures to so own which are immaterial. Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date or Section 2.2 of the Seller Parent Disclosure Letter, there are no (i) outstanding Options obligating the Company or any of its Subsidiaries to issue or sell any shares of capital stock of any Subsidiary of the Company or to grant, extend or enter into any such Option or (ii) voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than the Company or a Subsidiary wholly owned, directly or indirectly, by the Company with respect to the voting of, or the right to participate in dividends or other earnings on, any capital stock of any Subsidiary of the Company.

(c) The Company is a “public utility company” and a “subsidiary company” of a “holding company” that is registered under Section 5 of the 1935 Act. None of the Joint Ventures is a “public utility company” or a “holding company” within the meaning of Section 2(a)(5) or 2(a)(7) of the 1935 Act, respectively.

(d) Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date or Section 2.2 of the Seller Parent Disclosure Letter, there are no outstanding contractual obligations of the Company or any Subsidiary of the Company to repurchase, redeem or otherwise acquire any shares of capital stock of the Company or any material capital stock of any Subsidiary of the Company or to provide any material amount of funds to, or make any material investments (in the form of a loan, capital contribution or otherwise) in, any Subsidiary of the Company or any other person.

(e) No bonds, debentures, notes, or other indebtedness of the Company or any of its Subsidiaries having the right to vote (or which are convertible into or exercisable for securities having the right to vote) (collectively, “**Company Voting Debt**”) on any matters on which Company shareholders may vote are issued or outstanding nor are there any outstanding Options obligating the Company or any of its Subsidiaries to issue or sell any Company Voting Debt or to grant, extend or enter into any Option with respect thereto.

SECTION 2.3. Authority Relative to this Agreement. Each of the Seller Parent and the Seller has full corporate power and authority to enter into this Agreement, and, subject to obtaining the Seller Parent Shareholders' Approval, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by each of the Seller Parent and the Seller and the consummation by each of them of the transactions contemplated hereby have been duly and validly approved by their respective Boards of Directors (and, in the case of the Seller, all of its direct shareholders), and no other corporate proceedings on the part of the Seller Parent or the Seller are necessary to authorize the execution, delivery and performance of this Agreement by the Seller Parent and the Seller and the consummation by the Seller Parent and the Seller of the transactions contemplated hereby, other than obtaining the Seller Parent Shareholders' Approval.

The Board of Directors of the Seller Parent has unanimously passed a resolution declaring the advisability of this Agreement and the purchase and sale of the Shares (the "**Share Purchase**") and the other transactions contemplated hereby and resolving that the same be submitted for consideration by the shareholders of the Seller Parent. This Agreement has been duly and validly executed and delivered by the Seller Parent and the Seller and constitutes a legal, valid and binding obligation of each of them enforceable against each of them in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

SECTION 2.4. Non-Contravention; Approvals and Consents. (a) The execution and delivery of this Agreement by the Seller Parent and the Seller do not, and the performance by each of them of its obligations hereunder and the consummation of the transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Encumbrances upon any of the assets or properties of the Seller Parent, the Seller, the Company or any of the Company's Subsidiaries or any of the Joint Ventures under, any of the terms, conditions or provisions of (i) the Organizational Documents of the Seller Parent, the Seller, the Company or any of the Company's Subsidiaries, or (ii) subject to the obtaining of the Seller Parent Shareholders' Approval and the taking of the actions described in Section 2.4(b), (x) any statute, law, rule, regulation or ordinance (together, "**laws**"), or any judgment, decree, order, writ, permit or license (together, "**orders**"), of any court, tribunal arbitrator, authority, agency, commission, official or other instrumentality of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision (a "**Governmental or Regulatory Authority**") applicable to the Seller Parent, the Seller, the Company or any of the Company's Subsidiaries or any of the Joint Ventures or any of their respective assets or properties, or (y) except as disclosed in Section 2.4 of the Seller Parent Disclosure Letter, any note, bond, mortgage, security agreement, indenture, license, franchise, permit, concession, contract, lease or other instrument, obligation or agreement of any kind (together, "**Contracts**") to which any of them is a party or by which any of them or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) conflicts, violations, breaches, defaults, rights of payment or reimbursement, terminations, cancellations, modifications, accelerations and creations and impositions of Encumbrances

which, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the Company and its Subsidiaries taken as a whole or on the ability of the Seller Parent or the Seller to consummate the transactions contemplated by this Agreement.

(b) Except (i) for the filing of a premerger notification report by the Company under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations thereunder (the “**HSR Act**”), (ii) for the approval by the United Kingdom Listing Authority (the “**UKLA**”) of the Seller Shareholder Disclosure Documents, (iii) for the filings with and notices to the Securities and Exchange Commission (the “**SEC**”) pursuant to the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the “**Exchange Act**”), (iv) for the filings with, notices to, and orders, consents and approvals of, the SEC pursuant to the 1935 Act, (v) for the filing of an application under Section 203 of the Power Act for the sale or disposition of jurisdictional facilities of the Company, (vi) for the filings with, notices to, and orders, consents and approvals of, the Nuclear Regulatory Commission (“**NRC**”), (vii) for the filings with, notices to, and orders, consents and approvals of, the Federal Communications Commission (“**FCC**”), (viii) for the filings with, notices to, and orders, consents and approvals of, the state public utilities commission (including, without limitation, the state utility regulatory agencies of California, Idaho, Oregon, Utah, Washington and Wyoming), and (ix) as disclosed in Section 2.4 of the Seller Parent Disclosure Letter, no consent, approval or action of, filing with or notice to any Governmental or Regulatory Authority or other public or private third party is necessary or required under any of the terms, conditions or provisions of any law or order of any Governmental or Regulatory Authority or any Contract to which the Seller Parent, the Seller, the Company or any of the Company’s Subsidiaries or any of the Joint Ventures is a party or by which the Seller Parent, the Seller, the Company or any of the Company’s Subsidiaries or any of the Joint Ventures or any of their respective assets or properties is bound, for the execution and delivery of this Agreement by the Seller Parent and the Seller, the performance by the Seller Parent and the Seller of their respective obligations hereunder or the consummation of the transactions contemplated hereby, other than such consents, approvals, actions, filings and notices which the failure to make or obtain, as the case may be, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the Company and its Subsidiaries taken as a whole or on the ability of the Seller Parent or the Seller to consummate the transactions contemplated by this Agreement.

SECTION 2.5. SEC Reports, Financial Statements and Utility Reports.

(a) The Seller Parent has delivered or made available to the Buyer via EDGAR filings with the SEC a true and complete copy of each form, report, schedule, registration statement, registration exemption, if applicable, definitive proxy statement and other document (together with all amendments thereof and supplements thereto) filed by the Company or any of its Subsidiaries with the SEC under the Securities Act and the Exchange Act since March 31, 2003, and the draft annual report on Form 10-K of the Company, dated May 20, 2005, labeled Draft No. 12, for the fiscal year ended March 31, 2005 (the “**Draft 2005 10-K**”) (as such documents have since the time of their filing been amended or supplemented, the “**SEC Reports**”), which are all the documents (other than preliminary materials) that the Company and its Subsidiaries were required to file with the SEC since such date. As of their respective dates, the SEC Reports (assuming, in the case of the Draft 2005 10-K, that the Company’s consolidated unaudited financial statements contained therein for the fiscal year ended March 31, 2005 are

equivalent to audited financial statements) (i) complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act (in each case, to the extent applicable), and (ii) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. For purposes of this Agreement, both the Draft 2005 10-K and the Company's actual report annual report on Form 10-K for the fiscal year ended March 31, 2005 shall be deemed SEC Reports, with the Draft 2005 10-K being assumed to have been filed with the SEC on May 20, 2005. The Seller Parent has, on or before May 20, 2005, delivered to the Buyer the unaudited consolidated financial statements of the Company as of and for the year ended March 31, 2005 as contained in the Draft 2005 10-K (the "**FY 2005 Statements**"). The FY 2005 Statements and the audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case the notes, if any, thereto) included in the SEC Reports (collectively, the "**Company Financial Statements**") complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto, were prepared in accordance with U.S. generally accepted accounting principles applied on a consistent basis during the periods involved (except as may be expressly indicated therein or in the notes thereto and except with respect to unaudited statements (other than the FY 2005 Statements) as permitted by Form 10-Q under the Exchange Act) and fairly present (subject, in the case of the unaudited interim financial statements, to the absence of footnotes normally contained therein and normal year-end audit adjustments (which are not expected to be, individually or in the aggregate, materially adverse to the Company and its Subsidiaries taken as a whole)) the consolidated financial position of the Company and its consolidated subsidiaries as at the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods then ended. Except as set forth in Section 2.5 of the Seller Parent Disclosure Letter, each Subsidiary of the Company is treated as a consolidated subsidiary of the Company in the Company Financial Statements for all periods covered thereby.

(b) The Company, its Subsidiaries and the Joint Ventures are in compliance in all material respects with the applicable provisions of the Sarbanes-Oxley Act of 2002 and the related rules and regulations promulgated thereunder or under the Exchange Act (the "**Sarbanes-Oxley Act**"). Except as permitted by the Exchange Act, including, without limitation, Sections 13(k)(2) and (3) thereof, since the enactment of the Sarbanes-Oxley Act, neither the Company nor any of its affiliates has made, arranged or modified (in any material way) personal loans to any executive officer or director of the Company or any of its Subsidiaries.

(c) The Company its Subsidiaries and the Joint Ventures required to file documents with or furnish documents to the SEC pursuant to the Securities Act or the Exchange Act (a "**Company Reporting Entity**") has (i) designed disclosure controls and procedures to ensure that material information relating to it and its consolidated Subsidiaries, is made known to its management by others within those entities and (ii) to the extent required by applicable laws, disclosed, based on its most recent evaluation, to its auditors and the audit committee of its Board of Directors (A) any significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act) which are reasonably likely to adversely affect its ability to record, process, summarize and report financial information and (B) to the knowledge of the Seller Parent, any

fraud, whether or not material, that involves management or other employees who have a significant role in such entity's internal control over financial reporting.

(d) The Company and each Company Reporting Entity has complied with the applicable requirements of Section 404 of the Sarbanes-Oxley Act on or before the date by which they must comply with such requirements.

(e) Through the date hereof, the Seller Parent has delivered to the Buyer copies of any written notifications it has received since December 31, 2002 of a (i) "reportable condition" or (ii) "material weakness" in the Company's internal controls. For purposes of this Agreement, the terms "**reportable condition**" and "**material weakness**" shall have the meanings assigned to them in the Statements of Auditing Standards No. 60, as in effect on the date hereof.

(f) All material filings required to be made by the Company or any of its Subsidiaries since December 31, 2002 under the 1935 Act, the Power Act and applicable state public utility laws and regulations, including, but not limited to, all material written forms, statements, reports, agreements and all material documents, exhibits, amendments and supplements appertaining thereto, including, but not limited to, all material rates, tariffs, franchises, service agreements and related documents, (i) have been filed with the SEC, the Federal Energy Regulatory Commission (the "**FERC**"), the Department of Energy (the "**DOE**") or any appropriate state public utilities commission (including, without limitation, the state utility regulatory agencies of California, Idaho, Oregon, Utah, Washington and Wyoming), as the case may be, (ii) have been timely filed (in respect of filings with the SEC and the FERC), and (iii) complied, as of their respective dates, in all material respects with all applicable requirements of the appropriate statute and the rules and regulations thereunder.

SECTION 2.6. Absence of Certain Changes or Events. Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date, the FY 2005 Statements or Section 2.6 of the Seller Parent Disclosure Letter, since March 31, 2005, (a) there has not been (i) any change, event or development that would reasonably be expected to have individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole (other than those changes, events or developments occurring as a result of weather conditions or general economic or financial conditions, in each case which are not unique to or do not disproportionately affect in a material manner (in relation to the effects on other entities who participate or are engaged in the lines of business in which the Company and its Subsidiaries are engaged) the Company and its Subsidiaries), nor (ii) any transaction that would have been prohibited by Section 4.1(a)(ii), (iii) or (iv), 4.1(b) through 4.1(r), inclusive, 4.3, 4.4 or 4.5, as if such provisions had been in effect on March 31, 2005 (it being understood that for purposes of this Section 2.6(a)(ii), all references in Section 4.1(i) to "the date hereof" shall mean March 31, 2005), and (b) the Company and its Subsidiaries and the Joint Ventures have conducted their respective businesses only in the ordinary course consistent with past practice.

SECTION 2.7. Absence of Undisclosed Liabilities. Except for matters reflected or reserved against in the balance sheet for the period ended March 31, 2005 included in the Company Financial Statements (including the notes thereto) or as disclosed in the SEC Reports filed on or prior to the Cutoff Date or in Section 2.7 of the Seller Parent Disclosure Letter,

neither the Company nor any of its Subsidiaries had at such date, or has incurred since such date, any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due) of any nature that would be required by U.S. generally accepted accounting principles applied on a consistent basis to be reflected on a consolidated balance sheet of the Company and its consolidated subsidiaries (including the notes thereto), except liabilities or obligations (i) which did not so exist on or before March 31, 2005 and were incurred in the ordinary course of business consistent with past practice or (ii) would not reasonably be expected to have individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole.

SECTION 2.8. Legal Proceedings. Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date, the FY 2005 Statements or in Section 2.8 of the Seller Parent Disclosure Letter and except for environmental matters which are governed by Section 2.15, (i) there are no actions, suits, arbitrations or proceedings (including, without limitation, Governmental or Regulatory Authority investigations or audits), pending or, to the knowledge of the Seller Parent, threatened in writing against the Seller Parent, the Seller, the Company or any of the Company's affiliates or any of the Joint Ventures or any of their respective officers, directors, employees (in each case in their capacity as such), assets and properties which, individually or in the aggregate, have had, or would reasonably be expected to have, a material adverse effect on the Company and its Subsidiaries taken as a whole or on the ability of the Seller Parent or the Seller to consummate the transactions contemplated by this Agreement, and (ii) none of the Seller Parent, the Seller, the Company nor any of the Company's Subsidiaries is subject to any order of any Governmental or Regulatory Authority which, individually or in the aggregate, is having, or would reasonably be expected to have, a material adverse effect on the Company and its Subsidiaries taken as a whole or on the ability of the Seller Parent or the Seller to consummate the transactions contemplated by this Agreement.

SECTION 2.9. Seller Parent Circular. (a) The Class 1 circular required by the Listing Rules (the "**Listing Rules**") of the UKLA to be issued to shareholders of Seller Parent (the "**Circular**") (together with any amendments or supplements thereto, the "**Seller Parent Disclosure Documents**") will, at all relevant times, include all information, which, in each case, is required to enable the Seller Parent Disclosure Documents, the parties hereto and the Company to comply (in respect of the transactions contemplated hereby) in all material respects with all United Kingdom statutory and other legal and regulatory provisions (including, without limitation, the Companies Act of 1985 of the United Kingdom (the "**Companies Act**"), the Financial Services and Markets Act 2000 of the United Kingdom and the rules and regulations made thereunder, and the rules and requirements of the UKLA and all such information contained in such documents will be in accordance with the facts and will not omit anything material likely to affect the import of such information.

(b) Notwithstanding the foregoing provisions of this Section 2.9, no representation or warranty is made by the Seller Parent or the Seller with respect to statements made or incorporated by reference in the Seller Parent Disclosure Documents based on information supplied by Buyer expressly for inclusion or incorporation by reference therein.

SECTION 2.10. Permits; Compliance with Laws and Orders. The Company, its Subsidiaries and the Joint Ventures hold all permits, licenses, authorizations, franchises,

variances, exemptions, orders and approvals of all Governmental and Regulatory Authorities (other than environmental permits which are governed by Section 2.15) necessary for the lawful conduct of their respective businesses (the “**Company Permits**”), except for failures to hold such Company Permits which, individually or in the aggregate, are not having, and would not reasonably be expected to have, a material adverse effect on the Company and its Subsidiaries taken as a whole. The Company, its Subsidiaries and the Joint Ventures are in compliance with the terms of the Company Permits, except failures so to comply which, individually or in the aggregate, are not having, and would not reasonably be expected to have, a material adverse effect on the Company and its Subsidiaries taken as a whole. Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date or Section 2.10 of the Seller Parent Disclosure Letter, the Company, its Subsidiaries and the Joint Ventures are not (and since December 31, 2002, have not been) in violation of or default under any law or order of any Governmental or Regulatory Authority, except for such violations or defaults which, individually or in the aggregate, are not having, and would not reasonably be expected to have, a material adverse effect on the Company and its Subsidiaries taken as a whole. No modification, suspension or cancellation of any of the Company Permits is pending or, to the knowledge of the Seller Parent, threatened, except where the modification, suspension or cancellation of any of the Company Permits, individually or the aggregate, has not had, and would not reasonably be expected to have, a material adverse effect on the Company, its Subsidiaries and the Joint Ventures, and no notice of violation of any of the Company Permits has been received or, to the knowledge of the Seller Parent, threatened, except for violations of any of the Company Permits that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the Company. With respect to any of the Company Permits that are required to be renewed or reissued in order for the Company to continue its business as conducted on the date hereof, to the knowledge of the Seller Parent, there are no actions, events or circumstances that could reasonably be expected to adversely affect the renewal, extension or reissuance of any such Company Permit, except those that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the Company.

SECTION 2.11. Compliance with Agreements. Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date, the FY 2005 Statements or Section 2.11 of the Seller Parent Disclosure Letter:

(a) neither the Company nor any of its Subsidiaries nor any of the Joint Ventures nor, to the knowledge of the Seller Parent, any other party thereto is in breach or violation of, or in default in the performance or observance of any term or provision of, and no event has occurred which, with notice or lapse of time or both, would reasonably be expected to result in a default under, (i) the Organizational Documents of the Company or any of its Subsidiaries or (ii) any Contract to which the Company or any of its Subsidiaries or any of the Joint Ventures is a party or by which the Company or any of its Subsidiaries, or any of the Joint Ventures or any of their respective assets or properties is bound, except in the case of this clause (ii), for breaches, violations and defaults which, individually or in the aggregate, are not having, and would not reasonably be expected to have, a material adverse effect on the Company, its Subsidiaries and the Joint Ventures taken as a whole;

(b) neither the Company nor any of its Subsidiaries nor any of the Joint Ventures is a party to or bound by any Contract that (i) would, after giving effect to the

consummation of the transactions contemplated by this Agreement, limit or restrict the Company or any of its Subsidiaries or any successor thereto, from engaging or competing in any line of business or in any geographic area or that contains restrictions on pricing (including most favored nation provisions) or exclusivity or non-solicitation provisions with respect to customers, (ii) limits or otherwise restricts the ability of the Company, any of its Subsidiaries or any Joint Venture to pay dividends or make distributions to its shareholders, (iii) provides for the operation or management of any operating assets of the Company or any of its Subsidiaries by any person other than the Company and its Subsidiaries or (iv) is a material guarantee or contains a material guarantee by the Company, any of its Subsidiaries or any Joint Venture of any indebtedness or other obligations of any person and has had, or would have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as whole; and

(c) each Contract to which the Company, any of its Subsidiaries or any Joint Venture is a party is valid, binding and enforceable against the parties thereto, and is in full force and effect, except for such failures to be valid, binding and enforceable or to be in full force and effect, as, individually or in the aggregate, are not having, and would not materially be expected to have, a material adverse effect on the Company and its Subsidiaries taken as a whole.

SECTION 2.12. Taxes.

(a) Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date, the FY 2005 Statements or Section 2.12 of the Seller Parent Disclosure Letter:

(i) The Seller is the common parent of an affiliated group of corporations (within the meaning of Section 1504(a) of the Internal Revenue Code of 1986, as amended (the “Code”)) that file consolidated federal income Tax Returns and the Company and its Subsidiaries are members of such group. Each of the Company and its Subsidiaries has filed, or has joined in the filing of, all material Tax Returns required to be filed by or with respect to it, or requests for extensions to file such Tax Returns have been timely filed or granted and have not expired, and all Tax Returns are complete and accurate in all respects, except to the extent that such failures to either file, to have extensions granted that remain in effect or to file returns complete and accurate in all respects, as applicable, do not have, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole. The Company and each of its Subsidiaries has paid (or the Seller has paid on its behalf) all Taxes shown as due on such Tax Returns. No deficiencies for any Taxes have been proposed, asserted or assessed against the Company or any of its Subsidiaries that are not adequately reserved for, except for inadequately reserved Taxes and inadequately reserved deficiencies that do not have, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole. No requests for waivers or extensions of the time to assess any Taxes against the Company or any of its Subsidiaries have been granted or are pending, except for requests with respect to such Taxes that have been adequately reserved for in the FY 2005 Statements or, to the extent not adequately reserved, the assessment of which has not had, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole.

(ii) Except as disclosed in Section 2.12 of the Seller Parent Disclosure Letter or has not had, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole, neither the Company nor any of its Subsidiaries is obligated to make any payment, or is a party to any agreement that obligates it to make any payments that will not be deductible under Code Section 280G.

(iii) Each of the Company and its Subsidiaries has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of United States federal income tax within the meaning of Code Section 6662 and the regulations in respect thereof in existence on the date hereof.

(iv) Neither the Company nor any of its Subsidiaries has in any year for which the applicable statute of limitations remains open distributed stock of another person, or has had its stock distributed by another person, in a transaction that was purported or intended to be governed in whole or in part by Section 355 or Section 361 of the Code.

(v) All Taxes which the Company or any of its Subsidiaries are required to withhold or collect, including, but not limited to, Taxes required to have been withheld in connection with amounts paid or owing to an employee, independent contractor, creditor, shareholder or other third party and sales, gross receipts and use taxes, have been duly withheld or collected and, to the extent required, have been paid over to the proper governmental agency or are held in separate bank accounts for such purpose. The Company and its Subsidiaries have duly and timely filed all Tax Returns with respect to such withheld Taxes.

(vi) No claim has been made in writing by a Governmental or Regulatory Authority in a jurisdiction where the Company or any of its Subsidiaries does not file Tax Returns such that the Company or any of its Subsidiaries is or may be subject to taxation by that jurisdiction.

(vii) No material Encumbrance for Taxes exists with respect to any property or assets of the Company or any of its Subsidiaries, except Encumbrances for current Taxes not yet due and payable or Taxes being contested in good faith by appropriate proceedings and for which adequate reserves are being maintained on the most recent financial statements contained in the SEC Reports or in the FY 2005 Statements.

(viii) No closing agreements, private letter rulings, technical advice memoranda or similar agreements or rulings with respect to Taxes have been entered into with or issued by any governmental authority or requested from any governmental authority with respect to the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries has executed or filed any power of attorney with respect to Taxes which is currently in force.

(ix) The Company and its Subsidiaries are, and have at all times been, in compliance with the provisions of Sections 6011, 6111 and 6112 of the Code relating to tax shelter disclosure, registration and list maintenance and with the Treasury Regulations thereunder, and neither the Company nor any of the Subsidiaries has at any time, engaged in or entered into a "listed transaction" within the meaning of Treasury Regulation Sections 1.6011-

4(b)(2), 301.6111-2(b)(2) or 301.6112-1(b)(2)(A). No IRS Form 8886 has been filed with respect to any Company or any Subsidiary. Neither the Company nor any of its Subsidiaries has entered into any tax shelter or listed transaction with the sole or dominant purpose of the avoidance or reduction of a Tax liability in a jurisdiction outside the United States with respect to which there is a significant risk of challenge of such transaction by a governmental authority in a jurisdiction outside the United States.

(b) The unpaid Taxes of the Company and its Subsidiaries for any taxable year or period ending on or before March 31, 2005 (or for any taxable year or period beginning on or before and ending after March 31, 2005, the portion of such taxable year or period) for which Tax Returns have not yet been filed do not exceed in any material amount the reserve for actual Taxes (as opposed to any reserve for deferred Taxes established to reflect timing differences between book and Tax income) taken into account on the Company Financial Statements.

(c) Except as set forth in Section 2.12 of the Seller Parent Disclosure Letter, neither the Company nor any of its Subsidiaries is a party to, bound by or otherwise obligated under any Tax allocation, indemnity or sharing agreement or any similar contract or arrangement. Section 2.12 of the Seller Parent Disclosure Letter contains a true and correct copy of each agreement listed therein. No amounts are or will be due by the Company or any Subsidiary under any such agreement other than the Amended Tax Allocation Agreement, dated as of April 1, 2004, by and among the Seller and its Subsidiaries, a copy of which has been provided to the Buyer, and other than amounts reserved for on the FY 2005 Statements. Neither the Company nor any of its Subsidiaries (i) has been a member of an affiliated group filing a consolidated federal income tax return (other than a group the common parent of which is the Seller, or a predecessor thereof) or (ii) has any material liability for the Taxes of any person (other than any member of the Seller federal consolidated tax group) under United States Treasury Regulation Section 1.1502-6 (or any similar provision or state, local, or foreign law), as a transferee or successor, by contract, or otherwise.

SECTION 2.13. Employee Benefit Plans; ERISA.

(a) Employee Benefit Plans; ERISA. Except as disclosed in Section 2.13 of the Seller Parent Disclosure Letter, the SEC Reports filed on or prior to the Cut-Off Date or as would not be reasonably expected to have a material adverse effect on the Company and its Subsidiaries taken as a whole, (i) all Company Employee Benefit Plans are in compliance with all applicable requirements of law, including without limitation ERISA and the Code, and (ii) neither the Company nor any of its Subsidiaries has any liabilities or obligations with respect to any such Company Employee Benefit Plans, whether accrued, contingent or otherwise, nor to the knowledge of the Seller Parent are any such liabilities or obligations expected to be incurred. Except as specifically set forth in Section 2.13 of the Seller Parent Disclosure Letter, the execution of, and performance of the transactions contemplated by, this Agreement will not (either alone or upon the occurrence of any additional or subsequent events) constitute an event under any Company Employee Benefit Plan that will, or could reasonably be expected to, result in any payment (whether of severance pay or otherwise), acceleration, forgiveness of indebtedness, vesting, distribution, increase in benefits or obligation to fund benefits with respect to any employee in an amount that could reasonably be expected to have a material adverse

effect on the Company and its Subsidiaries taken as a whole. The only severance agreements or severance policies applicable to the Company or any of its Subsidiaries are the agreements and policies specifically referred to in Section 2.13 of the Seller Parent Disclosure Letter.

(b) As used herein:

“Employee Benefit Plan” means any material Plan (other than any “multiemployer plan,” as that term is defined in Section 4001 of ERISA) entered into, established, maintained, sponsored, contributed to or required to be contributed to by the Seller Parent or any of its Subsidiaries for the benefit of the current or former employees or directors of the Company or any of its Subsidiaries (including any of the Company’s former Subsidiaries) and existing on the date hereof or at any time subsequent thereto and, in the case of a Plan which is subject to Part 3 of Title I of the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations thereunder (“**ERISA**”), Section 412 of the Code or Title IV of ERISA, at any time during the five-year period immediately preceding the date of this Agreement;

“Plan” means any employment, bonus, incentive compensation, deferred compensation, long term incentive, pension, profit sharing, retirement, stock purchase, stock option, stock ownership, stock appreciation rights, phantom stock, leave of absence, layoff, vacation, day or dependent care, legal services, cafeteria, life, health, medical, accident, disability, severance, separation, termination, change of control or other benefit plan, agreement, practice, policy, program, scheme or arrangement, whether written or oral, and whether applicable to only one individual or a group of individuals, including, but not limited to any “employee benefit plan” within the meaning of Section 3(3) of ERISA; and

“ERISA Affiliate” means any person, who on or before the Closing, is under common control with the Company within the meaning of Section 414 of the Code.

(c) Complete and correct copies of the following documents have been made available to Buyer, on or before the date hereof: (i) all Employee Benefit Plans and any related trust agreements or related insurance contracts and pro forma option agreements, (ii) the most current summary plan descriptions of each Employee Benefit Plan subject to the requirement to give a summary plan description under ERISA, (iii) the most recent Form 5500 and Schedules thereto for each Employee Benefit Plan subject to such reporting, (iv) the most recent determination of the Internal Revenue Service with respect to the qualified status of each Employee Benefit Plan that is intended to qualify under Section 401(a) of the Code, (v) the most recent accountings with respect to each Employee Benefit Plan funded through a trust and (vi) the most recent actuarial report of the qualified actuary of each Employee Benefit Plan with respect to which actuarial valuations are conducted.

(d) Except as set forth in Section 2.13 of the Seller Parent Disclosure Letter, neither the Company nor any Subsidiary maintains or is obligated to provide benefits under any life, medical or health Employee Benefit Plan (other than as an incidental benefit under a Plan qualified under Section 401(a) of the Code) which provides benefits to retirees or other terminated employees other than benefit continuations rights under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

(e) Except as set forth in Section 2.13 of the Seller Parent Disclosure Letter, each Employee Benefit Plan covers only employees who are employed by the Company or a Subsidiary (or former employees or beneficiaries with respect to service with the Company or a Subsidiary).

(f) Except as set forth in Section 2.13 of the Seller Parent Disclosure Letter, neither the Company, any Subsidiary nor any ERISA Affiliate has at any time during the five (5) year period preceding the date hereof contributed to any "multiemployer plan", as that term is defined in Section 4001 of ERISA. Except as set forth in Section 2.13 of the Seller Disclosure Letter, with respect to each "multiemployer plan", as defined above, in which the Company, any Subsidiary or any ERISA Affiliate participates or has participated, (i) neither the Company, any Subsidiary nor any ERISA Affiliate has incurred, any withdrawal liability that could reasonably be expected to result in a material adverse effect on the Company and its Subsidiaries taken as a whole; (ii) neither the Company, any Subsidiary nor any ERISA Affiliate has received any notice that (A) any such plan is being reorganized in a manner that will result, or would reasonably be expected to result, in material liability, (B) increased contributions of a material amount may be required to avoid a reduction in plan benefits or the imposition of an excise tax or (C) any such plan is, or would reasonably be expected to become, insolvent; and (iii) on the knowledge of the Seller Parent, there are no PBGC proceedings against any such plan.

(g) Except as set forth in Section 2.13 of the Seller Parent Disclosure Letter, no transaction contemplated by this Agreement will result in liability to the Pension Benefit Guaranty Corporation ("PBGC") under Section 302(c)(11), 4062, 4063, 4064 or 4069 of ERISA, or otherwise, with respect to the Company, any of its Subsidiaries, Buyer or any corporation or organization controlled by or under common control with any of the foregoing within the meaning of Section 4001 of ERISA, and, to the knowledge of the Seller Parent, no event or condition exists or has existed which would reasonably be expected to result in any material liability to the PBGC with respect to the Buyer, the Company, any Subsidiary or any such corporation or organization. To the knowledge of the Seller Parent, except as disclosed in the FY 2005 Statements or Section 2.13 of the Seller Parent Disclosure Letter, no event has occurred and there exists no condition or set of circumstances in connection with any Company Employee Benefit Plan, under which the Company or any Subsidiary, directly or indirectly (through any indemnification agreement or otherwise), could reasonably be expected to be subject to any risk of material liability under Section 409 of ERISA, Section 502(i) of ERISA, Title IV of ERISA or Section 4975 of the Code.

(h) Except as set forth in Section 2.13 of the Seller Parent Disclosure Letter, no "reportable event" within the meaning of Section 4043 of ERISA has occurred with respect to any Employee Benefit Plan that is a defined benefit plan under Section 3(35) of ERISA other than "reportable events" as to which the requirement of notice to the PBGC within thirty days has been waived that could reasonably be expected to result in a material adverse effect on the Company and its Subsidiaries taken as a whole.

(i) Except as set forth in Section 2.13 of the Seller Parent Disclosure Letter, no employer securities (including, without limitation, securities of the Seller Parent and its Subsidiaries), employer real property or other employer property is included in the assets of any Employee Benefit Plan.

(j) Each of the actuarial reports disclosed in Section 2.13 of the Seller Parent Disclosure Letter is the most up to date actuarial report prepared with respect to the Employee Benefit Plan to which such report relates.

SECTION 2.14. Labor Matters. (a) Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date, the FY 2005 Statements or in Section 2.14 of the Seller Parent Disclosure Letter, neither the Company nor any of its Subsidiaries is a party to any collective bargaining agreement or other labor agreement with any union or labor organization. Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date, the FY 2005 Statements or in Section 2.14 of the Seller Parent Disclosure Letter, there are no disputes pending or, to the knowledge of the Seller Parent, threatened in writing between the Company or any of its Subsidiaries or any of the Joint Ventures and any trade union or other representatives of its employees, except in each case for such disputes as have not had, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole, and, to the knowledge of the Seller Parent, except as set forth in Section 2.14 of the Seller Parent Disclosure Letter, there are no material organizational efforts presently being made involving any of the now unorganized employees of the Company or any of its Subsidiaries or any of the Joint Ventures. Since December 31, 2002, there has been no work stoppage, or strike by employees of the Company or any of its Subsidiaries or any of the Joint Ventures except for such work stoppages or strikes as have not had, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole.

(b) To the knowledge of the Seller Parent, neither the Company nor any of its Subsidiaries nor any of the Joint Ventures is in material violation of any labor laws in any country (or political subdivision thereof) in which they transact business except for such violations as have not had, and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole.

SECTION 2.15. Environmental Matters. Except as disclosed in the SEC Reports filed on or prior to the Cutoff Date, the FY 2005 Statements or in Section 2.15 of the Seller Parent Disclosure Letter or except as would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole:

(a) (i) Each of the Company, its Subsidiaries and the Joint Ventures is in compliance with all applicable Environmental Laws; and

(ii) Neither the Company nor any of its Subsidiaries nor any of the Joint Ventures has received any written communication since January 1, 2001 from any person or Governmental or Regulatory Authority that alleges that the Company or any of its Subsidiaries or any of the Joint Ventures is not in such compliance with applicable Environmental Laws, except for any such non-compliance that has been settled or resolved.

(b) Each of the Company, its Subsidiaries and the Joint Ventures has obtained or maintains all environmental, health and safety permits and governmental authorizations (collectively, the “**Environmental Permits**”) necessary for the construction of its facilities and

the conduct of its operations as currently conducted, as applicable, and all such Environmental Permits are in good standing or, where applicable or a renewal application or an application for any new operations that has been timely filed and is pending agency approval, and the Company, its Subsidiaries and the Joint Ventures are in compliance with all terms and conditions of the Environmental Permits.

(c) There is no Environmental Claim pending:

(i) against the Company or any of its Subsidiaries or any of the Joint Ventures;

(ii) to the knowledge of the Seller Parent, against any person or entity whose liability for such Environmental Claim the Company or any of its Subsidiaries or any of the Joint Ventures has or may have been retained or assumed either contractually or by operation of law; or

(iii) against any real or personal property or operations which the Company or any of its Subsidiaries or any of the Joint Ventures currently owns, leases or manages, in whole or in part.

(d) To the knowledge of the Seller Parent, there have not been any Releases or threatened Releases of any Hazardous Material that would be reasonably likely to form the basis of any Environmental Claim against the Company or any of its Subsidiaries or any of the Joint Ventures, or against any person or entity whose liability for any Environmental Claim the Company or any of its Subsidiaries or any of the Joint Ventures has or may have been retained or assumed either contractually or by operation of law.

(e) With respect to any predecessor of the Company or of any of its Subsidiaries, to the knowledge of the Seller Parent, there is no Environmental Claim pending or threatened and there has been no Release or threatened Release of Hazardous Materials that would be reasonably likely to form the basis of any Environmental Claim.

(f) To the knowledge of the Seller Parent, there are no material facts arising since November 29, 1999, that have not been disclosed to the Buyer, which are reasonably likely to form the basis of an Environmental Claim against the Company or any of its Subsidiaries or any of the Joint Ventures arising from (i) environmental remediation or mining reclamation activities, (ii) obligations under the federal Clean Air Act, as amended, or any similar state air emissions permitting law relating to the construction of or modifications to facilities by the Company, its Subsidiaries and the Joint Ventures or such remediation or reclamation facility construction or modification costs known to be required in the future, or (iii) any other environmental matter affecting the Company or its Subsidiaries or any of the Joint Ventures.

(g) As used in this Section 2.15:

“Environmental Claims” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, directives, claims, liens, investigations, proceedings or written notices of noncompliance, liability or violation by any person or entity (including, but not limited to, any Governmental or Regulatory Authority) alleging potential

liability of the Company or any of its Subsidiaries or any of its Joint Ventures (including, without limitation, potential responsibility or liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from:

(A) the presence, or Release or threatened Release into the environment, of any Hazardous Materials at any location, whether or not owned, operated, leased or managed by the Company or any of its Subsidiaries or any of the Joint Ventures;

(B) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; or

(C) any and all claims by any third party seeking damages, remediation costs, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the presence, Release or threatened Release of any Hazardous Materials into the environment;

“Environmental Laws” means all Federal, state and local laws, rules and regulations relating to pollution, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata or rare, threatened or endangered species and critical habitat), mining or protection of human health as it relates to the Release of Hazardous Materials or mining including, without limitation, the Mine Safety and Health Act (30 U.S.C. § 801 et seq.) and other laws and regulations relating to Releases or threatened Releases of Hazardous Materials, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials;

“Hazardous Materials” means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances which are now defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous wastes”, “restricted hazardous wastes”, “toxic substances”, “toxic pollutants”, or words of similar import, under any Environmental Law; and (c) any other chemical, substance or waste, exposure to which is now prohibited, limited or regulated under any Environmental Law in a jurisdiction in which the Company or any of its Subsidiaries or any of its Joint Ventures operates or any jurisdiction which has received such chemical, substance or waste from the Company or its Subsidiaries; and

“Release” means any release, spill, emission, leaking, injection, deposit, disposal, discharge, dispersal, leaching or migration into the atmosphere, soil, surface water, groundwater or real or tangible property.

(h) This Section 2.15 contains the sole and exclusive representations and warranties of the Seller Parent and the Seller with respect to environmental matters arising under any Environmental Law or relating to Hazardous Materials.

SECTION 2.16. Intellectual Property. The Company and its Subsidiaries have all right, title and interest in, or a valid and binding license to use, all Intellectual Property individually or in the aggregate material to the conduct of the businesses of the Company and its Subsidiaries taken as a whole. Except as disclosed in Section 2.16 of the Seller Parent Disclosure Letter, neither the Company nor any Subsidiary of the Company is in default (or with the giving of notice or lapse of time or both, would be in default) under any license to use such Intellectual Property and, to the knowledge of the Seller Parent, such Intellectual Property is not being infringed by any third party, and neither the Company nor any Subsidiary of the Company is infringing any Intellectual Property of any third party, except for such defaults and infringements which, individually or in the aggregate, are not having and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries taken as a whole. For purposes of this Agreement, “**Intellectual Property**” means patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights and other proprietary intellectual property rights and all pending applications for and registrations of any of the foregoing.

SECTION 2.17. Regulation as a Utility. (a) The Company is not regulated as a public utility by any state other than the States of California, Idaho, Oregon, Utah, Washington and Wyoming. Section 2.17 of the Seller Parent Disclosure Letter lists each Subsidiary of the Company which is a public utility or is otherwise engaged in the regulated supply (including, but not limited to, generation, transmission or distribution) of electricity, natural gas and/or telecommunications. Except as set forth above and in Section 2.17 of the Seller Parent Disclosure Letter, neither the Company nor any “subsidiary company” or “affiliate” of the Company is subject to regulation as a public utility or public service company (or similar designation) by any state in the United States or any foreign country. The Company is not a public utility holding company under the 1935 Act.

(b) As used in this Section 2.17, the terms “**subsidiary company**” and “**affiliate**” shall have the respective meanings ascribed to them in Sections 2(a)(8) and 2(a)(11) of the 1935 Act.

SECTION 2.18. Insurance. Section 2.18 of the Seller Parent Disclosure Letter identifies as of the date hereof the material insurance policies of the Company and its Subsidiaries, and, to the extent applicable to the Company or any of its Subsidiaries, the material occurrence-based insurance policies and in respect of periods prior to the Closing, the material claims-made insurance policies of the Seller Parent and its affiliates. The Seller Parent has made available to the Buyer true and correct copies of each insurance policy identified in Section 2.18 of the Seller Parent Disclosure Letter. Except as set forth in Section 2.18 of the Seller Parent Disclosure Letter, each of the Company and its Subsidiaries is, and has been continuously since January 1, 2000, insured with financially responsible insurers in such amounts and against such risks and losses as are customary in all material respects for companies conducting the business conducted by the Company and its Subsidiaries during such time period. Except as set forth in Section 2.18 of the Seller Parent Disclosure Letter, since March 31, 2003 neither the Company nor any of its Subsidiaries has received any written notice of cancellation or termination with respect to any material insurance policy of the Company or any of its Subsidiaries, or any recommendation from any insurer with respect to any such policy that the Company or any of its

Subsidiaries make any material improvements in, or repairs to, the assets or operations of the Company or any of its Subsidiaries. The material insurance policies of the Company and each of its Subsidiaries are valid and enforceable policies. Except as set forth in Section 2.18 of the Seller Parent Disclosure Letter, the insurance policies of the Company and each of its Subsidiaries are owned by the Seller Parent and, except for occurrence-based policies in respect of occurrences before the Closing and except for claims-made policies in respect of claims made before the Closing, will cease to cover the Company and its Subsidiaries upon Closing.

SECTION 2.19. Vote Required. The only votes of the holders of any class of securities of the Seller Parent or the Company required to approve the transactions are the affirmative vote of a majority of the votes cast by such ordinary shareholders of the Seller Parent as (being entitled to do so) are present and vote in person or by proxy at the Seller Parent Shareholders' Meeting in relation to the approval of the Share Purchase.

SECTION 2.20. Affiliate Transactions. Section 2.20 of the Seller Parent Disclosure Letter sets forth each material transaction since April 1, 2003 between the Company and its Subsidiaries and the Joint Ventures, on the one hand, and the Seller, the Seller Parent and/or any of their respective affiliates (other than the Company and its Subsidiaries) on the other.

SECTION 2.21. Trading. The Company has established risk parameters, limits and guidelines in compliance with the risk management policy approved by the Company's Board of Directors (the "**Company Trading Guidelines**") to restrict the level of risk that the Company, its Subsidiaries and the Joint Ventures are authorized to take with respect to, among other things, the net position resulting from all physical commodity transactions, exchange-traded futures and options transactions, over-the-counter transactions and derivatives thereof and similar transactions (the "**Net Company Position**") and monitors compliance by the Company, its Subsidiaries and the Joint Ventures with such Company Trading Guidelines. The Seller Parent has provided a copy of the Company Trading Guidelines to the Buyer prior to the date of this Agreement. At no time between March 31, 2005 and the date hereof, (i) has the Net Company Position not been within the risk parameters that are set forth in the Company Trading Guidelines, or (ii) has the exposure of the Company and its Subsidiaries with respect to the Net Company Position resulting from all such transactions been material to the Company and its Subsidiaries taken as a whole. From March 31, 2005 to the date hereof, the Company and its Subsidiaries have not, in accordance with generally recognized mark to market accounting policies, experienced an aggregate net loss in its trading and related operations that would be material to the Company and its Subsidiaries taken as a whole.

SECTION 2.22. Article VII of the Company's Articles of Incorporation and Sections 60.825-60.845 of the BCA Not Applicable. The Seller Parent has caused the Company to take all necessary actions so that neither the provisions of Article VII of the Company's Articles of Incorporation nor the provisions of Sections 60.825-60.845 of the BCA (i.e., affiliated transactions and fair price provisions) nor the Oregon Control Share Statute nor any other business combination statute or similar statutory provision will, before the termination of this Agreement, at any time apply to this Agreement or the transactions contemplated hereby.

SECTION 2.23. Sufficiency and Condition of Assets. The assets of the Company and its Subsidiaries are sufficient and adequate to carry on their respective businesses as presently conducted.

SECTION 2.24. Joint Venture Representations. Each representation or warranty made in this Article II relating to a Joint Venture that is neither operated nor managed by the Company or a Subsidiary of the Company shall be deemed to be made only to the Seller Parent's knowledge.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer represents and warrants to the Seller Parent and the Seller, as of the date hereof and as of the Closing Date, as follows:

SECTION 3.1. Organization. The Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of Iowa.

SECTION 3.2. Authority Relative to This Agreement. The Buyer has full power and authority to enter into this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby. The execution, delivery and performance of this agreement by the Buyer of the transactions contemplated hereby have been duly and validly approved by the Board of Directors of the Buyer, and no other corporate proceedings on the part of the Buyer or its shareholders are necessary to authorize the execution, delivery and performance of this Agreement by the Buyer, and the consummation by the Buyer of the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Buyer and constitutes a legal, valid and binding obligation of the Buyer enforceable against the Buyer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

SECTION 3.3. Non-Contravention; Approvals and Consents. (a) The execution and delivery of this Agreement by the Buyer do not, and the performance by the Buyer of its obligations hereunder and the consummation of the transactions contemplated hereby will not, conflict with, result in a violation or breach of, constitute (with or without notice or lapse of time or both) a default under, result in or give to any person any right of payment or reimbursement, termination, cancellation, modification or acceleration of, or result in the creation or imposition of any Encumbrance upon any of the assets or properties of the Buyer or any of its Subsidiaries under any of the terms, conditions or provisions of (i) the Organization Documents of the Buyer or any of its Subsidiaries, or (ii) subject to the taking of the actions described in Section 3.3(b), (x) any laws or orders of any Governmental or Regulatory Authority applicable to the Buyer or any of its Subsidiaries or any of their respective assets or properties, or (y) any Contracts to which the Buyer or any of its Subsidiaries is a party or by which the Buyer or any of its Subsidiaries or any of their respective assets or properties is bound, excluding from the foregoing clauses (x) and (y) conflicts, violations, breaches, defaults, rights of payment or reimbursement,

terminations, modifications, accelerations and creations and impositions of Encumbrances which, individually or in the aggregate, do not have, and would not reasonably be expected to have, a material adverse effect on the ability of the Buyer to consummate the transactions contemplated by this Agreement.

(b) Except (i) for the filing of a premerger notification report under the HSR Act, (ii) filings with the SEC under the Exchange Act and with various state securities authorities that are required in connection with the transactions contemplated by this Agreement, (iii) the approval of the FERC pursuant to Section 203 of the Power Act, (iv) to the extent required, notice to and approval of the applicable state public utility commissions, (v) registration, consents, approvals and notice required under the 1935 Act, and (vi) required pre-approvals of license transfers with the FCC, no consent, approval or action of, filing with or notice to any Governmental or Regulatory Authority or other public or private third party is necessary or required under any of the terms, conditions or provisions of any law or order of any Governmental or Regulatory Authority or any Contract to which the Buyer or any of its Subsidiaries is a party or by which the Buyer or any of its Subsidiaries or any of their respective assets or properties is bound for the execution and delivery of this Agreement by the Buyer of its obligations hereunder or the consummation of the transactions contemplated hereby, other than such consents, approvals, actions, filings and notices which the failure to make or obtain, as the case may be, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the ability of the Buyer and any of its Subsidiaries to consummate the transactions contemplated by this Agreement.

SECTION 3.4. Financing. Buyer has sufficient cash and/or available sources of financing to pay the Purchase Price and to make all other necessary payments of fees and expenses in connection with the transactions contemplated by this Agreement, such that immediately following the Closing, the Buyer's credit rating is expected to be maintained or improved.

ARTICLE IV.

COVENANTS

SECTION 4.1. Covenants of the Seller Parent and Seller. At all times from and after the date hereof until the Closing, the Seller Parent and the Seller, jointly and severally, covenant and agree that (except as required, or expressly permitted, by this Agreement, as set forth in Section 4.1 of the Seller Parent Disclosure Letter, or to the extent that the Buyer shall otherwise previously consent in writing, which consent (except as provided in Section 4.1(a)(viii)) shall not be unreasonably withheld, conditioned or delayed) they shall:

(a) (i) make a cash capital contribution to the Company (for no consideration) (x) on or before the last day of June, September, December and March in the Company's fiscal year ending March 31, 2006 equal to \$125 million; provided, that if the Closing occurs prior to the end of any fiscal quarter in the fiscal year ending March 31, 2006, a cash capital contribution shall be made at Closing in an amount equal to the product of \$125 million and a fraction (the "**Pro-Ration Fraction**") with a numerator equal to the number of days elapsed in such quarter and a denominator equal to the number of days in such quarter; and

(y) on or before the last day of June, September, December and March in the Company's fiscal year ending March 31, 2007 equal to \$131.25 million;

(ii) not grant any options to purchase ordinary shares of Seller Parent or a related appreciation right to the extent the same are to be assumed by the Buyer or the Company;

(iii) not willfully take or fail to take any action that would reasonably be expected to result (x) in a material breach of any provision by any of them of this Agreement, or (y) in any of their representations and warranties set forth in this Agreement being untrue on and as of the Closing Date;

(iv) not take (and not permit the Company or any of its Subsidiaries to take) any action that would be reasonably likely to jeopardize the qualification of any amount of outstanding revenue bonds of the Company, its Subsidiaries or the Joint Ventures which qualify on the date hereof under Section 142(a) of the Code as "exempt facility bonds" or as tax-exempt industrial development bonds under Section 103(b)(4) of the Internal Revenue Code of 1954, as amended, prior to the enactment of the Tax Reform Act of 1986;

(v) confer with the Buyer on a regular and frequent basis with respect to the Company's business and operations and other matters relevant to the Share Purchase, and to promptly advise the Buyer, orally and in writing, of any material change or event, including, without limitation, any complaint, investigation or hearing by any Governmental or Regulatory Authority (or communication indicating the same may be contemplated) or the institution or threat of material litigation; provided, that none of the Seller Parent, the Seller, or the Company shall be required to make any disclosure to the extent such disclosure would constitute a violation of any applicable law or regulation, the Seller Parent and the Seller hereby agreeing to (and to cause the Company to) use commercially reasonable efforts to cause any such disclosure to be permitted under such law or regulation;

(vi) (x) notify the Buyer in writing of, and use all commercially reasonable efforts to cure before the Closing, any event, transaction or circumstance, as soon as practical after it becomes known to any of them or the Company, that causes, or is reasonably likely to cause, any covenant, or agreement of any of them or the Company under this Agreement to be breached or that renders, or is reasonably likely to render, untrue in any material respect as of the Closing Date any representation or warranty of the Seller Parent or the Seller contained in this Agreement, and (y) notify the Buyer in writing of, and use (at the Seller Parent's or Seller's sole cost and expense) all commercially reasonable efforts to cure, before the Closing, any violation or breach, as soon as practical after it becomes known to any of them or the Company of any representation, warranty, covenant or agreement made by the Seller Parent or the Seller that is having, or is reasonably likely to have, a material adverse effect on the Company, its Subsidiaries and the Joint Ventures, taken as a whole. No notice given pursuant to this paragraph shall have any effect on the representations, warranties, covenants or agreements contained in this Agreement for purposes of determining satisfaction of any condition contained herein; and

(vii) subject to the terms and conditions of this Agreement, take or cause to be taken all commercially reasonable steps necessary or desirable and to proceed diligently and in good faith to satisfy each condition to Closing contained in Article VI of this Agreement and to consummate and make effective the transactions contemplated by this Agreement, and not take or fail to take any action that would reasonably be expected to result in the nonfulfillment of any such condition; and

(viii) not make any sale, disposition, issuance or other transfer of any capital stock of the Seller, ScottishPower NA 1 Limited or ScottishPower NA 2 Limited without the prior consent and approval of the Buyer, which shall not be withheld or delayed in any case involving a transfer of such capital stock which does not adversely affect (and could not reasonably be expected to adversely affect) the rights or obligations of the Buyer under this Agreement, the ability of the parties and the Company to fulfill their obligations hereunder and to timely consummate the transactions contemplated hereby, or the financial condition, results of operations, business, prospects, assets or liabilities of the Company, its Subsidiaries or the Joint Ventures; and

they shall cause and, in the case of the Joint Ventures, shall use their reasonable efforts to cause:

(b) Ordinary Course. The Company and each of its Subsidiaries to conduct their businesses only in, and not to take any action except in, the ordinary course consistent with past business practice and without limiting the generality of the foregoing to use all commercially reasonable efforts to preserve intact in all material respects their present business organizations, to maintain in effect all existing material permits, to keep available the services of their key officers and employees, to maintain their assets and properties in good working order and condition, ordinary wear and tear excepted, to maintain insurance on their tangible assets and businesses in substantially the same amounts and against substantially the same risks and losses as are currently in effect, to preserve their relationships with customers and suppliers and others having significant business dealings with them and to comply in all material respects with all laws and orders of all Governmental or Regulatory Authorities applicable to them.

(c) Charter Documents. The Company and its Subsidiaries not to amend or make any public (in respect of the Organizational Documents of the Company) or binding proposal to amend its Organizational Documents.

(d) Dividends. The Company and its Subsidiaries not to:

(i) declare, set aside or pay any dividends on or make other distributions in respect of any of their respective capital stock, except:

(A) that the Company may continue the declaration and payment of (x) regular and required cash dividends on the Company Preferred Stock, with usual record and payment dates for such dividends in accordance with past dividend practice, and (y) cash dividends on the Shares at the rate of \$53.7 million in aggregate per fiscal quarter in the Company's fiscal year ending March 31, 2006 and at the rate of \$60.575 million in aggregate per fiscal quarter in the Company's fiscal year ending March 31, 2007, each such dividend not to be paid

before the last day of the applicable fiscal quarter; provided, that (1) \$50.8 million of the dividend for the fiscal quarter ending June 30, 2005 may be paid on May 27, 2005 and the remaining \$2.9 million of such dividend may be paid on June 30, 2005, and (2) if the Closing occurs before the last day of a fiscal quarter, the Company may pay a dividend to the Seller in respect of such quarter equal to the product of \$53.7 million (for fiscal quarters in the fiscal year ending March 31, 2006) or \$60.575 million (for fiscal quarters in the fiscal year ending March 31, 2007), as applicable, and the Pro-Ration Fraction in respect of such quarter; and

(B) for the declaration and payment of dividends by (x) a wholly owned Subsidiary of the Company organized under the laws of a jurisdiction in the United States solely to the Company, (y) Bridger Coal Company in accordance with past practice and (z) Subsidiaries of regular cash dividends to the Company or another Subsidiary with usual record and payment dates (including, but not limited to, increases consistent with past practice) in accordance with past dividend practice;

(ii) split, combine, reclassify or take similar action with respect to any of their respective capital stock or share capital or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock or comprised in its share capital;

(iii) except as disclosed in Section 4.1(d) of the Seller Parent Disclosure Letter, adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such liquidation or a dissolution, merger, consolidation, restructuring, recapitalization or other reorganization; or

(iv) redeem, repurchase or otherwise acquire any shares of its capital stock or any Option with respect thereto; provided, that a wholly owned Subsidiary of the Company organized under the laws of a jurisdiction in the United States may redeem, repurchase or otherwise acquire such shares from its parent corporation.

(e) Share Issuances. The Company and its Subsidiaries not to issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock or comprised in its share capital or any Option with respect thereto (other than the issuance by a wholly owned Subsidiary of its capital stock to its parent corporation or the issuance of shares of Common Stock to the Seller as set forth in the Company Budget), or modify or amend any right of any holder of outstanding shares of capital stock or Options with respect thereto.

(f) Acquisitions. Except as set forth in Section 4.1(f) of the Seller Parent Disclosure Letter and other than as provided in the fiscal year 2006 operating budget of the Company, a copy of which is set forth in Section 4.1(f) of the Seller Parent Disclosure Letter and which has been discussed with Buyer, or any other budget of the Company thereafter approved by Buyer, which approval shall not be unreasonably withheld, conditioned or delayed (collectively, the "**Company Budget**"), including a 10% increase in the relevant items therein stated, the Company and its Subsidiaries not to acquire (by merging or consolidating with, or by purchasing an equity interest in or a portion of the assets of, or by any other manner) any

business or any corporation, partnership, association or other business organization or division thereof in excess of \$10 million in any one transaction (or related series of transactions) and \$40 million in the aggregate; provided, that (i) in the case of an acquisition by the Company, the equity interest or assets so acquired are included in the rate base of the Company and (ii) ten days' prior written notice of any such transaction (or series of related transactions) not otherwise provided for in the Company Budget (including a 10% increase in the relevant items therein stated) involving consideration in excess of \$5 million has been given to the Joint Executive Committee; and provided, further, that this Section 4.1(f) shall not prohibit any capital expenditures made in accordance with Section 4.1(k).

(g) Dispositions. Other than as set forth in Section 4.1(g) of the Seller Parent Disclosure Letter, the Company and its Subsidiaries not to sell, lease, grant any Encumbrances on or otherwise dispose of or Encumber any of their respective assets or properties, other than (i) as expressly provided in the Company Budget (including up to a 10% increase in the relevant amounts therein stated) or (ii) dispositions in the ordinary course of its business consistent with past practice and having an aggregate value of \$10 million or less in any one transaction (or related series of transactions) and less than \$40 million in the aggregate; provided, that ten days' prior written notice of any such transaction (or series of related transactions) not otherwise provided for in the Company Budget (including a 10% increase in the relevant items therein stated) involving consideration in excess of \$5 million has been given to the Joint Executive Committee.

(h) Indebtedness. Other than as expressly provided in the Company Budget (including up to a 10% increase in the relevant amounts therein stated), the Company and its Subsidiaries not to incur or guarantee any indebtedness (including any debt borrowed or guaranteed or otherwise assumed, including, without limitation, the issuance of debt securities or warrants or rights to acquire debt) or enter into any "keep well" or other agreement to maintain any financial condition of another person or enter into any arrangement having the economic effect of any of the foregoing (any such guarantees, agreements or arrangements, collectively, "**Guarantees**"), other than (i) indebtedness entered into in connection with the refinancing of indebtedness outstanding on the date of this Agreement or of indebtedness otherwise incurred pursuant to this Section 4.1(h) (such refinancing not to increase the availability of indebtedness that may thereafter be incurred pursuant to this Section 4.1(h)), and (ii) indebtedness incurred pursuant to Section 5.4(b)(vi).

(i) Employee Benefits. Except as set forth on Section 4.1(i) of the Seller Parent Disclosure Letter, the Company and its Subsidiaries not to (x) enter into, adopt, amend (except as may be required by applicable law) or terminate any Employee Benefit Plan, or increase in any manner the compensation or fringe benefits of any employee (or former employee) of the Company or its Subsidiaries, or pay any benefit not required by any plan or arrangement in effect as of the date hereof to any employee (or former employee), in each case other than such normal increases or payments to employees who are not officers or directors of the Company or its Subsidiaries and that have been made in the ordinary course of business consistent with past practice and that, in the aggregate, do not result in a material increase in benefits or compensation expense to the Company and its Subsidiaries taken as a whole, or (y) grant to any employee (or former employee) any rights or allow any such employee (or former employee) to become a participant in any plan or arrangement that grants any rights, in each case

that are not in effect on the date hereof to any payment (whether of severance pay, supplemental executive retirement plans or otherwise), acceleration, forgiveness of indebtedness, vesting, distribution, increase in benefits or increase in obligations to fund benefits with respect to any employee (or former employee) resulting from a change in control or change in ownership of the Company or any of its Subsidiaries or otherwise, or resulting from such employee's continued employment with the Company or any of its Subsidiaries for any specified period of time (including as a result of a termination prior to such specified period); provided, however, that the Company and its Subsidiaries shall not be prevented by reason of this clause (y) from entering into any retention agreement with any non-management employee of the Company or any of its Subsidiaries so long as such retention agreement does not relate to the transactions contemplated by this Agreement and such retention agreement (or similar agreements) is not made for the benefit of a class or classes of employees. Except as required by a collective bargaining agreement to which the Company is a party, or in the ordinary course of business of the Company and its Subsidiaries consistent with past practice, or as otherwise expressly permitted by the terms of this Agreement, the Company and its Subsidiaries shall not make any contributions to any trust or other similar funding arrangement relating to any deferred compensation plan, agreement or arrangement, including, without limitation, the Company's Supplemental Executive Retirement Plan.

(j) Affiliate Contracts. Except as disclosed in Section 2.20 of the Seller Parent Disclosure Letter, the Company and its Subsidiaries and, within the exercise of its reasonable commercial efforts, the Joint Ventures, not to enter any transaction with the Seller, the Seller Parent or any of their respective affiliates (other than the Company and its Subsidiaries).

(k) Capital Expenditures. The Company and its Subsidiaries not to make any capital expenditures or commitments other than (i) as required by applicable law, (ii) capital expenditures incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance), and (iii) other capital expenditures not in excess of 110% of the aggregate amount provided for such purposes in the Company Budget.

(l) 1935 Act. The Company and its Subsidiaries not to engage in any activities which would cause a change in its or their status under the 1935 Act or that would impair the ability of the Buyer to obtain the approval of the SEC under the 1935 Act for the consummation of the Share Purchase or the other transactions contemplated hereby.

(m) Regulatory Status. The Company and its Subsidiaries not to agree or consent to any material agreements or modifications of material existing agreements with any Government or Regulatory Authority in respect of the operations of their businesses except where following discussion with the relevant authority such agreements or modifications are imposed upon the Company.

(n) Transmission, Generation. Except as required by, or pursuant to tariffs or rate schedules on file with, any Governmental or Regulatory Authority as of the date hereof, or as necessary to fulfill service commitments required by any Governmental or Regulatory Authority (with any regulatory order potentially imposing any such obligation to be immediately

forwarded to the Buyer), or as set forth in Section 4.1(n) of the Seller Parent Disclosure Letter, the Company and its Subsidiaries not to:

(i) commence construction of (or commit to construction of) any additional generating, transmission or delivery capacity; provided, that the Company's or any of its Subsidiaries' applying for or obtaining permits or engaging in development planning in respect of any such construction shall not be deemed to be a commencement of construction or a commitment to do the same for purposes of this clause (i);

(ii) obligate the Company or any of its Subsidiaries to purchase or otherwise acquire, or to sell or otherwise dispose of, or to share, any additional generating, transmission or delivery plants or facilities, in an amount in excess of 110% percent of the aggregate amount provided for such purposes in the Company Budget; or

(iii) retire, commit to retire or otherwise indicate an intention to retire any generation facility of the Company or any of its Subsidiaries.

(o) Trading. The Company and its Subsidiaries not to amend or modify the Company Trading Guidelines in a manner that results in such Company Trading Guidelines being less restrictive than the Company Trading Guidelines in effect on the date hereof or, other than in the ordinary course of business consistent with past practice, terminate the Company Trading Guidelines; provided that, in the case of any such termination, new Company Trading Guidelines are adopted that are at least as restrictive as the Company Trading Guidelines in effect on the date hereof or, take any action that violates the Company Trading Guidelines or cause or permit the Net Company Position to be outside the risk parameters set forth in the Company Trading Guidelines; and if at any time the Net Company Position becomes outside the risk parameters set forth in the Company Trading Guidelines due to a move in market prices then action will be taken to bring the Net Company Position back inside the parameters to the extent required by the Company Trading Guidelines.

(p) Accounting. The Company and its Subsidiaries not to make any material changes in their accounting methods, except as required by law, rule, regulation or applicable generally accepted accounting principles.

(q) Contracts Binding Affiliates. The Company and its Subsidiaries not to enter into any Contract that, after the Closing, (i) is binding on the Buyer or its Subsidiaries (other than the Company and its Subsidiaries), or (ii) provides that the Company or any of its Subsidiaries may be in breach or default thereunder based on any action or inaction of the Buyer or its Subsidiaries (other than the Company and its Subsidiaries).

(r) No Litigation. The Company and its Subsidiaries not to initiate any material actions, suits, arbitrations or proceedings excluding any state rate case proceedings.

SECTION 4.2. Covenants of the Buyer. At all times from and after the date hereof until the Closing, the Buyer covenants and agrees that (except as required or expressly permitted by this Agreement, or to the extent that the Seller Parent shall otherwise previously consent in writing, which consent shall not be unreasonably withheld or delayed):

(a) No Breach. The Buyer shall not willfully take or fail to take any action that would or is reasonably likely to result (i) in a material breach by the Buyer of any provision of this Agreement, or (ii) in any of its representations and warranties set forth in this Agreement being untrue on and as of the Closing Date.

(b) Advice of Changes. The Buyer shall promptly advise the Seller Parent orally and in writing, of any material change or event, including, without limitation, any complaint, investigation or hearing by any Governmental or Regulatory Authority (or communication indicating the same may be contemplated) or the institution or threat of litigation, having, or which, insofar as can be reasonably foreseen, could have, a material adverse effect on the ability of the Buyer to consummate the transactions contemplated hereby; provided that the Buyer shall not be required to make any disclosure to the extent such disclosure would constitute a violation of any applicable law or regulation.

(c) Notice and Cure. The Buyer will notify the Seller Parent in writing of, and will use all commercially reasonable efforts to cure before the Closing, any event, transaction or circumstance, as soon as practical after it becomes known to the Buyer, that causes or will cause any covenant or agreement of the Buyer under this Agreement to be breached or that renders or will render untrue any representation or warranty of the Buyer contained in this Agreement. The Buyer will also notify the Seller Parent in writing of, and will use all commercially reasonable efforts to cure, before the Closing, any violation or breach, as soon as practical after it becomes known to the Buyer, of any representation, warranty, covenant or agreement made by the Buyer. No notice given pursuant to this paragraph shall have any effect on the representations, warranties, covenants or agreements contained in this Agreement for purposes of determining the satisfaction of any condition contained herein.

(d) Fulfillment of Conditions. Subject to the terms and conditions of this Agreement, the Buyer will take or cause to be taken all commercially reasonable steps necessary or desirable and proceed diligently and in good faith to satisfy each condition to the Closing contained in Article VI of this Agreement and to consummate and make effective the transactions contemplated by this Agreement, and the Buyer will not take or fail to take any action that would reasonably be expected to result in the nonfulfillment of any such condition.

SECTION 4.3. Tax Matters.

(a) Except as set forth in Section 4.3 of the Seller Parent Disclosure Letter, the Seller Parent and the Seller jointly and severally shall not, nor shall any of them permit the Company or any of its Subsidiaries to, make, change or rescind any material express or deemed election relating to Taxes, or change any of its methods of reporting income or deductions for Tax purposes, or other Tax accounting, from those employed in the preparation of its Tax Return(s) for the prior taxable year, except as may be required by applicable law or as agreed to by the Buyer, in each case or the same related to the Company or its Subsidiaries. The Seller Parent and the Seller shall inform the Buyer regarding the progress of any material claim, action, suit, litigation, proceeding, arbitration, investigation, audit or controversy relating to Taxes in respect of the Company or its Subsidiaries and shall obtain the consent of the Buyer (such consent not to be unreasonably held or delayed) before entering into any settlements or

compromises with regard to such matters that affect the Tax liability of the Buyer, the Company or any of the Company's Subsidiaries for the Tax periods ending after March 31, 2005.

(b) The Seller shall provide the Buyer on the Closing Date, duly executed and acknowledged affidavits of the Seller certifying that it is not a foreign person as described in Treasury Regulation Section 1.1445-2(b)(2).

(c) If the Buyer, the Company or any of the Company's Subsidiaries receives an amount from or on behalf of the Seller Parent or any affiliate thereof that is a return of tax sharing agreement payments previously made by the Company or a Subsidiary pursuant to any tax sharing agreement described in the second sentence of Section 2.12(c), and such amount is so returned pursuant to an Order of a Governmental or Regulatory Authority, the Buyer agrees to pay, or cause the Company or any Subsidiary to pay, any such amount so received by the Buyer, the Company or any Subsidiary to the Seller or the Seller's designee as additional purchase price unless such Order prohibits or restricts such payment to the Seller or the Seller's designee or requires the use of such returned amount for the benefit of rate payers.

SECTION 4.4. Discharge of Liabilities. The Seller Parent and the Seller jointly and severally, shall not permit the Company or its Subsidiaries to pay, discharge or satisfy any material claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction, in the ordinary course of business consistent with past practice (which includes the payment of final and unappealable judgments) or in accordance with their terms, of liabilities reflected or reserved against in, or contemplated by, the FY 2005 Statements, or incurred in the ordinary course of business consistent with past practice.

SECTION 4.5. Contracts. The Seller Parent and the Seller jointly and severally, shall not permit the Company or its Subsidiaries or, within the exercise of its reasonable business efforts, the Joint Ventures to, except in the ordinary course of business consistent with past practice, modify, amend, terminate, fail to renew or fail to use reasonable business efforts to renew any material contract or agreement to which the Company, any such Subsidiary or such Joint Ventures of such party is a party or waive, release or assign any material rights or claims.

SECTION 4.6. No Solicitations. The Seller Parent agrees (i) that neither it nor any of its Subsidiaries or other affiliates nor their respective Representatives shall initiate, solicit or encourage, directly or indirectly, any inquiries or the making or implementation of any proposal or offer (including, without limitation, any proposal or offer to its shareholders) with respect to a merger, consolidation or other business combination involving the Company or any of its Subsidiaries or any acquisition or similar transaction (including, without limitation, a tender or exchange offer) involving the purchase (or indirect purchase through the purchase of capital stock of Subsidiaries of the Seller Parent) of (A) all or any significant portion of the assets of the Company and its Subsidiaries taken as a whole or (B) any shares of capital stock of the Company or any of its material Subsidiaries (any such proposal or offer being hereinafter referred to as an "**Alternative Proposal**"), or engage in any negotiations concerning, or provide any confidential information or data to, or have any discussions with, any person or group relating to an Alternative Proposal (excluding the transactions contemplated by this Agreement), or otherwise facilitate any effort or attempt to make or implement an Alternative Proposal; (ii)

that it will immediately cease and cause to be terminated any existing activities, discussions or negotiations with any parties with respect to any of the foregoing, and it will take the necessary steps to inform such parties of its obligations under this Section; and (iii) that it will notify the Buyer promptly if any such inquiries, proposals or offers are received by, any such information is requested from, or any such negotiations or discussions are sought to be initiated or continued with, it or any of such persons provided, however, that nothing contained in this Section 4.6 shall prohibit the Board of Directors of the Seller Parent, until such time as the Seller Parent shall have obtained the Seller Parent Shareholders' Approval, from furnishing information to (but only pursuant to a confidentiality agreement in customary form and having terms and conditions no less favorable to the Company than the Confidentiality Agreement) or entering into discussions or negotiations with any person or group that makes an unsolicited bona fide Alternative Proposal, if, and only to the extent that, prior to receipt of the Seller Parent Shareholders' Approval, (A) the Board of Directors of the Seller Parent, based upon the advice of the Seller Parent's external legal advisors, determines in good faith that a failure to perform such action could reasonably be expected to result in a breach of its fiduciary duties imposed by law, (B) such Board of Directors has reasonably concluded in good faith (after consultation with its financial advisors) that the person or group making such Alternative Proposal is likely to have adequate sources of financing to consummate such Alternative Proposal, (C) such Board of Directors has reasonably concluded in good faith that such Alternative Proposal is more favorable to the Seller Parent than the Share Purchase contemplated hereby, (D) prior to furnishing such information to, or entering into discussions or negotiations with, such person or group, the Seller Parent provides written notice to the Buyer to the effect that it is furnishing information to, or entering into discussions or negotiations with, such person or group, which notice shall identify such person or group in reasonable detail, and (E) the Seller Parent keeps the Buyer appropriately informed of the status of any such discussions or negotiations; provided, further, that if the Seller Parent is unable to comply with the obligations set out in sub-clauses (D) or (E) above as a result of any obligation of confidentiality, the right to negotiate or provide information in the foregoing proviso shall be suspended (as if it had not been in effect since the date hereof) until such time as it is able to do so comply and has complied. Nothing in this Section 4.6 shall (x) permit the Seller Parent or the Seller to terminate this Agreement, (y) permit the Seller Parent or the Seller to enter into any agreement with respect to an Alternative Proposal for so long as this Agreement remains in effect (it being agreed that for so long as this Agreement remains in effect, the Seller Parent or the Seller, jointly and severally shall not enter into any agreement with any person or group that provides for, or in any way facilitates, an Alternative Proposal), or (z) affect any other obligation of the Seller Parent or the Seller under this Agreement.

SECTION 4.7. Third Party Standstill Agreements. After the date hereof, neither the Seller Parent or Seller shall, and, until Closing, the Seller Parent and Seller, jointly and severally, shall not permit the Company nor any of its Subsidiaries to, terminate, amend, modify or waive any provision of any confidentiality or standstill agreement in respect of the Company and its Subsidiaries to which it is a party. After the date hereof, the Seller Parent and Seller jointly and severally, shall enforce, to the fullest extent permitted under applicable law, the provisions of any such agreement, including, but not limited to, by obtaining injunctions to prevent any breaches of such agreements and to enforce specifically the terms and provisions thereof in any court having jurisdiction.

SECTION 4.8. Joint Executive Committee. As soon as practicable after the date hereof, the Buyer and the Seller Parent shall establish a joint executive committee (the “**Joint Executive Committee**”) which shall be comprised of three nominees of the Buyer and three nominees of the Seller Parent. Each of the members of the Joint Executive Committee may be removed, with or without cause, by the person appointing the same. Vacancies shall be filled by the person appointing the member whose departure gives rise to such vacancy. The Joint Executive Committee shall be jointly chaired by a nominee of the Buyer and a nominee of the Seller Parent and shall have the objective of facilitating and achieving (including, without limitation, obtaining the consents and approvals in respect of the Company, its Subsidiaries and the Joint Ventures contemplated by Section 5.3) the transactions contemplated in this Agreement, integration planning, strategic development, developing recommendations concerning the structure and the general operation of the Company prior to the Closing subject to applicable law. The Joint Executive Committee shall meet monthly in the United States or upon such other date or dates, and in such other places, as the Buyer and the Seller Parent may agree from time to time and may be convened by telephone, video conference or similar means. All decisions of the Joint Executive Committee shall require the vote, by person or proxy, of a majority of the members thereof, whether or not in attendance at the meeting in which such decision is made, or the written consent of a majority of the members of such committee. The provisions of this Section 4.8 are subject to the provisions of Section 4.9.

SECTION 4.9. Control of Other Party’s Business. Nothing contained in this Agreement shall give the Buyer, directly or indirectly, the right to control or direct the Company’s operations prior to the Closing. Prior to the Closing, each of the Seller Parent, Seller and the Company shall exercise, consistent with the other terms and conditions of this Agreement, complete control and supervision over its operations.

ARTICLE V.

ADDITIONAL AGREEMENTS

SECTION 5.1. Access to Information. Each of the Seller Parent and the Seller, jointly and severally, shall, and shall cause each of the Company and its Subsidiaries and, so long as consistent with its confidentiality obligations under its Joint Venture agreements, shall use commercially reasonable efforts to cause the Joint Ventures to, throughout the period from the date hereof to the Closing, (i) provide the Buyer and its Representatives with full access, upon reasonable prior notice and during normal business hours, to all officers, employees, agents and accountants of the Company and its Subsidiaries and, to the extent possible, the Joint Ventures and their respective assets, properties, books and records, but only to the extent that such access does not unreasonably interfere with the business and operations of the Company and its Subsidiaries and the Joint Ventures, (ii) furnish promptly to such persons (x) a copy of each report, statement, schedule and other document filed or received by the Company, or any of its Subsidiaries or the Joint Ventures pursuant to the requirements of federal or state securities laws and each material report, statement, schedule and other document filed with any other Governmental or Regulatory Authority, and (iii) upon request from the Buyer, furnish to the Buyer audited financial statements of the Company and its Subsidiaries for each of the last three fiscal years ended prior to the date of the request and unaudited quarterly financial information for such periods, together with the related financial information, and to use its commercially

reasonable efforts to cause the Company's auditors to provide consents requested by the Buyer, and (y) all other information and data (including, without limitation, copies of Contracts, Employee Benefit Plans, and other books and records) concerning the business and operations of the Company and its Subsidiaries and the Joint Ventures as the Buyer or any of its Representatives reasonably may request. No investigation pursuant to this paragraph or otherwise shall affect any representation or warranty contained in this Agreement or any condition to the obligations of the parties hereto. Any such information or material obtained pursuant to this Section 5.1 shall be governed by the terms of the letter agreement between the Buyer and the Seller Parent relating to confidential information concerning the Company (the "**Confidentiality Agreement**").

SECTION 5.2. Approval of Shareholders.

(a) The Seller Parent shall, through its Board of Directors, duly call, give notice of, convene and hold a general meeting of its ordinary shareholders (the "**Seller Parent Shareholders' Meeting**"), for the purpose of voting on and approving the Share Purchase (the "**Seller Parent Shareholders' Approval**"). Subject to Section 5.2(b), the Seller Parent shall, through its Board of Directors, include in the Circular the recommendation of the Board of Directors of the Seller Parent that the shareholders of the Seller Parent approve the Share Purchase. The Seller Parent shall use its reasonable best efforts to obtain such approval as promptly as practicable but, in any event, on or before August 1, 2005, but the failure to obtain such approval shall not, in and of itself, be deemed to be a breach of this Agreement.

(b) The recommendation of the Board of Directors of the Seller Parent included in the Circular (or if such Circular has not been dispatched, the resolution of the Board of Directors of the Seller Parent described in the first sentence of the second paragraph of Section 2.3) may be withdrawn if the Board of Directors of the Seller Parent determines in good faith that the failure to withdraw such recommendation (or resolution) could reasonably be expected to result in a breach of its fiduciary duties by reason of an unsolicited bona fide Alternative Proposal having been made; provided, that:

(i) in making its determination, the Board of Directors of the Seller Parent shall conclude that the person or group making such Alternative Proposal will have adequate sources of financing to consummate such Alternative Proposal and, in that regard, the Seller Parent shall take advice from and have regard to the opinion of its financial advisors;

(ii) such Board of Directors has reasonably concluded in good faith that such Alternative Proposal is more favorable to the Seller Parent than the Share Purchase contemplated hereby;

(iii) such Board of Directors shall have been advised by its external legal counsel as to its applicable fiduciary duties and shall have been advised that a failure to withdraw such resolution or recommendation as a result of such Alternative Proposal could reasonably result in a breach of its fiduciary duties; and

(iv) prior to any such withdrawal, the Seller Parent shall, and shall cause its respective financial and legal advisors to, negotiate with the Buyer to make such

adjustments in the terms and conditions of this Agreement as would enable the Seller Parent and the Seller to proceed with the transactions contemplated herein on such adjusted terms.

(c) In connection with the Seller Parent Shareholders' Meeting, (i) the Seller Parent shall promptly publish the Circular and dispatch the Circular to its shareholders in compliance with all legal requirements applicable to the Seller Parent Shareholders' Meeting and the Listing Rules and (ii) if necessary, after the Circular has been so dispatched, promptly publish or circulate amended, supplemental or supplemented materials and, if required in connection therewith, resolicit votes. In the event that the Seller Parent Shareholders' Approval is not obtained without the vote having been taken on the date on which the Seller Parent Shareholders' Meeting is initially convened, the Seller Parent agrees to use its reasonable best efforts to adjourn such Seller Parent Shareholders' Meeting for the purpose of obtaining the Seller Parent Shareholders' Approval and to use reasonable best efforts during any such adjournments to promptly obtain the Seller Parent Shareholders' Approval.

SECTION 5.3. Regulatory and Other Approvals. Subject to the terms and conditions of this Agreement and without limiting the provisions of Section 5.2, each of the Buyer and the Seller Parent shall jointly, through the Joint Executive Committee, develop a regulatory approval plan and proceed cooperatively and in good faith to, as promptly as practicable, (i) obtain all consents, approvals or actions of, make all filings with and give all notices to Governmental or Regulatory Authorities or any other public or private third parties required of the Buyer, the Seller, the Seller Parent, the Company or any of the Company's Subsidiaries or the Joint Ventures to consummate the Share Purchase and the other transactions contemplated hereby (including without limitation those set forth on Section 2.4 of the Seller Parent Disclosure Letter), and (ii) provide such other information and communications to such Governmental or Regulatory Authorities or other public or private third parties as any of the Seller, the Seller Parent or the Buyer or such Governmental or Regulatory Authorities or other public or private third parties may reasonably request in connection therewith. In addition to and not in limitation of the foregoing, each of the parties will (w) take promptly all actions necessary to make the filings required of the Buyer, the Seller, the Seller Parent and the Company or their Affiliates under the HSR Act and to comply with filing and approval requirements of the FERC, the SEC, the FCC and each State Governmental or Regulatory Authority, (x) comply at the earliest practicable date with any request for additional information received by such person or its affiliates from the Federal Trade Commission (the "FTC") or the Antitrust Division of the Department of Justice (the "Antitrust Division") pursuant to the HSR Act, (y) cooperate with each other in connection with filings of the Buyer, the Seller Parent, the Seller, the Company, the Company's Subsidiaries and any Joint Ventures under the HSR Act and in connection with resolving any investigation or other inquiry concerning the Share Purchase commenced by either the FTC or the Antitrust Division or state attorneys general or by the FERC, the SEC, the FCC or any State Governmental or Regulatory Authority having jurisdiction with respect to the Share Purchase or another transaction contemplated by this Agreement, and (z) provide to the other promptly copies of all correspondence between the Buyer (in the case of the Buyer so providing such information) or the Seller Parent, the Seller, the Company, the Company's Subsidiaries in the Joint Venture (in the case of the Seller Parent providing such information) and the applicable Governmental or Regulatory Authority with respect to any filings referred to in this Section 5.3, and shall give the Seller Parent or the Buyer, as the case may be, the opportunity to review such filings and all responses to requests for additional information by such Governmental or

Regulatory Authority prior to their being filed therewith. Anything in this Agreement to the contrary notwithstanding, the Seller Parent and the Seller, jointly and severally, shall not permit the Company, its Subsidiaries or the Joint Ventures to incur any liability or obligation (other than ordinary and reasonable attorneys' fees and other third party costs directly related to the obtaining of necessary Final Orders from state public utility commissions) or grant any state concessions or to enter into any agreement or arrangement (including, without limitation, any amendment, waiver or modification of the terms of any rate agreement, Order, Contract or Company Permit) that has or is reasonably likely to have a "meaningful adverse effect" on the business, properties, assets, liabilities, financial condition, revenues, net income, results of operations or prospects of the Company and its Subsidiaries. For purposes of the immediately preceding sentence and the provisions of Section 6.1(d)(ii), "meaningful adverse effect" shall be deemed to be equivalent to a material adverse effect on an entity otherwise identical to the Company and its Subsidiaries but having only 25% of the business, properties, assets, liabilities, financial condition, revenues, net income, results of operations and prospects of the Company and its Subsidiaries.

SECTION 5.4. Employee Benefit Plans.

(a) Buyer Agreements. The Buyer shall use its reasonable best efforts to cause the Company Employee Benefit Plans (other than such plans in respect of equity of the Company, the Seller or the Seller Parent (collectively, "**Equity Plans**")) in effect at the date of this Agreement that have been disclosed to the Buyer prior to such date to remain in effect until the date (the "**Termination Date**") which is the later of 24 months after the date of this Agreement or six months after the Closing. To the extent the Buyer elects not to continue any such Company Employee Benefit Plans at any time prior to the Termination Date, the Buyer will maintain benefit plans during such period generally of the same type and of the same or comparable aggregate value as the Company Employee Benefit Plans (other than Equity Plans) not so continued, on terms substantially similar to those applicable to other employees of the same general status of the Buyer or its Subsidiaries; provided, however, that nothing contained herein shall be construed as requiring the Buyer or the Company to continue any specific plan or as preventing the Buyer or the Company from (i) establishing and, if necessary, seeking shareholder approval to establish, any other benefit plans in respect of all or any of the employees covered by such Company Employee Benefit Plans or any other employees, (ii) amending such Company Employee Benefit Plans (or any replacement benefit plans thereof) where required by applicable law including, without limitation, any amendments necessary to avoid application of Section 409A of the Code, or where such amendment is with the consent of the affected employees or as otherwise effected in accordance with the terms of such plans, or (iii) amending the Company Employee Benefit Plans in the ordinary course of business so long as the second sentence of this Section 5.4(a) remains true. From and after the Closing Date, the Buyer shall cause the Company and its Subsidiaries to honor, in accordance with its express terms, each existing collective bargaining, employment, change of control, severance and termination agreement between the Company or any of its Subsidiaries, and any representative union, officer, director or employee of such company, including without limitation all legal and contractual obligations pursuant to outstanding restoration plans, severance plans, bonus deferral plans, vested and accrued benefits and similar employment and benefit arrangements, policies and agreements that have been disclosed to the Buyer as of the date hereof and other obligations entered into in accordance with Section 4.1(i).

(b) Seller Agreements.

(i) Definitions. As used herein:

“**Transferred Group Entity**” means the Seller Parent or any current or former affiliate of the Seller Parent, other than the Company or any of its Subsidiaries.

“**Transferred Group Pension Plan**” means a defined benefit pension plan and trust to be established by a Transferred Group Entity on or prior to the Closing Date that is intended to qualify under Sections 401(a) and 501(a) of the Code.

“**Transferred Group Savings Plan**” means a defined contribution plan and trust to be established by a Transferred Group Entity on or prior to the Closing Date that is intended to qualify under Sections 401(a) and 501(a) of the Code.

“**Transferred Group Post Retirement Welfare Plans**” means health and welfare benefit plans to be established by a Transferred Group Entity on or prior to the Closing Date.

“**Transferred Individuals**” means (i) any present or former employee of any Transferred Group Entity, but shall exclude any former employee of any Transferred Group Entity who is currently employed by the Company or any Subsidiary or retired while an employee of the Company or any Subsidiary, and (ii) any present or former employee of any entity or business relating to the Centralia coal mine or the Centralia steam electric generating plant or any of the businesses related thereto that was disposed of by the Company or any of its Subsidiaries, including such individuals’ beneficiaries, but shall exclude any such employee who is currently employed by the Company or any Subsidiary or retired while an employee of the Company or any Subsidiary from a business other than a business relating to the Centralia coal mine or the Centralia steam electric generating plant or any of the businesses related thereto that was disposed of by the Company or any of its Subsidiaries. The individuals described in clause (ii) shall be identified by reasonable efforts on the basis of employment and benefit records reasonably available to the Company.

(ii) General. Except as otherwise set forth herein, the Seller Parent hereby agrees to assume, or to cause a Transferred Group Entity to assume, all liabilities (regardless of when or where such liabilities arose or arise or were or are incurred) accrued or earned by, whether vested or unvested, Transferred Individuals under the Employee Benefit Plan, to the extent a Transferred Group Entity has not previously funded such liability by payment to the Company or any Subsidiary (it being understood that with respect to claims made by participants under any Employee Benefit Plans which are fully insured welfare benefit plans, all liabilities arising from claims made prior to the Closing shall remain liabilities of the Company and its Subsidiaries). Effective as of the Closing Date, each Transferred Group Entity shall cease to be a “participating employer” in the Employee Benefit Plans.

(iii) Defined Benefit Plan Assets.

(A) As soon as reasonably practicable after the Closing, the Seller Parent shall cause the transfer of a reasonably representative cross-section of assets

from the trust of the Company's Retirement Plan to the trust of the Transferred Group Pension Plan in an amount equal to the amount of trust assets required to be transferred as of the Closing Date in respect of the Transferred Individuals under Section 414(1) of the Code, using (to the extent permitted thereunder) the "safe harbor" rates and assumptions set forth in the regulations under Section 4044 of ERISA increased by a reasonable rate of interest agreed upon by the Plan Actuary and the Buyer Actuary (or if they cannot agree, the independent third party actuary described below) from the Closing to the date of transfer (the "**Pension Transfer Amount**").

(B) For purposes of this Section 5.4(b)(iii), the amount transferred shall be determined by the actuary for the Company's Retirement Plan (the "**Plan Actuary**"), provided, however, that the Plan Actuary shall provide the actuary selected by the Buyer (the "**Buyer Actuary**") with all documentation reasonably necessary for the Buyer Actuary to verify the Pension Transfer Amount; provided, further, however, that if the Buyer Actuary certifies, in writing within 30 days of receiving such supporting documentation, that the Buyer Actuary disagrees with the Plan Actuary's determination of the Pension Transfer Amount then, first the Seller Parent and the Buyer shall negotiate in good faith to resolve such dispute, and if unable to come to an agreement, then the Buyer and the Seller Parent shall select an independent third enrolled actuary to settle such disagreement. The determination of such third actuary shall be binding on the Buyer and the Seller Parent. The fees, costs and expenses of said third actuary shall be divided equally between the Buyer and the Seller Parent.

(iv) Defined Contribution Plan Accounts. On or prior to the Closing, the Seller Parent shall cause the accounts (including any outstanding loans) of the Transferred Individuals under the Company's Employee Savings and Stock Ownership Plan which are held by its related trust to be transferred to the Transferred Group Savings Plan and its related trusts. The amounts to be transferred pursuant to this Section 5.4(b)(iv) shall be in kind.

(v) Post Retirement Welfare Plans Assets.

(A) On or prior to the Closing, the Seller Parent shall cause the transfer in kind from each of the Company's voluntary employee benefits associations ("**VEBAs**") and 401(h) accounts under any qualified pension plan (with VEBAs, "**Funded Accounts**") to one or more Funded Accounts established by any Transferred Group Entity for the purpose of funding the liabilities under the Transferred Group Post Retirement Welfare Plans, an amount (the "**Medical Transfer Amount**") equal to the fair market value of the assets of the Company's Funded Accounts, determined as of the date of such transfer, multiplied by a fraction, the numerator of which shall be the difference between (a) the aggregate contributions made by each Transferred Group Entity to the Company's Funded Accounts, and (b) the aggregate distributions made to Transferred Individuals from the Company's Funded Accounts, and the denominator of which shall be the difference between (x) the aggregate contributions made to the Company's Funded Accounts, and (y) the aggregate distributions made from the Company's Funded Accounts.

(B) For purposes of this Section 5.4(b)(v), the amount transferred shall be determined by the Plan Actuary; provided, however, that the Plan Actuary shall provide the Buyer Actuary with all documentation reasonably necessary for the Buyer Actuary to verify the Medical Transfer Amount; provided, further, however, that if the Buyer Actuary certifies, in writing within 30 days of receiving such supporting documentation, that the Buyer Actuary disagrees with the Plan Actuary's determination of the Medical Transfer Amount then, first the Seller Parent and the Buyer shall negotiate in good faith to resolve such dispute, and if unable to come to an agreement, then the Buyer and the Seller Parent shall select an independent third enrolled actuary to settle such disagreement. The determination of such third actuary shall be binding on the Buyer and the Seller Parent. The fees, costs and expenses of said third actuary shall be divided equally between the Buyer and the Seller Parent. If, as a result of any dispute under this Section 5.4(b)(v), the asset transfer contemplated hereby is delayed until after the Closing, the amount that should have been transferred to the Funded Account of any Transferred Group Entity shall be increased by a reasonable rate of interest agreed upon by the Plan Actuary and Buyer Actuary (or if they cannot agree, the independent third party actuary described above) from the Closing to the date of transfer.

(vi) Additional Contributions to the Company Retirement Plan.

Following the date hereof and through the Closing, upon the written request of the Buyer, the Seller Parent shall cause the Company to make any additional contributions to the Company's Retirement Plan necessary to avoid the requirement to provide participants with notice under Section 4011 of ERISA. The Company shall be permitted to incur indebtedness, in an amount not to exceed the amount of such requested contribution, in addition to the indebtedness otherwise permitted by Section 4.1(h) on terms and conditions reasonably acceptable to the Buyer to fund such contribution.

(c) The Seller Parent shall have caused the Company, on or before October 31, 2005, to take such actions as set forth in Section 5.4 of the Seller Parent Disclosure Letter.

SECTION 5.5. Directors' and Officers' Indemnification and Insurance.

(a) Except to the extent required by law, until the sixth anniversary of the Closing, Buyer will not take any action so as to amend, modify or repeal the provisions for indemnification of directors or officers contained in the Organizational Documents of the Company and/or its Subsidiaries in such a manner as would adversely affect the rights of any individual who shall have served as a director or officer of the Company or any of its Subsidiaries prior to the Closing to be indemnified by such corporations in respect of their serving in such capacities prior to the Closing.

(b) From and after the Closing, the Buyer shall cause the Company, until the sixth anniversary of the Closing, to cause to be maintained in effect, to the extent available, the policies of directors' and officers' liability insurance maintained by the Company and its Subsidiaries as of the date hereof (or policies of at least the same coverage and amounts containing terms that are no less favorable to the insured parties) with respect to claims arising from facts or events that occurred on or prior to the Closing; provided that in no event shall the Buyer be obligated to cause the Company to expend in order to maintain or procure insurance

coverage pursuant to this paragraph any amount per annum in excess of two hundred percent (200%) of the aggregate premiums payable by the Company and its Subsidiaries in 2004 for such purpose.

(c) From and after the Closing, the Seller Parent shall not, nor shall it permit any of its Subsidiaries to, bring or continue legal proceedings against any director or officer of the Company and/or any of its Subsidiaries benefiting from the agreements in Section 5.5(a) or (b), such that any such person could reasonably have a claim against any insurer in respect of the insurance policies described in Section 5.5(b) or against the Company or any of its Subsidiaries (whether by way of indemnity, contract, operation of law or otherwise).

SECTION 5.6. Additional Matters. Immediately following the Closing, the Company's headquarters shall continue to be located in Portland, Oregon. If requested by the Buyer, on or prior to the Closing Date, the Seller Parent shall use reasonable best efforts to cause those trustees of The PacifiCorp Foundation designated by the Buyer in writing at least three days before the Closing to resign and cause to be appointed designees of the Buyer in their place.

SECTION 5.7. Expenses. Except as set forth in Section 7.2, whether or not the Closing occurs, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby or any Alternative Proposal by the Buyer on the one hand, or the Seller Parent, the Seller, the Company or any of the Company's Subsidiaries on the other, shall be paid by the Buyer or the Seller Parent, as the case may be; provided, that, subject to Section 5.3, any and all out-of-pocket costs and expenses incurred by the Company or any of its Subsidiaries which are necessary to obtain the consents of Governmental or Regulatory Authorities required to consummate the Share Purchase and incurred after the date hereof shall be paid by the Company.

SECTION 5.8. Brokers or Finders. Each of the Buyer and the Seller Parent represents, as to itself and its affiliates, that no agent, broker, investment banker, financial advisor or other firm or person is or will be entitled to any broker's or finder's fee or any other commission or similar fee in connection with any of the transactions contemplated by this Agreement except Houlihan Lokey Howard & Zukin, whose fees and expenses will be paid by the Buyer in accordance with the Buyer's agreement with such firm, and Morgan Stanley and UBS, each of whose fees and expenses will be paid by the Seller Parent in accordance with the Seller Parent's agreement with such firm, and the Buyer shall indemnify and hold harmless the Seller Parent and the Seller from and against, and the Seller Parent shall indemnify and hold the Buyer, the Company and its Subsidiaries from and against, any and all claims, liabilities or obligations with respect to any other such fee or commission or expenses related thereto asserted by any person on the basis of any act or statement alleged to have been made by such party or its affiliate.

SECTION 5.9. Conveyance Taxes. The Buyer shall, and the Seller Parent and the Seller, jointly and severally, shall, and shall cause the Company to, cooperate in the preparation, execution and filing of all Tax Returns, questionnaires, applications or other documents regarding any real property transfer or gains, sales, use, transfer, value added, stock transfer and stamp taxes and duties, any transfer, recording, registration and other fees, and any

similar taxes or fees (including any penalties and interest thereon) which become payable in connection with the transactions contemplated by this Agreement.

SECTION 5.10. Rate Matters. Except as provided in the Company Budget, during the period commencing on the date hereof and ending on the Closing Date, the Seller Parent and the Seller, jointly and severally shall cause the Company and its Subsidiaries to obtain Buyer's approval, not to be unreasonably withheld or delayed, prior to initiating any general rate case and to consult with the Buyer prior to making any material changes in the Company's or its Subsidiaries' rates or charges, standards of service or accounting from those in effect on the date hereof and to further consult with the Buyer prior to making any filing (or any amendment thereto), or effecting any agreement, commitment, arrangement or consent, whether written or oral, formal or informal, with respect thereto.

SECTION 5.11. Seller Parent Cure. If the condition to closing in Section 6.1(d)(ii), Section 6.2(a) (as a result of the breach or inaccuracy of the representation and warranty in Section 2.6(a)(i)) or 6.2(c) is not fulfilled at Closing, the Seller Parent (at it or the Seller's sole cost and expense) may, but shall not be required to, make such payments to the Company to promptly cure such inaccuracy or breach; provided, that such payment, in the Buyer's reasonable judgment, cures such inaccuracy or breach.

SECTION 5.12. Post Closing Payments.

(a) On each anniversary of the Closing Date until and including the twenty-fifth anniversary thereof, the Seller shall cause the Seller's wholly owned subsidiary, PacifiCorp Financial Services, Inc. ("PFS"), to pay to the Buyer cash in the amount of \$4.0 million. Without limiting the Buyer's rights and remedies at law and in equity, (i) PFS shall pay interest on any amount otherwise due and payable pursuant to this Section 5.12(a) at an annual rate equal to the prime rate of JPMorgan Chase Bank at the time such payment was due and payable plus two percent (2%), accruing from the due date to the date of payment, and (ii) all amounts required to be paid pursuant to this Section 5.12 shall become immediately due and payable, at the option of the Buyer, on the date that is 30 days after the Buyer gives a second notice to the Seller Parent notifying the Seller Parent of such default (which notice may not be given sooner than 60 days after the scheduled due date or sooner than 15 days after a first default notice) and advising of the Buyer's election to accelerate the remaining amounts due under this Section 5.12 to the date that is 30 days after the date of the notice unless all amounts required to be paid have been paid on or before the date that is 90 days after the date on which such amounts are required to be paid pursuant to this Section 5.12(a).

(b) The Seller Parent hereby irrevocably and unconditionally guarantees and agrees to pay in full to the Buyer all of the payments owing under Section 5.12(a) as and when due, regardless of any defense, right of set off or counterclaim that any of the Seller Parent, the Seller, PacifiCorp Financial Services Inc. or any their respective direct or indirect subsidiaries may have or assert.

SECTION 5.13. Tax Returns. (a) The Seller shall prepare or cause to be prepared, and file or cause to be filed, (1) all Tax Returns required to be filed by or with respect to the Company or any of its Subsidiaries due on or prior to the Closing Date (taking into

account all applicable extensions), and (2) all combined, consolidated or unitary income Tax Returns under federal, state, local or foreign law that include Seller or any Affiliate and the Company or any of its Subsidiaries. Unless the written consent of the Buyer is obtained, all such Tax Returns shall be prepared on a basis that is consistent with the manner in which the Seller prepared or filed, or had caused to be prepared and filed, such Tax Returns for prior periods. No later than forty-five (45) days prior to the due date of such Tax Returns, the Seller shall provide the Buyer with copies of (A) in the case of consolidated, combined or unitary Tax Returns that include the Company or any of its Subsidiaries, pro forma materials for the Company and its Subsidiaries to be included in such consolidated, combined or unitary Tax Returns and (B) all other Tax Returns prepared or caused to be prepared by the Seller pursuant to this Section 5.13. and (C) such workpapers and other documents as may be reasonably necessary to determine the accuracy and completeness of such materials or Tax Returns. If the Buyer notifies the Seller Parent in writing within 14 days after receiving such materials or a Tax Return of any comments of the Buyer, the Seller Parent shall cause any such reasonable comments provided by the Buyer to be incorporated therein. If the Seller Parent disputes the reasonableness of any such comment by the Buyer, such dispute shall be resolved by an accounting firm or law firm mutually agreed upon by the Buyer and the Seller Parent. Such Tax Returns (or any amendments to such return) shall be filed in a manner consistent with resolution of such dispute; provided, however, that Seller Parent may file a combined, consolidated or unitary Tax Return in an inconsistent manner but in such event, the tax sharing payment to be made by the Company or any of its Subsidiaries shall be made in a manner and amount consistent with the resolution of the dispute. The Buyer shall be responsible for filing all Tax Returns required to be filed by or on behalf of the Company and each of its Subsidiaries due after the Closing Date other than such Tax Returns described in the first sentence of this Section 5.13. The Buyer and the Seller shall reasonably cooperate with, and shall cause the Company and each of its Subsidiaries and their respective officers, employees and representatives to reasonably cooperate with, the Seller or the Buyer, as the case may be, with respect to the preparation and filing of all Tax Returns of the Company and its Subsidiaries. Upon reasonable written request, the Seller and the Buyer shall share information with the other party, to the extent reasonably necessary to enable each party to satisfy its respective Tax filing requirements.

(b) Amended Tax Returns. Neither Buyer nor any Affiliate shall (or shall cause or permit the Company or any Subsidiary to) amend, refile or otherwise modify any Tax Return relating in whole or in part to the Company or any Subsidiary with respect to any taxable period ending on or before March 31, 2005 or with respect to any taxable period that begins before and ends after March 31, 2005 without the written consent of the Seller Parent, which consent shall not be unreasonably withheld or delayed.

(c) Tax Elections. Except as required by law, Buyer shall not, without the prior consent of Seller Parent (which may, in its sole and absolute discretion, withhold such consent), make, or cause to permit to be made, any Tax election, or adopt or change any method of accounting, or undertake any other extraordinary action on the Closing Date, that would adversely affect the Seller, whether directly or by reason of any indemnification obligation.

SECTION 5.14. Intercompany Items. On the Closing Date, the Seller Parent shall pay and cause its Subsidiaries (other than the Company or its Subsidiaries) to pay to the Company and its Subsidiaries an amount in cash equal to all liabilities that the Seller Parent or

such Subsidiaries have to the Company or its Subsidiaries as the same would be reflected as an asset on a consolidated balance sheet of the Company as of the Closing Date prepared in accordance with U.S. generally accepted accounting principles consistently applied. On the Closing Date, the Seller Parent shall cause the Company and its Subsidiaries to pay to the Seller Parent and its Subsidiaries (other than the Company and its Subsidiaries) an amount in cash equal to all liabilities that the Company and its Subsidiaries have to the Seller Parent or such Subsidiaries as the same would be reflected as a liability on a consolidated balance sheet of the Company as of the Closing Date prepared in accordance with U.S. generally accepted accounting principles consistently applied.

ARTICLE VI.

CONDITIONS

SECTION 6.1. Conditions to Each Party's Obligation to Effect the Share Purchase. The respective obligation of each party to effect the Share Purchase is subject to the fulfillment, at or prior to the Closing, of each of the following conditions:

- (a) **Shareholder Approval.** The ordinary shareholders of the Seller Parent shall have approved the Share Purchase by the requisite vote as required by the UKLA.
- (b) **HSR Act.** Any waiting period (and any extension thereof) applicable to the consummation of a merger under the HSR Act shall have expired or been terminated.
- (c) **Injunctions or Restraints.** No court of competent jurisdiction or other competent Governmental or Regulatory Authority shall have enacted, issued, promulgated, enforced or entered any law or order (whether temporary, preliminary or permanent) which is then in effect and has the effect of making illegal or otherwise restricting, preventing or prohibiting consummation of the Share Purchase or the other transactions contemplated by this Agreement.
- (d) **Governmental and Regulatory Consents and Approvals.** (i) All consents, approvals and actions of, filings with and notices to any Governmental or Regulatory Authority (including, but not limited to, consents, approvals and actions under the HSR Act and the approval by FERC pursuant to Section 203 of the Power Act, the SEC under the 1935 Act, the applicable state public utility commissions, the NRC and the FCC) required of the Buyer, the Seller Parent, the Seller, the Company or any of their Subsidiaries to consummate the Share Purchase and the other matters contemplated hereby shall have been made or obtained (as the case may be) and become Final Orders, and (ii) in the case of the applicable state public utility commissions, and subject to the last sentence of Section 5.3, such Final Orders shall not, individually or in the aggregate, contain terms or conditions that have a meaningful adverse effect on the business, properties, assets, liabilities, financial condition, revenues, net income, results of operations or prospects of the Company and its Subsidiaries unless the Buyer otherwise approves in writing the terms of each such Final Order.

A “**Final Order**” means an action by the relevant Governmental or Regulatory Authority that has not been reversed, stayed, enjoined, set aside, annulled or

suspended, with respect to which any waiting period prescribed by applicable law before the transactions contemplated hereby may be consummated has expired, and as to which all conditions to the consummation of such transactions prescribed by applicable law, regulation or order have been satisfied.

(e) Other Consents and Approvals. The consent or approval of each person (other than a Governmental or Regulatory Authority) whose consent or approval is required of the Buyer, the Seller Parent, the Seller, the Company or any of their Subsidiaries under any Contract in order to consummate the Share Purchase and the other transactions contemplated hereby shall have been obtained, except for those consents and approvals which, if not obtained, (i) would not have, or would not reasonably be expected to have, a material adverse effect on the Company and its Subsidiaries taken as a whole or a material adverse effect on the ability of Buyer, on the one hand, or Seller Parent or Seller, on the other to consummate the transactions contemplated hereby, or (ii) would have, or be reasonably expected to have, such an effect but which the Buyer elects in writing not to require to be so obtained.

SECTION 6.2. Conditions to Obligation of the Buyer to Effect the Share Purchase. The obligation of the Buyer to effect the Share Purchase is further subject to the fulfillment, at or prior to the Closing, of each of the following additional conditions (all or any of which may be waived in whole or in part by the Buyer in its sole discretion):

(a) Representations and Warranties. (i) The representations and warranties made by the Seller Parent and the Seller in this Agreement shall be true and correct (without regard to any qualifier therein as to “materiality,” “material adverse effect” or any derivative of such terms (except that the word “material” shall not be so disregarded as the same modifies (A) the word “Contracts” or the words “insurance policies,” (B) the word “information” in Section 2.5(c)(i), (C) the word “filings” in Section 2.5(f), and (D)(I) the word “permits” in Section 4.1(b), (II) the word “agreement” in Section 4.1(m), (III) the word “changes” in Section 4.1(p), and (IV) the phrase “actions, suits, arbitrations or proceedings” in Section 4.1(r), in each case as such provisions are referred to in Section 2.6(a)(ii))) in all respects, as of the Closing Date as though made on and as of the Closing Date or, in the case of representations and warranties made as of a specified date earlier than the Closing Date, on and as of such earlier date, except (x) in the case of representations and warranties (other than those contained in Sections 2.1(e), 2.2(a) and 2.2(b)) if the facts and circumstances causing the failure of such representations and warranties to be so true and correct, individually or in the aggregate, have not had, and would not reasonably be expected to have, a material adverse effect on the Company and its Subsidiaries, taken as a whole, or on the ability of the Seller Parent or Seller to perform their obligations hereunder or (y) as affected by the transactions expressly permitted by Sections 4.1(d) through (k), inclusive, and (ii) the Seller Parent and the Seller shall each have delivered to the Buyer a certificate, dated the Closing Date and executed in the name and on behalf of the Seller Parent by its Chairman of the Board, President or any Executive or Senior Vice President, and executed in the name and on behalf of the Seller by its Chairman of the Board, President or any Executive or Senior Vice President, to such effect.

(b) Performance of Obligations. The Seller Parent and the Seller shall have performed and complied with, in all material respects taken as a whole (other than the agreements, covenants and obligations of the Seller Parent and the Seller in Section 1.1, which

shall have been performed and complied with in all respects), the agreements, covenants and obligations which are required by this Agreement to be so performed or complied with by the Seller Parent or the Seller at or prior to the Closing, and the Seller Parent and the Seller shall each have delivered to the Buyer a certificate, dated the Closing Date and executed in the name and on behalf of the Seller Parent by its Chairman of the Board, President or any Executive or Senior Vice President, and executed in the name and on behalf of the Seller by its Chairman of the Board, President or any Executive or Senior Vice President, to such effect.

(c) Material Adverse Effect. There shall have not have occurred and be continuing a material adverse effect with respect to the Company and its Subsidiaries taken as a whole and there shall exist no facts or circumstances, which in the aggregate would, or insofar as reasonably can be foreseen, could, when taken together with any breaches or violations of any representations, warranties, covenants and agreements of the Seller Parent or Seller contained herein, have a material adverse effect on the Company and its Subsidiaries taken as a whole. Notwithstanding the provisions of 6.1(d), adverse effects arising from Final Orders (other than those described in Section 6.1(d)(ii)) shall be taken into account in the application of this Section 6.2(c). For purposes of this Section 6.2(c), any adverse effects on the Company and its Subsidiaries resulting from general weather, economic or financial conditions (unless (x) disproportionately affecting the Company or its Subsidiaries as compared to other investor owned utility companies located, in whole or in part, in any of the states of Washington, Oregon, California, Utah, Idaho, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Iowa or Minnesota, or (y) arising, directly or indirectly, from any nuclear, radiological, biological or chemical terrorist attack(s) occurring in the United States (a "**Terrorist Attack**") after which Terrorist Attack there is a decrease of 10% or more in the Standard & Poor's Electric Utility Index between the average price of such index at the close of trading for the three trading days immediately preceding the date of the first of such Terrorist Attack(s) and the closing price for such index on at least 45 consecutive trading days in the 60 trading day period immediately following such Terrorist Attack(s)) shall not be taken into account in determining whether a material adverse effect has occurred under this Section 6.2(c). Anything in this Agreement to the contrary notwithstanding, if a Terrorist Attack occurs in the United States at any time prior to the Closing or the termination of this Agreement pursuant to Section 7.1(b)(i), the Closing Date and the date on which this Agreement may be terminated pursuant to Section 7.1(b)(i) shall be the later of (x) the date on which the Closing or the termination of this Agreement pursuant to Section 7.1(b)(i), would otherwise have occurred or (y) the 80th day after the occurrence of the Terrorist Attack; provided, that nothing in this sentence shall require that the Closing occur if the conditions to Closing have not been fulfilled on the date to which the Closing is deferred as provided in this sentence.

(d) Proceedings. All proceedings to be taken on the part of the Seller Parent, the Seller or the Company in connection with the transactions contemplated by this Agreement and all documents incident thereto shall be reasonably satisfactory in form and substance to the Buyer, and the Buyer shall have received copies of all such documents and other evidences as the Buyer may reasonably request in order to establish the consummation of such transactions and the taking of all proceedings in connection therewith.

(e) Resignations. The directors of the Company and its Subsidiaries designated by the Buyer in writing at least three days before the Closing shall have delivered

letters of resignation from their respective positions to the Buyer in a form reasonably acceptable to the Buyer.

SECTION 6.3. Conditions to Obligation of the Seller Parent and the Seller to Effect the Share Purchase. The obligation of the Seller Parent and the Seller to effect the Share Purchase is further subject to the fulfillment, at or prior to the Closing, of each of the following additional conditions (all or any of which may be waived in whole or in part by the Seller Parent in its sole discretion):

(a) **Representations and Warranties.** (i) The representations and warranties made by the Buyer in this Agreement shall be true and correct (without regard to any qualifier therein as to “materiality” or “material adverse effect”) in all respects, as of the Closing Date as though made on and as of the Closing Date or, in the case of representations and warranties made as of a specified date earlier than the Closing Date, on and as of such earlier date, except (x) in the case of representations and warranties if the facts and circumstances causing the failure of such representations and warranties to be so true and correct, individually or in the aggregate, have not, and would not reasonably be expected to have, a material adverse effect on the ability of the Buyer to perform its obligations hereunder or (y) as affected by the transactions required by this Agreement or the transactions expressly permitted by Section 4.2 and (ii) the Buyer shall have delivered to the Seller Parent a certificate, dated the Closing Date and executed in the name and on behalf of the Buyer by its Chairman of the Board, President or any Executive or Senior Vice President, to such effect.

(b) **Performance of Obligations.** The Buyer shall have performed and complied with, in all material respects taken as a whole (other than the agreement, covenants, and obligations of the Buyer in Section 1.1, which shall have been performed and complied with in all respects), the agreements, covenants and obligations required by this Agreement to be so performed or complied with by the Buyer at or prior to the Closing, and the Buyer shall have delivered to the Seller Parent a certificate, dated the Closing Date and executed in the name and on behalf of the Buyer by its Chairman of the Board, President or any Executive or Senior Vice President to such effect.

(c) **Proceedings.** All proceedings to be taken on the part of the Buyer in connection with the transactions contemplated by this Agreement and all documents incident thereto shall be reasonably satisfactory in form and substance to the Seller Parent, and the Seller Parent shall have received copies of all such documents and other evidences as the Seller Parent may reasonably request in order to establish the consummation of such transactions and the taking of all proceedings in connection therewith.

ARTICLE VII.

TERMINATION, AMENDMENT AND WAIVER

SECTION 7.1. Termination. This Agreement may be terminated, and the transactions contemplated hereby may be abandoned, at any time prior to the Closing, whether prior to or after the Seller Parent Shareholders' Approval:

(a) By mutual written agreement of the Buyer and the Seller Parent hereto duly authorized by action taken by or on behalf of their respective Boards of Directors;

(b) By either the Seller Parent or the Buyer (except that only the Buyer shall have the right to terminate this Agreement pursuant to clause (b)(ii)(y) below) upon notification to the Buyer or the Seller Parent, as the case may be, by the terminating party:

(i) Subject to the last sentence of Section 6.2(c), at any time after the date which is twelve (12) months following the date of this Agreement if the Share Purchase shall not have been consummated on or prior to such date and such failure to consummate the same is not caused by a breach of the representations, warranties or covenants of the Seller Parent or the Seller contained in this Agreement, in the case the terminating party is the Seller Parent, or a breach of the representations, warranties or covenants of the Buyer contained in this Agreement, in case the terminating party is the Buyer; provided, however, that if on such date all of the approvals required in order to satisfy the conditions set forth in Section 6.1(d) have not been obtained, but all other conditions to effect the Share Purchase shall be fulfilled or shall be capable of being fulfilled, then, at the option of either the Seller Parent or the Buyer (which shall be exercised by written notice), the term of this Agreement shall be extended, subject to the last sentence of Section 6.2(c), until the expiration of such date which is 635 days after the date of this Agreement;

(ii) if the Seller Parent Shareholders' Approval shall not be obtained (x) by reason of the failure to obtain the requisite vote upon a vote actually held at a meeting of such shareholders, or any adjournment thereof, called therefor; or (y) in any event, on or before September 1, 2005;

(iii) if there has been a material breach of any representation, warranty, covenant or agreement on the part of the non-terminating party set forth in this Agreement (determined in all cases as if the qualifiers as to "material," "material adverse effect" or any derivative of such terms were not included in any such representation or warranty (except that the word "material" shall not be so disregarded as the same modifies (A) the word "Contracts" or the words "insurance policies," (B) the word "information" in Section 2.5(c)(i), (C) the word "filings" in Section 2.5(f), and (D)(I) the word "permits" in Section 4.1(b), (II) the word, "agreement" in Section 4.1(m), (III) the word "changes" in Section 4.1(p), and (IV) the phrase, "actions, suits, arbitrations or proceedings" in Section 4.1(r), in each case as such provisions are referred to in Section 2.6(a)(ii)), which breach is not waived by the non-terminating party or curable or, if curable, has not been cured within thirty (30) days following receipt by the non-terminating party of notice of such breach from the terminating party which breach, when taken together with any other breaches of representations, warranties, covenants and agreements of the

non-terminating party contained in this Agreement, has or would reasonably be expected to have a material adverse effect on the Company and its Subsidiaries taken as a whole or on the ability of the Seller Parent or the Buyer, as the case may be, to consummate the transactions contemplated hereby; or

(iv) if any court of competent jurisdiction or other competent Governmental or Regulatory Authority shall have issued an order making illegal or otherwise preventing or prohibiting the Share Purchase and such order shall have become final and nonappealable; or

(c) By the Buyer if the Board of Directors of the Seller Parent or the Seller (or any committee thereof) (i) shall have withdrawn or modified in a manner materially adverse to Parent its approval or recommendation of this Agreement or the Share Purchase, (ii) shall fail to reaffirm such approval or recommendation upon the Buyer's request, (iii) shall have approved, recommended or taken no position with respect to an Alternative Proposal or (iv) shall resolve to take any of the foregoing actions; or

(d) By the Seller Parent, if, after the date hereof, the Buyer or any of its affiliates directly or indirectly agrees to, or otherwise publicly announces any proposal to, acquire (i) in excess of 5% of the voting securities of a public utility company which would require approval under the 1935 Act (or if the 1935 Act is no longer in effect, which would have required such approval under such act had such act been in effect), (ii) securities (either in the form of common equity or common equity equivalents) that represent more than 10% of the outstanding common stock (on a fully diluted basis) of a public utility company located in the U.S. or (iii) an Energy Property or any equity interest therein in excess of 50% located in Washington, Oregon, Northern California, Idaho, Wyoming or Utah (any such transaction described in the foregoing clauses (i), (ii) or (iii) being a "**Competing Transaction**") and such Competing Transaction directly or indirectly results in the failure of the parties to satisfy any of the required regulatory conditions precedent to the obligation to complete the transactions contemplated by this Agreement (whether such approvals be state or federal) and/or otherwise directly or indirectly creates or imposes additional conditionality or costs which gives rise to an entitlement on the part of the Buyer such that the Buyer chooses to not complete or to terminate the Agreement. "**Energy Property**" shall mean any utility company, gas transmission or pipeline company or electric generating company or facility, but shall in no event include interests in or development of oil, gas, natural resources and mineral rights. A Competing Transaction shall not include construction to expand or improve existing pipelines or other facilities.

SECTION 7.2. Effect of Termination.

(a) If this Agreement is validly terminated by either the Seller Parent or the Buyer pursuant to Section 7.1, this Agreement will forthwith become null and void and there will be no liability or obligation on the part of either the Seller Parent or the Buyer (or any of their respective Representatives or affiliates), except (i) that the provisions of Sections 5.7 and 5.8, this Section 7.2, and Sections 9.8 and 9.9 will continue to apply following any such termination, (ii) that nothing contained herein shall relieve any party hereto from liability for willful breach of

its representations, warranties, covenants or agreements contained in this Agreement and (iii) as provided in paragraphs (b) and (c) below.

(b) In the event that

(i) the Seller Parent terminates this Agreement pursuant to Section 7.1(d), then the Buyer shall pay to the Seller Parent, by wire transfer of same day funds, within two (2) business days after termination of this Agreement, a termination fee of \$250,000,000; or

(ii) (x) prior to the Seller Parent Shareholders' Approval (A) any person or group shall have announced or made to the Board of Directors of the Seller Parent an Alternative Proposal or (B) announced or made to the Board of Directors of the Seller Parent a bona fide proposal relating to a proposed transaction that, if consummated, would constitute a Change of Control (as defined below), (y) prior to the Seller Parent Shareholders' Approval, the Board of Directors of the Seller Parent shall have reasonably promptly rejected such proposal and reaffirmed its approval and recommendation of the Share Purchase, and (z) in each case thereafter, this Agreement is terminated by the Seller Parent or the Buyer pursuant to Section 7.1(b)(ii), then the Seller Parent shall pay to the Buyer, by wire transfer of same day funds, within two (2) business days after termination of this Agreement, a termination fee of \$10 million; or

(iii) (x) prior to the Seller Parent Shareholders' Approval, any event in the immediately preceding clause (ii) occurs, (y) prior to the Seller Parent Shareholders' Approval, the Board of Directors of the Seller Parent (or any committee thereof) shall have taken any of the actions described in Section 7.1(c), and (z) in each case thereafter this Agreement is terminated by the Buyer or the Seller Parent pursuant to Section 7.1(b)(ii), then the Seller Parent shall pay to the Buyer, by wire transfer of same day funds, within two (2) business days after termination of this Agreement, a termination fee of \$100 million.

If a termination fee has been paid or is payable pursuant to Section 7.2(b)(ii) or (iii) and (I) prior to the first anniversary of the termination of this Agreement, the Seller Parent, the Seller or any of their respective affiliates enters into a definitive agreement in respect of, or consummates, an Alternative Proposal (which agreement or consummation need not be with the person making a previous Alternative Proposal), or (II) prior to the first anniversary of the termination of this Agreement, any person announces (which announcement or consummation need not be made by a person making a previous proposal to effect a Change of Control) a firm intention to make an offer (for purposes of the United Kingdom's City Code on Takeovers and Mergers), whether by way of offer or scheme of arrangement, which transaction, when consummated, will result in a Change of Control or such a Change of Control is consummated, the Seller Parent shall pay to the Buyer, by wire transfer of same day funds, within two (2) business days after the entering into such agreement, such consummation or any such announcement, as the case may be, an additional termination fee of \$240 million, in case a termination fee was paid or is payable pursuant to Section 7.2(b)(ii) or \$150 million in case such fee was paid or is payable pursuant to Section 7.2(b)(iii). If an Alternative Proposal or Change of Control is consummated prior to the Seller Parent Shareholder Approval and this Agreement is terminated, the Seller Parent shall pay to the Buyer, by wire transfer of same day funds, within two (2) business days after termination

of this Agreement, a termination fee of \$250 million. The Seller Parent shall in no event be obliged to pay to the Buyer more than \$250 million in the aggregate in termination fees.

A “**Change of Control**” shall mean the occurrence of any of the following: (A) any “Person”, as such term is used in Sections 13(d) and 14(d) of the Exchange Act, is or becomes the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Seller Parent representing 30 percent or more of the combined voting power of the Seller Parent’s issued share capital; (B) the shareholders of the Seller Parent resolve to approve a proposed Change of Control of the Seller Parent; or (C) a tender or exchange offer is made for the ordinary shares of the Seller Parent (or securities convertible into ordinary shares of the Seller Parent) and such offer results in a portion of those securities being purchased and the offeror after the consummation of the offer is the beneficial owner (as determined pursuant to Section 13(d) of the Exchange Act), directly or indirectly, of securities representing at least 30 percent of the voting power of outstanding securities of the Seller Parent; provided, that a Change of Control shall not include a transaction initiated and promoted by the Seller Parent and not involving any unrelated third parties by way of reorganization or reconstruction under which a new holding company of the Seller Parent (“**Newholdco**”) acquires the entire issued share capital of the Seller Parent (and on implementation of such transaction, references to a Change of Control of the Seller Parent shall apply to Newholdco as they apply to the Seller Parent) provided, that:

- (A) the proposed transaction is first announced and implemented after termination of this Agreement;
- (B) immediately after consummation of the transaction, Newholdco is a publicly listed company and the shareholders of Newholdco immediately after consummation of such transaction are the same (save as to a de minimis extent) as those of the Seller Parent immediately prior to the acquisition of the entire issued share capital of the Seller Parent;
- (C) there is no agreement, arrangement or understanding to which the Seller Parent or Newholdco is a party (whether or not legally binding) in existence immediately prior to the time the transaction is implemented whereby there is to be a Change of Control of Newholdco; and
- (D) Newholdco undertakes to the Buyer to be bound by and assumes all of the outstanding obligations of the Seller Parent under this Agreement and will be substituted in this Agreement for all purposes as though it were the Seller Parent.

(c) In the event that this Agreement is terminated by either the Buyer or the Seller Parent pursuant to Section 7.1(b)(ii) in circumstances in which the termination fee set forth in clause (b) above is not then payable, the Seller Parent shall pay to the Buyer an amount equal to \$10,000,000.

(d) If the Buyer or the Seller Parent, as the case may be, fails promptly to pay the amount due pursuant to the preceding paragraphs, and in order to obtain such payment, the Seller Parent or the Buyer, as the case may be, commences a suit which results in a judgment against the Buyer or the Seller Parent, as the case may be, for the fee set forth in such paragraph, the Buyer or Seller Parent, as the case may be, shall pay to the Seller Parent or the Buyer, as the case may be, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) in connection with such suit, together with interest on the amount of the fee at an annual rate equal to the prime rate of JPMorgan Chase Bank in effect on the date such payment was required to be made.

SECTION 7.3. Amendment. This Agreement may be amended, supplemented or modified by action taken by or on behalf of the respective Boards of Directors of the Seller Parent and the Buyer, whether prior to or after the Seller Parent Shareholders' Approval shall have been obtained, but after such adoption and approval only to the extent permitted by applicable law. No such amendment, supplement or modification shall be effective unless set forth in a written instrument duly executed by or on behalf of the Seller Parent and the Buyer.

SECTION 7.4. Waiver. The Seller Parent (on behalf of itself and the Seller) and the Buyer may to the extent permitted by applicable law (i) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (ii) waive any inaccuracies in the representations and warranties of the other parties hereto contained herein or in any document delivered pursuant hereto or (iii) waive compliance with any of the covenants, agreements or conditions of the other parties hereto contained herein. No such extension or waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Seller Parent or the Buyer, as the case may be, extending the time of performance or waiving any such inaccuracy or non-compliance. No waiver by any party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion.

ARTICLE VIII.

INDEMNIFICATION

SECTION 8.1. Survival. Subject to Section 8.2(c)(iii), the respective representations, warranties, covenants and conditions (with the exception of the representations, warranties, covenants and conditions described in the provisos to this Section 8.1) of the parties hereto contained herein or in any certificates or other documents delivered pursuant to this Agreement (with the exception of such portion of such certificate or other document pertaining to the representations, warranties, covenants and conditions described in the provisos to this Section 8.1) at the Closing shall survive the Closing until the date that is 365 days after the Closing Date; provided, however, that the representations, warranties, covenants and conditions in:

(a) Article I (Sale and Purchase), subsections (a) (as to Organizational Documents of the Company) and (e) of Section 2.1 (Organization and Qualification), subsections (a) and (b) of Section 2.2 (Capital Stock), subsection (a)(ii) (as it applies to Section 4.1(d), Section 4.1(h) (as to Guarantees), Section 4.1(i)(x) (as to executive officers and directors of the

Company or its Subsidiaries described therein) and Section 4.1(i)(y)) of Section 2.6 (Absence of Certain Changes or Events), Section 2.19 (Vote Required), Section 2.20 (Affiliate Transactions) (as to periods commencing after March 31, 2005), Section 3.1 (Organization), subsections (a)(i), (ii) and (iii), (c) (as to Organizational Documents of the Company), (d), (e), (h) (as to Guarantees), (i)(x) (as to matters involving the officers or directors described therein), (i)(y), (j) and (q) of Section 4.1 (Covenants of the Seller Parent and Seller), Section 4.5 (Contracts), Section 4.7 (Third Party Standstill Agreements), Section 5.4 (Employee Benefit Plans), Section 5.5 (Directors' and Officers' Indemnification Insurance), Section 5.7 (Expenses), Section 5.8 (Brokers or Finders), Section 5.12 (Post Closing Payments), Section 5.14 (Intercompany Items), Section 7.2 (Effect of Termination), Section 7.3 (Amendment), Section 7.4 (Waiver), Article VIII (Indemnification) (including the releases described in Section 8.6) and Article IX shall survive indefinitely and terminate (if at all) only as therein expressly provided;

(b) Section 2.12 (Taxes), subsection (a)(iv) of Section 4.1 (Covenants of the Seller Parent and Seller), Section 4.3 (Tax Matters), Section 5.9 (Conveyance Taxes) and Section 5.13 (Tax Returns) shall survive for a period equal to the applicable statute of limitation in respect of the Tax involved;

(c) Section 2.13 (Employee Benefits) and Section 2.15 (Environmental Matters) shall survive until the third anniversary of the Closing Date; and

(d) Section 4.6 (No Solicitations), Section 4.8 (Joint Executive Committee), Section 4.9 (Control of Other Party's Business) and Section 5.11 (Seller Parent Cure) shall not survive the Closing; and

provided, further, that a covenant or agreement that has been willfully breached by the Buyer, on the one hand, or the Seller Parent or the Seller, on the other, shall, as to such breach, survive indefinitely.

SECTION 8.2. Indemnification Coverage.

(a) Notwithstanding the Closing or the delivery of the Shares and regardless of any investigation at any time made by or on behalf of the Buyer or of any knowledge or information that the Buyer may have, the Seller Parent shall indemnify and agree to defend, save and hold the Buyer, the Company and each of their officers, directors, employees, agents and affiliates (other than the Seller Parent and the Seller) (collectively, the "**Buyer Indemnified Parties**") harmless if any such Buyer Indemnified Party shall at any time or from time to time suffer any damage, judgment, fine, penalty, demand, settlement, liability, loss, cost, Tax, expense (including, without limitation, reasonable attorneys', consultants' and experts' fees), claim or cause of action (each, a "**Loss**") arising out of, relating to or resulting from:

(i) any breach or inaccuracy (determined without regard to any qualifier as to "materiality," "material adverse effect" or any derivative of such terms (except that the word "material" shall not be so disregarded as the same modifies (A) the word "Contracts" or the words "insurance policies," (B) the word "information" in Section 2.5(c)(i), (C) the word "filings" in Section 2.5(f), and (D)(I) the word "permits" in Section 4.1(b), (II) the word "agreement" in Section 4.1(m), (III) the word "changes" in Section 4.1(p), and (IV) the

phrase “actions, suits, arbitrations or proceedings” in Section 4.1(r), in each case as such provisions are referred to in Section 2.6(a)(ii) in any representation by the Seller Parent or the Seller contained in this Agreement or any certificates or other documents delivered by any of them pursuant to this Agreement at the Closing;

(ii) any failure by the Seller Parent or the Seller to perform or observe any term, provision, covenant, or agreement on the part of any of them to be performed or observed under this Agreement;

(iii) any liability in respect of any business (whether as a transfer of assets or capital stock) transferred (whether by way of sale, merger, reorganization or consolidation, distribution or otherwise) or discontinued by the Company or any of its present or former Subsidiaries after December 6, 1998 to any Person, but only to the extent such liability is not reflected in the Company’s consolidated balance sheet in the FY 2005 Statements;

(iv) any liability resulting by reason of the several liability of the Company or any of its Subsidiaries pursuant to Treasury Regulations § 1.1502-6 or any analogous state, local or foreign law or regulation or by reason of the Company or any of its Subsidiaries having been a member of any consolidated, combined or unitary group on or prior to the Closing Date, but only to the extent such liability is not reflected in the Company’s consolidated balance sheet in the FY 2005 Statements;

(v) any liability for Taxes resulting by reason of the Company or any of its Subsidiaries ceasing to be a member of any consolidated, combined or unitary group that includes the Seller, but only to the extent such liability is not reflected in the Company’s consolidated balance sheet in the FY 2005 Statements; and

(vi) any liability relating to (x) the Company Employee Retention / Incentive Program (Apollo Transaction), or (y) any amendment, change, increase, addition or grant relating to any Employee Benefit Plan that is listed on Section 4.1(i) of the Seller Parent Disclosure Letter and effected after March 31, 2005 that is not previously approved in writing by the Buyer or required by any applicable collective bargaining agreement.

(b) Notwithstanding the Closing or the delivery of the Shares and regardless of any investigation at any time made by or on behalf of the Seller Parent or the Seller of any knowledge or information that the Seller Parent or the Seller may have, the Buyer shall indemnify and agree to defend, save and hold the Seller Parent and the Seller and their officers, directors, employees, agents and affiliates (other than the Buyer) (collectively, the “**Seller Indemnified Parties**”) harmless if any such Seller Indemnified Party shall at any time or from time to time suffer any Loss arising out of, relating to, or resulting from:

(i) any breach or inaccuracy (determined without regard to any qualifier as to “materiality” or “material adverse effect” included therein) in any representation or warranty by the Buyer contained in this Agreement or any certificates or other documents delivered by the Buyer pursuant to this Agreement at the Closing; and

(ii) any failure by the Buyer to perform or observe any term, provision, covenant, or agreement on the part of the Buyer to be performed or observed under this Agreement.

(c) The foregoing indemnification obligations shall be subject to the following limitations:

(i) the Seller Parent's aggregate liability under Section 8.2(a)(i) and the Buyer's aggregate liability under Section 8.2(b)(i) shall not, in either case, exceed 50% of the Purchase Price (the "**Cap**"); provided, however, that the Cap shall not be applicable to breaches of the representations and warranties described in clause (a) of the first proviso to Section 8.1 or of the representations and warranties in the first two sentences of Section 2.12(c);

(ii) no indemnification for any Losses shall be asserted against:

(x) the Seller Parent under Section 8.2(a)(i) or against the Buyer under Section 8.2(b)(i) unless and until the cumulative aggregate amount of such Losses (other than those arising from breaches described in the penultimate sentence of this Section 8.2(c)(ii)) exceeds \$50 million (the "**Threshold**"), at which point the Seller Parent or the Buyer, as the case may be, shall be obligated to indemnify the Buyer Indemnified Parties or Seller Indemnified Parties, as the case may be, only as to the amount of such Losses in excess of \$25 million (the "**Deductible**"), subject to the limitation in Section 8.2(c)(i);

(y) the Seller Parent under Section 8.2(a) (other than in respect of a breach of Section 4.1(a)(viii) or of the Seller Parent's or the Seller's representations, warranties, covenants and conditions described in clause (a) of the first proviso to Section 8.1 (other than Section 2.6(a)(ii) (as to Section 4.1(h) and (i)), Section 4.1(h) and (i) and Section 4.5) or in the second proviso to Section 8.1) or the Buyer under Section 8.2(b) (other than in respect of the Buyer's representations, warranties, covenants and conditions described in clause (a) of the first proviso to Section 8.1 or in the second proviso to Section 8.1), if the amount of such Loss, together with all related claims, is less than \$10,000 and in such case, such Loss shall be completely disregarded for the purposes of contributing toward the Threshold; or

(z) the Seller Parent under Section 8.2(a)(ii) or the Buyer under Section 8.2(b)(ii) unless and until the cumulative aggregate amount of Loss in respect of claims arising under Section 8.2(a)(ii) or 8.2(b)(ii), as the case may be, and not arising from breaches described in the last sentence of this Section 8.2(c)(ii), exceeds \$7.5 million (the "**Covenant Deductible**");

provided, that for purposes of the immediately preceding clauses (y) and (z), a covenant shall be deemed breached without regard to any qualifier therein as to "materiality," "material adverse effect" or any derivative of such terms. The Threshold and the Deductible shall not be applicable to breaches of the representations and warranties described in clause (a) of the first proviso to Section 8.1 and the first two sentences of Section 2.12(c). The Covenant Deductible shall not be applicable to breaches of Section 4.1(a)(viii), Section 5.3 or the covenants described

in clause (a) of the first proviso to Section 8.1 (other than Section 4.1(h) and Section 4.5) or in the second proviso to Section 8.1;

(iii) no claim may be asserted nor may any action be commenced (A) against the Seller Parent pursuant to Section 8.2(a), unless written notice of such claim or action is received by the Seller Parent describing in reasonable detail the facts and circumstances with respect to the subject matter of such claim or action and the basis upon which indemnity is claimed on or prior to the date on which the representation, warranty, covenant or condition on which such claim or action is based ceases to survive as set forth in Section 8.1 (it being agreed and understood that if a claim for a breach of a representation, warranty, covenant or condition is timely made, the representation, warranty, covenant or condition shall survive until the date on which such claim is finally liquidated or otherwise resolved), or (B) against the Buyer pursuant to Section 8.2(b), unless written notice of such claim or action is received by the Buyer describing in reasonable detail the facts and circumstances with respect to the subject matter of such claim or action and the basis upon which indemnity is claimed on or prior to the date on which the representation, warranty, covenant or condition on which such claim or action is based ceases to survive as set forth in Section 8.1 (it being agreed and understood that if a claim for a breach of a representation, warranty, covenant or condition is timely made, the representation or warranty shall survive until the date on which such claim is finally liquidated or otherwise resolved);

(iv) an Indemnified Party shall not be entitled under this Agreement to multiple recovery for the same Losses;

(v) a Buyer Indemnified Party shall not be entitled under this Agreement to recover any Loss arising from the breach or inaccuracy of the Seller Parent's or the Seller's representations and warranties if such breach or inaccuracy resulted from (x) the effects of the transactions expressly permitted by Sections 4.1(d) through (k), inclusive, or (y) obtaining any consent or approval in respect of the Company, its Subsidiaries or the Joint Ventures of any Governmental or Regulatory Authority and, in respect of which consent or approval, the actions taken by the Company, its Subsidiaries and the Joint Ventures were approved by the Buyer or the Joint Executive Committee as provided in Section 4.8 or 5.3, as the case may be;

(vi) each of the Buyer and Seller Parent, as the case may be, shall use reasonable commercial efforts to mitigate Loss otherwise subject to indemnification hereunder. The Buyer shall, and shall cause the Company to, reasonably cooperate with the Seller Parent in recovering from the Company's insurers (other than the Buyer and its Subsidiaries and the Company and its Subsidiaries) or other third parties (including with respect to enforcement of the Company's indemnification rights), in each case to the extent the same are liable therefor, any Loss paid by the Seller Parent pursuant to this Article VIII; provided, that the Seller Parent promptly reimburses the Buyer or the Company, as the case may be, for any third party cost or expense incurred by any of them or the Company's Subsidiaries in connection with such cooperation. The Buyer shall, and shall cause the Company to, refrain from searching for environmental hazards on the property of the Company, its Subsidiaries or the Joint Ventures except, (x) as required by law, (y) in connection with any financing, sale or lease in respect of any such property, or (z) at any time after the Buyer, the Company or any of the Company's

Subsidiaries, or any Joint Venture becomes aware of the reasonable possibility of any such hazard existing, in each case, in the exercise of their prudent business judgment;

(vii) Seller will be entitled to any credits and refunds (including interest received thereon) in respect of any taxable period ending on or prior to March 31, 2005, except to the extent any such credit or refund is specifically reflected in the Company's consolidated balance sheet in the FY 2005 Statements;

(viii) it is the intention of the parties to treat any indemnity payment made under this Agreement as an adjustment to the Purchase Price for all federal, state, local and foreign Tax purposes, and the parties agree to file their Tax Returns accordingly;

(ix) the amount of any Loss shall be reduced by the Tax benefit actually realized by a Buyer Indemnified Party where a Buyer Indemnified Party is the Indemnified Party or a Seller Indemnified Party where a Seller Indemnified Party is the Indemnified Party. If there is no reduction in the amount of any indemnified Loss at the time an indemnification payment is made because no Tax benefit is actually realized in the Tax year for which the payment was made, the Indemnified Party will pay the Indemnifying Party an amount equal to any Tax benefit realized in each subsequent Tax year at the time the Tax Return for each subsequent Tax year is due (without regard to extensions). In computing the amount of any Tax benefit, a person shall be deemed to realize the benefit arising from the incurrence or payment of any amount for which indemnification is requested pursuant to this Section 8.2 after the use of all other items of loss, deduction and credit of such Indemnified Party, including net operating loss carryforwards. The Indemnified Party will determine in good faith the time and amount of any Tax benefit actually realized in any given year and will provide a summary explanation of such determination to the Indemnifying Party. If the Indemnifying Party disputes the computation of such benefit by the Indemnified Party, such dispute shall be resolved by an accounting firm or law firm mutually agreed upon by the Indemnified Party and the Indemnifying Party;

(x) a Buyer Indemnified Party shall not be entitled to recover under Section 8.2(a)(i) any incremental environmental remediation or corrective action costs associated with a material change in the use of the subject parcels from the use of the subject parcels as of the Closing Date; and

(xi) the indemnification obligations of the Seller Parent hereunder shall include any Losses (otherwise subject to the Seller Parent's indemnification obligations hereunder) which are paid or became payable or are otherwise incurred by the Company or its Subsidiaries at any time after March 31, 2005.

SECTION 8.3. Procedures. The person providing (as required to provide) indemnification in respect of a claim pursuant to this Article VIII as herein called, in respect of such claim, the "**Indemnifying Party**". Each Buyer Indemnified Party and each Seller Indemnified Party is, in respect of a claim for which indemnification is sought, is herein called, in respect of such claim, an "**Indemnified Party**". Any Indemnified Party shall notify the Indemnifying Party (with reasonable specificity) promptly after it becomes aware of facts supporting a claim or action for indemnification under this Article VIII, and shall provide to the

Indemnifying Party as soon as practicable thereafter all information and documentation reasonably necessary to support and verify any Losses associated with such claim or action. Subject to Section 8.2(c)(iii), the failure to so notify or provide information to the Indemnifying Party shall not relieve the Indemnifying Party of any liability that it may have to any Indemnified Party, except to the extent that the Indemnifying Party demonstrates that it has been materially prejudiced by the Indemnified Party's failure to give such notice, in which case the Indemnifying Party shall be relieved from its obligations hereunder to the extent of such material prejudice. The Indemnifying Party shall defend, contest or otherwise protect the Indemnified Party against any such claim or action by counsel of the Indemnifying Party's choice at its sole cost and expense; provided, however, that the Indemnifying Party shall not make any settlement or compromise without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed) unless the sole relief provided is monetary damages for which the Indemnifying Party has unconditionally acknowledged liability pursuant to the terms of this Article VIII. The Indemnified Party shall have the right, but not the obligation, to participate at its own expense in the defense thereof by counsel of the Indemnified Party's choice and shall in any event use its reasonable best efforts to cooperate with and assist the Indemnifying Party. If (a) the Indemnifying Party fails timely to defend, contest or otherwise protect against such suit, action, investigation, claim or proceeding with counsel reasonably acceptable to the Indemnified Party, (b) the Indemnifying Party fails to state in a written notice given to the Indemnified Party not later than 20 days after the Indemnified Party received notice of a claim pursuant to Section 8.2(c)(iii) that the claim is properly the subject of indemnification pursuant to this Agreement (subject only to the Cap, Threshold or Deductible, if applicable), (c) in the reasonable judgment of the Indemnified Party there are conflicts of interest (other than as a result of this Article VIII) between the interests of the Indemnified Party and the Indemnifying Party in respect of such claim, or (d) the claim is not solely for monetary relief or the claim involves a criminal matter, the Indemnified Party shall have the right to control the defense of such claim with counsel of its own choosing, including, without limitation, the right to make any compromise or settlement thereof, and the Indemnified Party shall be entitled to recover the entire cost thereof from the Indemnifying Party, including, without limitation, reasonable attorneys' fees, disbursements and amounts paid as the result of such suit, action, investigation, claim or proceeding.

SECTION 8.4. Remedy. Absent fraud, and except for seeking equitable relief, from and after the Closing the sole remedy of a party in connection with (i) a breach or inaccuracy of the representations or warranties in this Agreement or any certificates or other documents delivered pursuant to this Agreement at Closing, or (ii) any failure by a party to perform or observe any term, provision, covenant, or agreement on the part of such party to be performed or observed under this Agreement, shall, in each case, be as set forth in this Article VIII.

SECTION 8.5. Limitation on Claims. The Seller Parent and Seller shall not be liable pursuant to Section 8.2(a)(i) for any Loss in respect of any matter hereunder to the extent that:

(a) such Loss arises or, such Loss otherwise having arisen, is increased as a result of any change made after Closing in any accounting or taxation policies or accounting or taxation practice of the Company and its Subsidiaries or any other member of the Company's

consolidated tax group, save to the extent that any such change is required to bring the accounting or taxation policies or accounting or taxation practice of that company into line with U.S. generally accepted accounting or taxation policies or accounting or taxation practice or any Tax law (as the case may be) as at the Closing Date; or

(b) such Loss is recovered through a rate increase expressly attributable to such Loss that is approved by the applicable state Governmental or Regulatory Authority (and, to the extent the Seller Parent has made any payment pursuant to this Article VIII in respect of such Loss before such recovery, the Buyer shall, or shall cause the Buyer Indemnified Party receiving such recovery, to pay the same over to the Seller Parent).

SECTION 8.6. Release of Directors. The Buyer shall cause the Company to release each director of the Company who resigns at the Closing from any and all liability the same may have to the Company as a director thereof arising on or before the Closing other than liabilities arising from his negligence, recklessness, criminal conduct or self-dealing; provided, that (a) nothing in said release shall increase the obligations of the Buyer or of the Company under Section 5.5 or the liability of any insurer to such director in respect of any insurance policy described in Section 5.5(b) and (ii) such director releases the Company and its affiliates from any and all liabilities arising on or before the Closing for compensation of any nature (including directors' fees) or any reimbursement of expenses.

ARTICLE IX.

GENERAL PROVISIONS

SECTION 9.1. Notices. All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally or by facsimile transmission or mailed (first class postage prepaid) to the parties at the following addresses or facsimile numbers:

If to the Seller or the Seller Parent, to:

Scottish Power plc
1 Atlantic Quay
Glasgow G2 8SP
Facsimile No.: 011-44-141-248-8300
Attn: Company Secretary

with a copy to:

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, N.Y. 10005
Facsimile No.: (212) 530-5219
Attn: M. Douglas Dunn and John T. O'Connor

and to:

Freshfields
65 Fleet Street
London EC4Y 1HS
Facsimile No.: 011-44-171-832-7001
Attn: Simon Marchant

If to the Company, to:

PacifiCorp
825 N.E. Multnomah
Portland, Oregon 97232-4116
Facsimile No.: (503) 813-7250
Attn: General Counsel

with a copy to:

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, N.Y. 10005
Facsimile No.: (212) 530-5219
Attn: M. Douglas Dunn and John T. O'Connor

If to Buyer, to:

MidAmerican Energy Holdings Company
302 South 36th Street
Suite 400
Omaha, NE 68131-3845
Telephone: (402) 231-1642
Facsimile: (402) 231-1658
Attn: Douglas L. Anderson

with a copy to:

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099
Telephone: (212) 728-8000
Facsimile: (212) 728-3460
Attn: Peter J. Hanlon

and to:

LeBoeuf, Lamb, Greene & MacRae LLP
125 West 55th Street
New York, NY 10019
Telephone: (212) 424-8000
Facsimile: (212) 424-8500
Attn: William S. Lamb

and to:

Herbert Smith LLP
Exchange House
Primrose Street
London
EC2A 2HS
England
Telephone: +44 (0)20 7374 8000
Facsimile No. +44 (0)20 7374 0888
Attn: Henry Davey

All such notices, requests and other communications will (i) if delivered personally to the address as provided in this Section, be deemed given upon delivery, (ii) if delivered by facsimile transmission to the facsimile number as provided in this Section, be deemed given upon receipt, and (iii) if delivered by mail in the manner described above to the address as provided in this Section, be deemed given upon receipt (in each case regardless of whether such notice, request or other communication is received by any other person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section). Any party from time to time may change its address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other parties hereto.

SECTION 9.2. Entire Agreement; Incorporation of Exhibits. (a) Subject to paragraph (b) below, this Agreement supersedes all prior discussions and agreements among the parties hereto with respect to the subject matter hereof, other than the Confidentiality Agreement, which shall survive the execution and delivery of this Agreement in accordance with its terms, and contains, together with the Confidentiality Agreement, the sole and entire agreement among the parties hereto with respect to the subject matter hereof.

(b) The Seller Parent Disclosure Letter and any Exhibit or Schedule attached to this Agreement and referred to herein are hereby incorporated herein and made a part hereof for all purposes as if fully set forth herein.

SECTION 9.3. Public Announcements. Except as otherwise required by law or the rules of any applicable securities exchange or national market system or any other Governmental or Regulatory Authority (including, but not limited to, the UKLA and the U.K. Takeover Panel), and except as has been approved by the Buyer in favor of the Seller Parent, the

Seller or the Company as of the date hereof, so long as this Agreement is in effect, the Buyer on the one hand, and the Seller Parent, the Seller and the Company on the other hand, will not, and will not permit any of their respective Subsidiaries or Representatives to, issue or cause the publication of any press release or make any other public announcement with respect to the transactions contemplated by this Agreement without the consent of the Seller Parent or the Buyer as the case may be, which consent shall not be unreasonably withheld. The Buyer, the Seller Parent and the Company will cooperate with each other in the development and distribution of all press releases and other public announcements with respect to this Agreement and the transactions contemplated hereby, and will furnish the other with drafts of any such releases and announcements as far in advance as practicable.

SECTION 9.4. No Third Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each party hereto and their respective successors or permitted assigns, and except as provided in Section 5.5, Article VIII and Section 9.14 (which are intended to be for the benefit of the persons entitled to therein, and may be enforced by any of such persons), it is not the intention of the parties to confer third-party beneficiary rights upon any other person.

SECTION 9.5. No Assignment; Binding Effect. Neither this Agreement nor any right, interest or obligation hereunder may be assigned by any party hereto without the prior written consent of the other parties hereto and any attempt to do so will be void, except that (a) the Buyer may assign any or all of its rights, interests and obligations hereunder to any of its affiliates and (b) the Seller may assign all of its rights, interests and obligations hereunder to the transferee of the Shares permitted by the proviso immediately following Section 4.1(a)(viii) hereof. This Agreement is binding upon, inures to the benefit of and is enforceable by the parties hereto and their respective successors and assigns.

SECTION 9.6. Headings. The headings used in this Agreement have been inserted for convenience of reference only and do not define, modify or limit the provisions hereof.

SECTION 9.7. Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law or order, and if the rights or obligations of any party hereto under this Agreement will not be materially and adversely affected thereby, (i) such provision will be fully severable, (ii) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, and (iii) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom.

SECTION 9.8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to a contract executed and performed in such State, without giving effect to the conflicts of laws principles thereof.

SECTION 9.9. Submission to Jurisdiction; Waivers. Each of the parties hereto agrees to submit to the exclusive jurisdiction of either the Supreme Court of the State of New York in New York County or the United States District Court for the Southern District of New

York, provided, that nothing in this clause shall prevent the Buyer at its discretion from bringing proceedings against the Seller, the Seller Parent or the Company (A) in any other court of competent jurisdiction in the United Kingdom, or (B) in any other court of competent jurisdiction to enforce any order or judgment from any of the aforesaid courts. Any service of process to be made in such action or proceeding may be made by delivery of process in accordance with the notice provisions contained in Section 9.1. Each of the Seller, the Seller Parent, and the Buyer hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement, (a) the defense of sovereign immunity, (b) any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure to serve process in accordance with this Section 9, (c) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and (d) to the fullest extent permitted by applicable law that (i) the suit, action or proceeding in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper and (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

SECTION 9.10. Enforcement of Agreement. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement was not performed in accordance with its specified terms or was otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of competent jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

SECTION 9.11. Certain Definitions. As used in this Agreement:

(a) except as specifically provided otherwise or as used in Sections 2.2(a) and 2.7, the term “**affiliate**,” as applied to any person, shall mean any other person directly or indirectly controlling, controlled by, or under common control with, that person; for purposes of this definition, “**control**” (including, with correlative meanings, the terms “**controlling**,” “**controlled by**” and “**under common control with**”), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract or otherwise;

(b) a person will be deemed to “**beneficially**” own securities if such person would be the beneficial owner of such securities under Rule 13d-3 under the Exchange Act, including securities which such person has the right to acquire (whether such right is exercisable immediately or only after the passage of time);

(c) the term “**business day**” means a day other than Saturday, Sunday or any day on which banks located in New York, New York or London, England are authorized or obligated to close;

(d) the term “**capital stock**” means any of the various shares of ownership in a business, including, without limitation, stock of a corporation, membership interests in a limited liability company and partnership interests in a partnership;

(e) the term “**knowledge**” or any similar formulation of “**knowledge**” shall mean with respect to the Seller Parent or the Seller, the actual knowledge after due inquiry of the persons set forth in Section 9.11(e) of the Seller Parent Disclosure Letter;

(f) any reference to any event, change or effect having a “**material adverse effect**” on or with respect to an entity (or group of entities taken as a whole) means such event, change or effect is materially adverse to the business, properties, assets, liabilities, financial condition or results of operations of such entity (or of such group of entities taken as a whole);

(g) the term “**person**” shall include individuals, corporations, partnerships, trusts, other entities and groups (which term shall include a “**group**” as such term is defined in Section 13(d)(3) of the Exchange Act);

(h) the “**Representatives**” of any entity means such entity’s directors, officers, employees, legal, investment banking and financial advisors, accountants and any other agents and representatives;

(i) except as used in Sections 2.2(c) and 2.17, the term “**Subsidiary**” means, with respect to any party, any corporation or other organization, whether incorporated or unincorporated, of which more than fifty percent (50%) of either the equity interests in, or the voting control of, such corporation or other organization is, directly or indirectly through Subsidiaries or otherwise, beneficially owned by such party;

(j) “**Tax**” (or “**Taxes**” as the context may require) shall mean any federal, state, local or foreign net income, gross income, gross receipts, severance, property, production, sales, use, license, excise, franchise, employment, payroll, withholding, premium, alternative or add-on minimum, estimated, ad valorem, value-added, transfer, stamp, or environmental (including taxes under Section 59A of the Code) tax, or any other similar tax, customs duty, withholding, charge, fee, levy or other assessment, including any interest, penalty or addition imposed on such taxes by any taxing authority of any jurisdiction;

(k) “**Tax Return**” (or “**Tax Returns**” as the context may require) shall mean any return, report, claim for refund, information return, amended return or declaration of estimated Tax or similar statement (including any schedule attached thereto) filed, or required to be filed, with respect to any Tax or Taxes; and

(l) any reference to “**transactions contemplated hereby,**” “**transactions contemplated hereunder,**” “**transactions contemplated by this Agreement,**” “**transactions contemplated under this Agreement**” or any similar formulation shall include the transactions contemplated by this Agreement.

SECTION 9.12. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

SECTION 9.13. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTION CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.14. Limitation of Liability. No recourse shall be had for any claim based on or otherwise in respect of this Agreement or the transactions contemplated hereby (including, without limitation, any certificate delivered pursuant to Article VI at the Closing) against any stockholder of the Buyer or the Seller Parent or any officer, employee, partner, member or director (whether past, present or future) of the Buyer, the Seller Parent, the Seller or the Company or any of their respective affiliates.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SCOTTISH POWER PLC

By: /s/ James Stanley
Name: James Stanley
Title: Commercial Director

PACIFICORP HOLDINGS, INC.

By: /s/ James Stanley
Name: James Stanley
Title: Commercial Director

**MIDAMERICAN ENERGY
HOLDINGS COMPANY**

By: /s/ Douglas L. Anderson
Name: Douglas L. Anderson
Title: Senior Vice President

GLOSSARY OF DEFINED TERMS

Each of the following terms have the meanings ascribed to them in the Section of this Agreement set forth opposite such term:

<u>Defined Term</u>	<u>Section of Agreement</u>
1935 Act	2.1(a)
affiliate	9.11(a)
Agreement	Preamble
Alternative Proposal	4.6
Antitrust Division	5.3
beneficially	9.11(b)
business day	9.11(c)
Buyer	Preamble
Buyer Actuary	5.4(b)(iii)(B)
Buyer Indemnified Parties	8.2(a)
Cap	8.2(c)(i)
capital stock	9.11(d)
Change of Control	7.2(b)
Circular	2.9(a)
Closing	1.2
Closing Date	1.2
Code	2.12(a)(i)
Common Stock	Recitals
Companies Act	2.9(a)
Company	Recitals
Company Budget	4.1(f)
Company Reporting Entity	2.5(c)
Company Financial Statements	2.5(a)
Company Permits	2.10
Company Preferred Stock	2.2(a)(ii)
Company Trading Guidelines	2.21
Company Voting Debt	2.2(e)
Competing Transaction	7.1(d)
Confidentiality Agreement	5.1
Contracts	2.4(a)
control	9.11(a)
Covenant Deductible	8.2(c)(ii)(z)
Cutoff Date	2.1(c)
Deductible	8.2(c)(ii)(x)
DOE	2.5(f)
Draft 2005 10-K	2.5(a)
Employee Benefit Plan	2.13(b)
Encumbrances	1.1
Energy Property	7.1(d)
Environmental Claims	2.15(g)

<u>Defined Term</u>	<u>Section of Agreement</u>
Environmental Laws	2.15(g)
Environmental Permits	2.15(b)
Equity Plans	5.4(a)
ERISA	2.13(b)
ERISA Affiliate	2.13(b)
Exchange Act	2.4(b)
FCC	2.4(b)
FERC	2.5(f)
Final Order	6.1(d)
FTC	5.3
Funded Accounts	5.4(b)(v)(A)
FY 2005 Statements	2.5(a)
Governmental or Regulatory Authority	2.4(a)
group	9.11(g)
Guarantees	4.1(h)
Hazardous Materials	2.15(g)
HSR Act	2.4(b)
Indemnified Party	8.3
Indemnifying Party	8.3
Intellectual Property	2.16
Joint Executive Committee	4.8
Joint Venture	2.1(b)
knowledge	9.11(e)
laws	2.4(a)
Listing Rules	2.9(a)
Loss	8.2(a)
material adverse effect	9.11(f)
material weakness	2.5(e)
Medical Transfer Amount	5.4(b)(v)(A)
Net Company Position	2.21
Newholdco	7.2(b)(iii)
NRC	2.4(b)
Options	2.2(a)
orders	2.4(a)
Organizational Documents	2.1(a)
person	9.11(g)
PBGC	2.13(g)
Pension Transfer Amount	5.4(b)(iii)(A)
PFS	5.12(a)
Plan	2.13(b)
Plan Actuary	5.4(b)(iii)(B)
Power Act	2.1(a)
Pro-Ration Fraction	4.1(a)(i)
Purchase Price	1.2
Release	2.15(g)

<u>Defined Term</u>	<u>Section of Agreement</u>
reportable condition	2.5(e)
Representatives	9.11(h)
Sarbanes-Oxley Act	2.5(b)
SEC	2.4(b)
SEC Reports	2.5(a)
Securities Act	2.1(d)
Seller	Preamble
Seller Indemnified Parties	8.2(b)
Seller Parent	Preamble
Seller Parent Disclosure Documents	2.9(a)
Seller Parent Disclosure Letter	2.1(a)
Seller Parent Shareholders' Approval	5.2(a)
Seller Parent Shareholders' Meeting	5.2(a)
Share Purchase	2.3
Shares	Recitals
Subsidiary	9.11(i)
Tax	9.11(j)
Tax Return	9.11(k)
Termination Date	5.4(a)
Terrorist Attack	6.2(c)
Threshold	8.2(c)(ii)(x)
transactions contemplated hereby / transactions contemplated hereunder / transactions contemplated by this Agreement / transactions contemplated under this Agreement	9.11(l)
Transferred Group Entity	5.4(b)(i)
Transferred Group Pension Plan	5.4(b)(i)
Transferred Group Post Retirement Welfare Plans	5.4(b)(i)
Transferred Group Savings Plan	5.4(b)(i)
Transferred Individuals	5.4(b)(i)
UKLA	2.4(b)
VEBAs	5.4(b)(v)(A)